shipper'' rate established in the first final results of administrative review published by the Department (47 FR 28978, July 2, 1982) because this proceeding is governed by an antidumping finding, and we are unable to ascertain the ''all others'' rate from the Treasury LTFV investigation.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period.

Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a) of the Act, as amended (19 U.S.C. 1675(a)), and 19 CFR 353.22.

Dated: May 26, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–13702 Filed 6–2–95; 8:45 am]

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[A–549–813]

Final Determination of Sales at Less Than Fair Value: Canned Pineapple Fruit From Thailand

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

EFFECTIVE DATE: June 5, 1995.

FOR FURTHER INFORMATION CONTACT: Michelle Frederick or Jennifer Katt, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0186 or 482–0498, respectively.

Final Determination

We determine that imports of canned pineapple fruit (CPF) from Thailand are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the ''Act'') (1994). The estimated weighted-average margins are shown in the ''Continuation of Suspension of Liquidation'' section of this notice.

Case History

Since our affirmative preliminary determination and postponement of the final determination on January 4, 1995 (60 FR 2734, January 11, 1995) (*Preliminary Determination*), the following events have occurred:

On January 20, 1995, Maui Pineapple Company, Ltd. and the International Longshoremen's and Warehousemen's Union (the petitioners) alleged a ministerial error in the Department's preliminary determination calculations regarding Dole Food Company, Inc., Dole Packaged Foods Company, and Dole Thailand, Ltd. (collectively Dole). The error was found to constitute a significant ministerial error because the correction resulted in a difference between a dumping margin of *de minimis* and a margin greater than *de minimis*. *See* § 353.15(g)(4)(ii) of the Department's Proposed Regulations (57 FR 1131, January 10, 1992). An amended preliminary determination was issued on February 14, 1995 (60 FR 9820, February 22, 1995).

The four respondents in this investigation, Dole, The Thai Pineapple Public Co., Ltd. (TIPCO), Siam Agro Industry Pineapple and Others Co., Ltd. (SAICO), and Malee Sampran Factory Public Co., Ltd. (Malee), submitted revisions to their responses, and/or revised computer tapes that corrected clerical errors discovered at verification in January, February, March and April 1995.

We conducted verifications of TIPCO, SAICO and Malee's sales and cost questionnaire responses in Thailand in February and March 1995. Verifications of Dole's sales and cost responses were conducted in Belgium, Thailand, Hong Kong, and the United States in January, February and March 1995.

Dole, TIPCO, SAICO, Malee and the petitioners submitted case briefs on April 26, 1995, and rebuttal briefs on May 3, 1995. At the request of both the petitioners and Dole, a public hearing was held on May 10, 1995.

Scope of the Investigation

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

Period of Investigation

The period of investigation (''POI'') is January 1 through June 30, 1994, for TIPCO, SAICO and Malee; and January 2 through June 18, 1994, for Dole (*see* Memorandum from Gary Taverman to Barbara R. Stafford, dated August 18, 1994).

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Such or Similar Comparisons

We have determined that all products covered by this investigation constitute a single category of such or similar merchandise. Where there were no sales of identical merchandise in the third country market [1] to compare to U.S. sales, we made similar merchandise comparisons on the basis of the criteria defined in Appendix V to the antidumping questionnaire, on file in Room B–099 of the main building of the Department of Commerce. In accordance with 19 CFR 353.58, we made comparisons at the same level of trade, where possible. Where we were not able to match sales at the same level of trade, we made comparisons across levels of trade.

Based on the functional differences between Dole's U.S. and German customers, we continue to consider Dole's sales of CPF to be made at two distinct levels of trade in both the U.S. and German markets. (*See Preliminary Determination* and Import Administration Policy Bulletin 92/1, dated July 29, 1992.) The first level is comprised of sales to customers in the retail and food service sectors (Level I); the second is comprised of sales to customers in the industrial sector (Level II).

[1] Third country markets were used because none of the four respondents had a viable home market.

Fair Value Comparisons

To determine whether sales of CPF from Thailand to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the ''United States Price'' and ''Foreign Market Value'' sections of this notice.

As stated in our preliminary determination, Dole has reported all of its U.S. sales of subject merchandise, including those of Philippine origin and re-sales of CPF Dole purchased from unrelated producers in Thailand. We have continued to exclude these sales by weighing the dumping margin for each Universal Product Code (UPC) category by both (1) the ratio of shipments of CPF from Thailand to the total volume shipped from both Thailand and the Philippines during the last seven accounting periods of 1993, and (2) the ratio of shipments of Dole-produced product to the total volume of Dole-produced and purchased product shipped to the United States during 1993, respectively. For further discussion, see the *Preliminary Determination* and Comment 8 in the ''Interested Party Comments'' section of this notice.

For those unreported U.S. sales by TIPCO, SAICO and Malee presented or discovered during verification, we are applying the average of all positive margins to the quantities sold as best information available (BIA). *See* Comment 2 below.

United States Price

For Dole, TIPCO, SAICO and Malee we calculated USP according to the methodology described in our preliminary determination, with the following company-specific exceptions:

A. Dole

1. We excluded all sales made to military commissaries from our calculation of USP because we determined that these sales do not represent the sale to the first unrelated purchaser. In this channel of trade, the first unrelated purchaser of CPF is a distributor for the U.S. military. This distributor takes title and physical possession of the merchandise before reselling it to military commissaries. Dole's sales to the distributor were included in our calculation of USP.

2. In the *Preliminary Determination* we stated that Dole would be required to report as U.S. sales, certain shipments pursuant to a long-term agreement negotiated prior to the POI. Because these shipments were not reported for the preliminary determination, we applied as BIA, the average of all positive margins to one-half of the maximum quantity specified in the agreement to be purchased during 1994. Based on our findings at verification, we determined that Dole made no shipments pursuant to the contract during the POI. Therefore, Dole did not fail to report these sales and we have removed these sales from our margin calculation.

3. We recalculated direct selling expenses for the ''warehouse club'' channel of trade to reflect the allowance confirmed at verification.

4. We recalculated inventory carrying costs using a publicly available representative Thai baht borrowing rate for that period of time the merchandise was held in inventory in Thailand. For the period of time when the merchandise was shipped to and held in inventory in the United States, we used the short-term U.S. dollar borrowing rate confirmed at verification, because the title passed from the Thai producer to the U.S. parent at the time of shipment. For further discussion, see the Concurrence Memorandum, dated May 26, 1995, on file in Room B–099 of the main Commerce building (Concurrence Memorandum).

B. TIPCO

1. We reclassified reported rebates as discounts because it was determined that customers paid a reduced price, rather than receiving a refund of monies. *See* Comment 21 below.

2. We reclassified a certain expense reported as warranty expense as a discount. It was determined that a customer did not receive a reimbursement for the reported warranty claim, but rather paid a reduced price. *See* Comment 21 below.

3. We recalculated inventory carrying costs based on the actual cost of manufacture of the inventory, rather than the selling price. In addition, we applied TIPCO's borrowing rate for short-term loans during the POI denominated in baht.

C. SAICO

1. We did not reduce USP for export bill discounts because we determined that this expense was already captured in our imputed credit calculation. *See* Comment 29 below.

2. As in the preliminary determination, we included certain U.S. shipments of spoiled subject merchandise because we determined them to be POI sales. *See* Comment 28 below.

D. Malee

1. We recalculated inventory carrying costs based on the actual cost of manufacture of the inventory, rather than the selling price. In addition, we applied Malee's borrowing rate for short-term loans during the POI denominated in baht.

Foreign Market Value

As stated in our preliminary determination, we determined that the home market was not viable for any of the four respondents. In accordance with 19 CFR 353.49(b), we selected Germany as the third country market for all four respondents. We calculated FMV as noted in the ''Price-to-Price'' and ''Price to Constructed Value (CV)'' sections of this notice.

Cost of Production

Based on the petitioners' allegations, the Department found reasonable grounds to believe or suspect that sales in the comparison market were made at prices below the cost of producing the merchandise. As a result, the Department initiated investigations to determine whether Dole, TIPCO, SAICO and Malee made third country sales during the POI at prices below their respective cost of productions (COP) within the meaning of section 773(b) of the Act. *See* memorandum from Richard W. Moreland to Barbara R. Stafford, dated October 21, 1994.

A. Calculation of COP

We calculated the COP based on the sum of each respondent's cost of materials, fabrication, general expenses, and third country packing in accordance with 19 CFR 353.51(c). We relied on the submitted COPs, except in the following company specific instances where the costs were not appropriately quantified or valued:

Dole

1. We rejected the respondent's submitted fruit cost allocation methodology and recalculated these costs as described in Comment 7 below.

2. We increased fruit costs to include purchases of pineapple fruit on the last day of the POI, which had been excluded from the submitted fruit cost calculation.

3. We adjusted certain costs incurred prior to the split-off point which were improperly allocated. *See* Comment 7 below.

4. We increased fixed overhead costs to remove a credit which was specifically related to non-subject merchandise.

5. We recalculated other materials costs to reflect the actual packing

medium which was used in each product. *See* Comment 17 below.

6. We adjusted fixed overhead and other materials costs for the respondent's incorrect calculation of the activity base used for these costs.

7. We recalculated general and administrative (G&A) expenses using the respondent's 1993 audited financial information. *See* Comment 18 below.

8. For those products where more than one COP value was reported, we calculated an average COP value for the product.

TIPCO

1. We rejected the respondent's submitted fruit cost allocation methodology and recalculated these costs. *See* Comment 7 below.

2. We adjusted certain costs incurred prior to the split-off point which were improperly allocated. *See* Comment 7 below.

3. We recalculated TIPCO's G&A expense factor using the company's annual 1993 audited income statement. *See* Comment 22 below. As part of our calculation, we reduced 1993 G&A costs and increased cost of sales to account for the administrative costs reported as part of cost of manufacture in 1994. The 1993 selling expenses and reclassified administrative costs were approximated using information on the record.

4. We adjusted interest expense to reflect the adjustment to costs of sales discussed above.

5. For those products where more than one COP value was reported, we calculated an average COP value for the product.

SAICO

1. We recalculated SAICO's cost of pineapple fruit in the following manner: (a) We calculated SAICO's pineapple cost using the company's normal cost accounting methodology (*see* Comment 7 below); (b) we recalculated SAICO's plantation growing costs using the company's normal costing methodology with a modification for the allocation of overhead costs between subject and non-subject crops based on direct labor hours; and (c) we recalculated the cost of juice used as a packing medium.

2. We adjusted certain costs incurred prior to the split-off point which were improperly allocated. *See* Comment 7 below.

3. We recalculated SAICO's fixed overhead expense based on the amortization of 1993 shutdown costs over the POI.

4. We recalculated SAICO's G&A rate to account for the omission of board of director fees.

Malee

1. We rejected the respondent's submitted fruit cost allocation methodology and recalculated these costs as described in Comment 7, below.

2. We adjusted fruit cost for the respondent's incorrect calculation of conversion factors.

3. We adjusted certain costs incurred prior to the split-off point which were improperly allocated. *See* Comment 7 below.

4. We increased overhead by including the depreciation effect of foreign exchange losses incurred on purchases of machinery and removing a credit for a reimbursement.

5. We increased G&A expenses to include the G&A expenses of Malee's parent company, which is a holding company with no operations, and inventory write-downs.

6. We adjusted certain COM offsets to reflect amounts which are more directly related to production during the POI. (*See* the Concurrence Memorandum for a further discussion of all of these adjustments.)

7. For those products where more than one COP value was reported, we calculated an average COP value for the product.

B. Test of Third Country Sales Prices

After calculating COP, we tested whether, as required by section 773(b) of the Act, each respondent's third country sales of subject merchandise were made at prices below COP, over an extended period of time in substantial quantities, and whether such sales were made at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade. On a product specific basis, we compared the COP (net of selling expenses) to the reported third country prices, less any applicable movement charges, rebates, and direct and indirect selling expenses. To satisfy the requirement of section 773(b)(1) of the Act that below-cost sales be disregarded only if made in substantial quantities, we applied the following methodology. If over 90 percent of a respondent's sales of a given product were at prices equal to or greater than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." If between ten and 90 percent of a respondent's sales of a given product were at prices equal to or greater than the COP, we discarded only the below-cost sales, provided sales of that product were also found to be made over an extended period of time. Where we found that more than 90 percent of a respondent's sales of a product were at prices below the COP, and the sales were made over an extended period of time, we disregarded all sales of that product, and calculated FMV based on CV, in accordance with section 773(b) of the Act.

In accordance with section 773(b)(1) of the Act, in order to determine whether below-cost sales had been made over an extended period of time, we compared the number of months in which below-cost sales occurred for each product to the number of months in the POI in which that product was sold. If a product was sold in three or more months of the POI, we do not exclude below-cost sales unless there were below-cost sales in at least three months during the POI. When we found that sales of a product only occurred in one or two months, the number of months in which the sales occurred constituted the extended period of time, *i.e.*, where sales of a product were made in only two months, the extended period of time was two months; where sales of a product were made in only one month, the extended period of time was one month. *See Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from the United Kingdom*, 60 FR 10558, 10560 (February 27, 1995).

C. Results of COP Test

We found that for certain types of CPF more than 90 percent of each respondent's third country sales were sold at below COP prices over an extended period of time. Because neither Dole, TIPCO, SAICO nor Malee provided any indication that the disregarded sales were at prices that would permit recovery of all costs within a reasonable period of time in the normal course of trade, for all U.S. sales left without a match to third country sales as a result of our application of the COP test we based FMV on CV, in accordance with section 773(b) of the Act.

D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of a respondent's cost of materials, fabrication, general expenses and U.S. packing costs as reported in the U.S. sales database. In accordance with section 773(e)(1)(B)(i) and (ii) of the Act we included: (1) For general expenses, the greater of a respondent's reported general expenses, adjusted as detailed in the "Calculation of COP" section above, or the statutory minimum of ten percent of the cost of manufacture; and (2) for profit, the statutory minimum of eight percent of the sum of COM and general expenses because actual profit on third country sales for each respondent was less than eight percent. We recalculated each respondent's CV based on the methodology described in the calculation of COP above. In addition, for Malee, we recalculated interest expense using the company's 1993 consolidated financial statements.

Price-to-Price Comparisons

For those products for which there were an adequate number of sales at prices above the COP, we based FMV on third country prices. We calculated FMV according to the methodology described in our preliminary determination, with the following company-specific exceptions:

Dole

1. We excluded a single, small volume sale from the calculation of FMV because we determined this sale was outside the ordinary course of trade. *See* Comment 9 below.

2. We excluded certain sales from our calculation of FMV where Dole knew at the time of sale that the merchandise would be delivered to an ultimate location outside of Germany. For further discussion, see the Concurrence Memorandum.

3. We recalculated credit incurred on sales denominated in deutsche marks using a publicly available representative equivalent of the German prime rate for the POI as the short-term borrowing rate.

4. We recalculated inventory carrying costs using a publicly available representative baht borrowing rate for that period of time the merchandise was held in inventory in Thailand. For that period of time when the merchandise was shipped to and held in inventory in Europe, we used the short-term borrowing rate confirmed at verification. For further discussion, see the Concurrence Memorandum.

5. We used the date of the final determination for all missing payment dates in our calculation of imputed credit.

6. We corrected a clerical error regarding the calculation of pre-sale movement expenses. In addition, we reclassified all movement, import duty, and warehousing expenses associated with certain sales made prior to importation as post-sale expenses. *See* Comment 12 below.

TIPCO

1. We recalculated credit expenses using the interest rate applicable to the currency in which the sale was incurred. For sales denominated in U.S. dollars, the U.S. interest rate was based on TIPCO's dollar denominated short-term loans during the POI. For sales denominated in deutsche marks, we based the interest rate on a publicly available representative German short-term borrowing rate in effect during the POI.

2. We recalculated inventory carrying costs based on the actual cost of manufacture of the inventory, rather than the selling price. In addition, we applied TIPCO's actual baht denominated short-term borrowing rate for the POI.

SAICO

1. We recalculated credit expenses using the interest rate applicable to the currency in which the sale was incurred. Because SAICO had no dollar denominated short-term borrowings during the POI, the U.S. interest rate was based on the average prime rate charged by the 25 largest U.S. banks on short-term business loans for the period January through June 1994.

2. We included one third country sale presented at the start of verification in our calculation of FMV because the quantity involved was insignificant and all the charges and adjustments associated with this sale were verified.

3. We excluded certain sales from our calculation of FMV where SAICO knew at the time of sale that the merchandise would be delivered to an ultimate location outside of Germany. For further discussion, see the Concurrence Memorandum.

Malee

1. We recalculated credit expenses using the interest rate applicable to the currency in which the sale was incurred. Because all sales to the United States and Germany were made in U.S. dollars, the U.S. interest rate was based on Malee's actual weighted-average U.S. dollar denominated short-term borrowing rate in effect during the POI.

2. We recalculated inventory carrying costs based on the actual cost of manufacture of the inventory, rather than the selling price. We applied Malee's actual baht denominated short-term borrowing rate for the POI.

Price-to-CV Comparisons

Where, for TIPCO, SAICO and Malee, we made CV to purchase price comparisons, we deducted from CV the weighted-average third country direct selling expenses and added the U.S. product specific direct selling expenses. We adjusted for differences in commissions in accordance with 19 CFR 353.56(a)(2) as follows:

Where commissions were paid on some third country sales, we deducted from CV both (1) indirect selling expenses attributable to those sales on which commissions were not paid; and (2) commissions. The total deduction was capped by the amount of the commission paid on the U.S. sales in accordance with 19 CFR 353.56(b)(1) (1994). Where no commissions were paid on third country sales, in accordance with 19 CFR 353.56(b)(1), we deducted the lesser of either (1) the amount of the commission paid on the U.S. sale; or (2) the sum of the weighted average indirect selling expenses paid on the third country sales. Finally, the amount of the commission paid on the U.S. sale was added to FMV in accordance with 19 CFR 353.56(a)(2).

Where we compared Dole's ESP transactions to CV, we made deductions for the weighted-average third country direct selling expenses. We also deducted from CV the weighted-average third country indirect selling expenses. This deduction was capped by the amount of U.S. indirect selling expenses, in accordance with 19 CFR 353.56(b) (1) and (2).

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York, pursuant to 19 CFR 353.60.

Verification

As provided in section 776(b) of the Act, we verified information provided by Dole, TIPCO, SAICO and Malee by using standard verification procedures, including the examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Interested Party Comments

General Issues

Comment 1

TIPCO, SAICO and Malee argue that if inadequate above-cost sales of a given comparison market model are found as a result of the COP test, the Department should look for another similar model with adequate above-cost sales rather than go directly to CV. Although TIPCO, SAICO and Malee recognize that their arguments are at odds with the Department's Policy Bulletin 92/4, they argue that the Department's policy is flawed and should be changed for this final determination. TIPCO, SAICO and Malee assert that although the statutory definition of ''such or similar merchandise'' contained in section

771(16) of the Act does not include adequate sales above cost as a criterion of similar merchandise, it does not preclude the Department from making product matches with regard to cost considerations.

In addition, TIPCO, SAICO and Malee contend that, pursuant to *Koyo Seiko Co. v. United States,* 810 F. Supp. 1287, 1290 (CIT 1993), *rev'd on other grounds,* 36 F.3d 1565 (Fed. Cir. 1994), the Department must consider all potential model matches and avoid the use of CV whenever possible. Further, the respondents claim that considering COP in the matching procedure would not be burdensome to the Department because the only additional work would be in switching lines of computer code so that the product matching concordance is applied after, rather than before, the below-cost sales test. Finally, TIPCO, SAICO and Malee argue that the statute strongly favors the use of price-to-price comparisons whenever possible. Therefore, these respondents contend that the Department should base FMV on comparison market prices as long as there are above-cost sales of similar merchandise.

The petitioners argue that the Department's policy with respect to this issue is clear. Specifically, the Department has consistently determined that the statute does not require the exhaustion of all possible model matches before resorting to CV. Furthermore, they argue that the Department has been given broad discretion in making product matching decisions. Finally, the petitioners note that the Department's practice with respect to this issue has been upheld by the Court of International Trade (CIT). *See Zenith Electronics Corp.* v. *the United States,* 872 F. Supp. 992 (CIT 1994) (*Zenith*).

DOC Position

We agree with the petitioners. The Department's practice is to proceed directly to constructed value if the most similar match fails the cost test. Although section 773(a) of the Act expresses a preference for using the price of such or similar merchandise as the FMV before resorting to CV, section 773(b) of the Act directs the Department to resort immediately to CV if, after disregarding sales below cost, the remaining sales are inadequate as the basis for FMV. *See, e.g., Final Determination of Sales at Less Than Fair Value: Stainless Steel Angle from Japan,* 60 FR 16608, 16616 (March 31, 1995), and *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.; Final Results of Antidumping Duty Administrative Review, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders,* 60 FR 10900, 10936 (February 28, 1995). Furthermore, the Department's practice on this issue was upheld in *Zenith* where the CIT rejected the argument, similarly made here by the respondents, that if any merchandise meeting one of the definitions of ''such or similar'' under section 771(16) of the Act survives the cost test, such merchandise would be used for price comparison purposes. *See Zenith*, 872 F. Supp. at 999. As the Court stated, once the product matches are established and the COP test is completed, the Department is not required to reexamine all of the undifferentiated product data in order to make new matches and price comparisons on the basis of whatever subset of lower-ranked such or similar merchandise survives the COP test. The respondents' reliance on *Koyo Seiko* therefore is misplaced. In that case the Court rejected the Department's resorting to CV when initial attempts at most similar model matches failed; the case did not involve resorting to CV due to failure to pass the COP test. *See Zenith*, 872 F. Supp. at 999n.8.

In this proceeding, therefore, the Department properly used CV for those product match comparisons that failed the COP analysis.

Comment 2

The petitioners contend that the Department should include in its calculation of USP the unreported U.S. sales to Puerto Rico made by TIPCO, SAICO and Malee that were presented at or discovered during verification. To derive the expenses associated with these sales, the petitioners argue that the Department should reduce the per unit value for each unreported sale by the highest charges and adjustments reported by each company in the U.S. sales listing. The petitioners contend that the highest deductions are appropriate because shipments to Puerto Rico pass through the Panama Canal thus incurring additional expenses. In addition, for TIPCO the petitioners contend that an additional deduction for certain expenses noted on the invoice is appropriate.

TIPCO, SAICO, and Malee argue that the Department should exclude the unreported Puerto Rican sales from the calculation of USP because these sales account for only an insignificant portion of total U.S. sales during the POI. In the event the Department determines inclusion of these sales is appropriate, TIPCO, SAICO and Malee argue that applying the highest deductions is unwarranted. Malee asserts that the movement and selling expenses it reported for sales to Puerto Rico in its February 2, 1995, submission should be used as the best estimate of charges and expenses for the omitted sales. SAICO argues that Puerto Rican sales incur exactly the same average expenses as other U.S. sales with the same sales terms, thus the average charges and adjustments reported for U.S. sales with the same sales terms should be applied.

DOC Position

We agree with the petitioners that these Puerto Rican sales should be included in the calculation of USP because Puerto Rico is part of the Customs territory of the United States. However, we disagree with the petitioners that it is appropriate to apply the highest deductions to these sales. Based on our findings at verification, we conclude that the omission of these sales was inadvertent. Thus, we are applying the average of all positive margins for each company to each of the unreported Puerto Rican sales as BIA.

Comment 3

TIPCO, SAICO and Malee argue that the Department should calculate imputed credit costs using a weighted average short-term borrowing rate which reflects the currency in which the sale was invoiced. The respondents note that this methodology is consistent with the Department's policy expressed in the *Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from Thailand*, 60 FR 10552 (February 27, 1995). Malee asserts that the Department should use either the dollar denominated short-term borrowing rate calculated at verification or apply a U.S. dollar short-term interest rate obtained from public information.

TIPCO argues that dollar denominated short-term borrowing rate presented in its case brief should be used to calculate the imputed credit expense for all U.S. dollar and deutsche mark denominated sales. SAICO had no dollar denominated short-term borrowings during the POI.

DOC Position

We agree with TIPCO and Malee, in part. We have applied the actual weighted-average dollar denominated short-term borrowing rates calculated for Malee and TIPCO to all U.S. and German sales invoiced in U.S. dollars. Because SAICO had no dollar denominated borrowings during the POI, we are applying, as a publicly available representative U.S. dollar short-term interest rate, the average prime rate charged by the 25 largest U.S. banks on short-term business loans for the period January through June 1994.

We disagree, with TIPCO, however, that it is appropriate to apply a dollar rate to those German sales invoiced in deutsche marks. Because these German sales are deutsche mark-denominated transactions, it is appropriate to apply a deutsche mark-denominated short-term borrowing rate to determine the credit costs associated with these transactions. Because TIPCO had no deutsche mark-denominated borrowings during the POI, we have applied a publicly available representative German short-term borrowing rate for the POI.

Comment 4

SAICO, Malee, and the petitioners request that a number of corrections presented at, and found during, the sales verifications should be incorporated into the Department's calculations of the final margins.

DOC Position

All corrections listed in the respondents' and the petitioners' case briefs with respect to the sales were confirmed on-site at verification and were incorporated in the Department's calculation of the final margin.

Comment 5

TIPCO, SAICO, and Malee argue that a particular proprietary payment should be allowed as an adjustment to COP and CV. Alternatively, if the Department chooses to disallow these payments for purposes of computing costs, the three respondents claim that the payments should be treated as sales price adjustments.

The petitioners believe that no adjustment should be made for the payments because the Department did not verify that these payments were related in any way to the production of CPF.

DOC Position

Because of the business proprietary nature of this item, we have addressed the parties' comments and analyzed the issue in detail in the proprietary concurrence memorandum. Our determination was to allow the payments as an offset to the respondents' submitted COP and CV figures.

Comment 6

Each of the four respondents claims that providing accurate cost information is not the main purpose of its normal fruit cost allocation methodology; rather each company's allocation methodology was devised to achieve certain managerial goals. The respondents argue that their normal allocation methodologies therefore result in the misallocation of fresh pineapple fruit costs and generate cost figures that bear no relationship to the actual costs incurred.

Consequently, each respondent submitted alternative fruit cost methodologies, based on the relative weight of fresh pineapple fruit in CPF and juice products, that result in a lower fruit cost being allocated to CPF. According to the respondents, use of a weight-based fruit cost allocation methodology is appropriate in the context of this antidumping proceeding because it is based on a non-distortive, neutral, physical criterion, *i.e.,* weight. Dole also argues that its submitted methodology is consistent with its treatment of other shared operating and overhead costs, which are allocated among products on the basis of weight. Furthermore, the respondents argue that use of a weight-based methodology is appropriate because the petitioners use such a methodology for tax purposes, elevating the practice to an acknowledged and accepted industry norm.

In addition to arguing that their normal fruit cost allocation methodologies are inappropriate, the respondents argue that use of a value-based methodology also would be inappropriate. One respondent, in particular, argues that although its normal allocation methodology is based on an estimate of relative sales value, such a methodology is inappropriate under general accounting principles. According to the respondents, *Cost Accounting: A Managerial Emphasis* (Horngren and Foster 1987) (*Cost Accounting*) indicates that use of value-based allocations is discouraged in a rate-regulated setting because ''it is circular reasoning to use selling prices as a basis for determining a selling price.'' The respondents argue that if the Department uses its normal value-based allocation of pineapple fruit costs, dumping margins would fluctuate because of changes in juice and concentrate prices.

All four respondents argue that a value-based allocation is also legally impermissible under the precedent established in *IPSCO v. United States,* 965 F.2d 1056 (Fed. Cir. 1992). The respondents contend that in *IPSCO* the Court of Appeals for the Federal Circuit held that value-based allocations inappropriately shift costs actually incurred with respect to one co-product onto another co-product. Furthermore, Dole and Malee suggest that a value-based allocation, which would result in values being assigned to the various parts of the pineapple (*i.e.*, the shell, the core, the ends, and the cylinder), is inappropriate because they themselves do not assign values to the various parts of the fruit and because pineapples are purchased in their entirety on a per-kilogram basis.

Finally, the respondents argue that a value-based methodology would provide a loophole for companies to manipulate dumping margins. According to the respondents, a company could reduce CPF prices in non-comparison markets or in the U.S. market, or could increase prices of non-subject merchandise, any of which actions would reduce the relative sales value of the subject merchandise, thereby resulting in a reduction of allocated costs. A reduction in allocated costs, according to respondents, would result in some comparison market models surviving a below-cost sales test or in a reduction of constructed value when comparison market models remain below cost.

The petitioners argue that Department precedent supports the use of the respondents' normal cost allocation methodologies for calculating COP and CV. *See, e.g., Final Determination of Sales at Less Than Fair Value Certain Hot-Rolled Carbon Steel Flat Products and Certain Cut-To-Length Carbon Steel Plate from Korea,* 48 FR 37176 (July 9, 1993) (Department adjusted the submitted data to reflect information calculated under the respondent's normal accounting system). The petitioners contend that respondents' normal allocation methodologies have been accepted by the companies' auditors as reasonable and, in turn, have been used to produce audited financial statements which are relied upon by lenders, shareholders, and Thai tax authorities. Accordingly, the petitioners argue, the respondents' normal allocation methodologies must have some factual basis to them or they would not be accepted by these parties.

With respect to the one respondent's argument that general accounting principles discourage the use of value-based cost allocations in regulatory pricing situations, the petitioners note that the reference to the Horngren and Foster text is misplaced in this investigation because the CPF industry is not regulated. The petitioners agree, however, that if the CPF industry were regulated, sales value allocations might be distortive because prices would not be set by the marketplace.

In addition, the petitioners argue that the Department should not consider the respondents' weight-based allocation methodology as an acceptable alternative to their normal fruit cost allocation methodologies. In previous cases, petitioners note, the Department has recognized that weight-based allocations may be inappropriate. *See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Carbon and Alloy Steel Wire Rod from Canada,* 59 FR 18791, 18795 (April 20, 1994) (Department determined that weight was an inappropriate allocation basis, stating that the ''use of tonnage to allocate melt shop costs, as petitioner suggests, would result in the same cost per ton regardless of the grade of steel''). Furthermore, the petitioners note that none of the respondents use the submitted weight-based methodology in their normal course of business, nor do they use it for any internal decision-making. The petitioners claim that if the submitted allocation was accurate, the respondents would certainly maintain internal reports showing such a weight-based allocation, yet they do not. In addition, the petitioners state that they are not aware of any CPF producer anywhere that allocates fruit costs based on weight in its normal accounting system. (The petitioners acknowledge using weight as the basis for calculating fruit costs for tax purposes, but note that their financial and cost accounting systems use value-based allocations. The petitioners argue that, contrary to the respondents' claims, the use of a weight-based allocation for tax purposes does not establish it as an industry standard practice.)

Additionally, the petitioners claim that a weight-based allocation does not make sense in situations such as this one where the respondents' production processes assign values to various parts of the pineapple, depending upon the product being produced, *i.e.*, CPF or juice products. As a result, it makes no sense to use a volume-based allocation ratio to calculate costs of production for products that are produced using a value-based production process.

The petitioners argue, therefore, that a value-based allocation is appropriate for use in the instant investigation where the raw material has different parts with very different values. The petitioners cite *Cost Accounting* at 534 (Horngren, 5th ed. 1980) for the proposition that ''[t]he majority of accountants * * * support allocation in proportion to some measure of the relative revenue-generating power identifiable with the individual products.'' Furthermore, the petitioners argue that *IPSCO* is not controlling in the instant proceeding because the facts in *IPSCO* are significantly different from the facts in this investigation.

Finally, the petitioners maintain that the potential dumping consequences suggested by the respondents are illogical. No company would decrease prices of subject merchandise in non-subject countries in order to affect the dumping margins in the United States because this would reduce profits in those countries. Neither would a company reduce U.S. prices in an attempt to reduce dumping margins because they would risk increasing these margins. The petitioners argue that the respondents would not increase concentrate prices, to allocate fruit costs away from subject merchandise because this would adversely affect their market share.

DOC Position

The legislative history of the COP statute states that ''in determining whether merchandise has been sold at less than cost (the Department) will employ accounting principles generally accepted in the home market of the country of exportation if (the Department) is satisfied that such principles reasonably reflect the variable and fixed costs of producing the merchandise.'' H.R. Rep. No. 571, 93d Cong., 1st Sess. 71 (1973). Accordingly, the Department's practice is to adhere to an individual firm's recording of costs in accordance with GAAP of its home country if the Department is satisfied that such principles reasonably reflect the costs of producing the subject merchandise. *See, e.g., Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from South Africa,* 60 FR 22556 (May 8, 1995) (''The Department normally relies on the respondent's books and records prepared in accordance with the home country GAAP unless these accounting principles do not reasonably reflect the COP of the merchandise''). The Department's practice has been sustained by the CIT. *See, e.g., Laclede Steel Co.* v. *United States,* Slip Op. 94–160 at 21–25 (CIT October 12, 1994) (CIT upheld the Department's decision to reject the respondent's reported depreciation expenses in favor of verified information obtained directly from the company's financial statements that was consistent with Korean GAAP).

Normal accounting practices provide an objective standard by which to measure costs, while allowing the respondents a predictable basis on which to compute those costs. However, in those instances where it is determined that a company's normal accounting practices result in an unreasonable allocation of production costs, the Department will make certain adjustments or may use alternative methodologies that more accurately capture the costs incurred. *See, e.g., Final Determination of Sales at Less Than Fair Value: New Minivans from Japan,* 57 FR 21937, 21952 (May 26, 1992) (Department adjusted a company's U.S. further manufacturing costs because the company's normal accounting methodology did not result in an accurate measure of production costs).

In the instant proceeding, the respondents want the Department to reject their normal allocation methodologies in favor of alternative methodologies reported during the investigation. As noted, however, the Department's practice is to rely on a respondent's books and records prepared in accordance with its home country GAAP unless these accounting principles do not reasonably reflect costs associated with production of the subject merchandise. As a result, before analyzing any alternative allocations or accounting methodologies reported by a respondent during the proceeding, the Department will determine whether it is appropriate to use the respondent's normal allocation methodologies.

In the instant proceeding, therefore, the Department examined whether each respondent's normal fruit cost allocation methodology was reasonable. In examining each respondent's books and records at verification we found that each company had used its recorded fruit cost allocation methodology for at least a number of years. Furthermore, we found no evidence that each respondent had not relied historically upon its recorded allocation percentages to compute its production costs. In addition, evidence on the record, *i.e.*, audited financial statements, indicates that each respondent's normal allocation methodology was accepted by its independent auditors. Given the auditors' acceptance of the respondent's financial statements and any lack of evidence to the contrary, we conclude that each respondent's normal allocation methodology is consistent with generally accepted accounting principles practiced in Thailand.

Given the fact that each respondents' allocation methodology is consistent with Thai GAAP, we will accept each respondent's normal allocation methodology unless the methodology results in allocations that do not reasonably reflect the costs associated with production of CPF. The respondents have argued that their normal allocation methodologies do not reasonably reflect costs because the methodologies were designed to achieve certain managerial goals as opposed to providing accurate cost information.

While the reasons cited by the respondents for employing the allocation methodologies may have been factors in their selection, this does not necessarily make such methodologies, or the resulting allocations, unreasonable.

In *Hercules, Inc. v. United States,* 673 F. Supp. 454 (CIT 1987), for example, the Court upheld the Department's decision to rely on COP information from respondent's normal financial statements maintained in conformity with GAAP. The respondent, SNPE, had argued that the accelerated depreciation method employed in its financial statements and records was for tax purposes and did not accurately reflect SNPE's actual costs. Consequently, SNPE submitted recalculated depreciation expenses under a straight-line methodology. The Department rejected SNPE's alternate allocation methodology, which was based on unverifiable allegations that straight-line depreciation methodology would more accurately reflect the actual costs, in favor of the information contained in SNPE's verified normal records and audited financial statements. *See Hercules,* 673 F. Supp. at 490–91.

In the instant investigation, the respondents' arguments that their normal allocation methodologies are based on certain managerial goals and therefore do not accurately reflect actual costs are similarly unpersuasive. An accounting methodology designed to achieve certain managerial goals does not *necessarily* imply that the employed methodologies result in an unreasonable reflection of costs, particularly where a company's accounting methodology had been approved by independent auditors. In addition, as discussed in the paragraphs below concerning the respondents' alternative allocation methodologies, the respondents have failed to demonstrate that their unverifiable alternative methodologies are a more reliable source of reasonable fruit cost allocations than their verified books and audited financial records.

Based on the foregoing, we have adjusted Malee's, SAICO's, and TIPCO's submitted fruit costs to reflect the allocations as calculated and verified under each company's normal accounting system. Their normal allocation methodologies are consistent with Thai GAAP and appear to reasonably allocate fruit costs to CPF. Furthermore, the respondents have provided insufficient, if any, evidence to the contrary. In addition, as discussed below, the respondents have failed to demonstrate that their unverifiable alternative methodologies are a more reliable source of reasonable fruit cost allocations than their verified books and audited financial records.

Notwithstanding the Department's conclusion that the respondents' normal fruit cost allocation methodologies are in accordance with Thai GAAP and the Department's rejection of the respondents' arguments concerning the managerial goals of their normal allocation methodologies, the Department determines that in light of the practices followed by the other three respondents in this investigation, Dole's normal allocation methodology results in an unreasonable allocation of fruit costs to CPF. Due to the proprietary nature of the facts at issue, our entire analysis of Dole's normal allocation methodology is contained in the proprietary version of our concurrence memorandum dated May 26, 1995.

Thus, we have determined that because Dole's allocation does not ''reasonably reflect'' the cost of producing the merchandise, we cannot employ that allocation in our COP analysis. Given that Dole's normal methodology results in an unreasonable allocation of fruit costs to CPF, the Department must determine what would constitute a reasonable allocation of fruit costs. A reasonable fruit cost allocation methodology would be one which reflects the significantly different quality of the fruit parts which are used in the production of CPF versus those which are used in the production of juice products. One approach to deriving such an allocation methodology would be to compare the net realizable value of the CPF versus juice products over a period of years. Net realizable value (NRV) is commonly defined as the predicted selling price in the ordinary course of business less reasonably predictable costs of completion and disposal. *See Cost Accounting* at 534. Ideally, such a NRV methodology would compare historical cost and sales data for pineapple fruit products over a period encompassing several years prior to the antidumping proceeding and also would include data for markets where allegations of dumping have not been lodged.

While it would have been preferable to develop an allocation methodology based on historical NRV data in order to reasonably allocate Dole's fruit costs to CPF, we were unable to do so in this investigation because the data were not available and we did not present Dole with an alternative methodology for allocating fruit costs. However, we intend to do so in any future administrative reviews if an order is issued. *Cf. Final Determination of Sales at Less Than Fair Value: Fresh Cut Roses from Ecuador,* 60 FR 7019, 7026 (February 6, 1995) (Department determined that it would have been preferable to disaggregate rose costs but the data were not available and the Department did not present respondents with an alternative methodology). Such a methodology would enable us to reasonably allocate Dole's fruit costs to CPF, but would not require them to change their method of recordkeeping.

Given the fact that the record in this investigation does not contain the data necessary to develop an allocation methodology for Dole based on its historical NRV data, for our final determination, we have allocated Dole's pineapple fruit costs based upon an average of the proprietary fruit cost allocation percentages used by Malee, SAICO, and TIPCO in their normal accounting systems.

As discussed above, the Department's practice is to rely on a respondent's books and records prepared in accordance with its home country GAAP *unless* those accounting principles do not reasonably reflect costs associated with production of the subject merchandise. Although we have relied on Malee's, SAICO's and TIPCO's normal fruit cost allocation methodologies and have based Dole's fruit costs upon the other three respondents' normal fruit cost allocation methodologies, we also will address the respondents' alternative, weight-based allocation methodologies.

Each of the respondents have argued that a weight-based methodology is appropriate in the context of this investigation because it is based on a non-distortive, neutral, physical criterion, *i.e.*, weight. We believe, however, that allocating the cost of pineapple evenly over the weight is not supportable. Using weight alone as the allocation criteria sets up the illogical supposition that a load of shells, cores, and ends cost just as much as an equal weight of trimmed and cored pineapple cylinders. Significantly, the use of physical weighting for allocation of joint costs, *i.e.*, in this case the cost of the pineapple fruit, may have no relationship to the revenue-producing power of the individual products. Thus, for example, if the joint cost of a hog were assigned to its various products on the basis of weight, center-cut pork chops would have the same unit cost as pigs' feet, lard, bacon, ham, and so forth. Fabulous profits would be shown for some cuts, although losses consistently would be shown for other cuts. *See Cost Accounting: A Managerial Emphasis* at 533.

Much like the hog in the previous example, the pineapple is comprised of various parts, *i.e.*, the cylinder, core, shells, etc., with significantly different uses and values. Because the parts of the pineapple are not interchangeable when it comes to CPF versus juice production, it would be unreasonable to value all parts equally by using a weight-based allocation methodology.

We also note that authoritative accounting literature provides examples of cost allocations in the canning industry dependent on two factors, a quantitative factor and a qualitative factor. *See Management Accountants' Handbook* (Keller 4th ed.) at 11:13, citing ''Cost and Sales Control in the Canning Industry'', N.A.C.A. Bulletin, Vol. 36 (November 1954) at 376. The output of finished products can be captured in the quantitative measure, which is used to allocate the direct preparation labor costs and other costs directly related to the quantity of raw fruit processed. The difference in the relative quality of the fruit used in each product is reflected in a qualitative factor, which is used to allocate the purchase cost of raw materials among products. The various grades or parts of the fruit are assigned a factor reflective of the quality of the fruit used for each product. With all of this in mind, we believe it is inappropriate to allocate fresh pineapple fruit costs to the various pineapple products solely on the basis of weight.

The respondents have also argued that value considerations are inappropriate because the purchased pineapples have a uniform value throughout and, therefore, the cost of pineapple properly should be allocated based on consumed weight. Based on verification testing and our review of the record in this case, however, we believe that CPF producers strive first to maximize production of the more valuable canned fruit products and second, to maximize revenue from the remaining raw material through the production of juice and concentrate. As such, the respondents place a higher value on the raw material which may be used in the production of subject merchandise. As evidence of this, we noted that the respondents pay a lower price to pineapple suppliers that deliver small fruit. Though two shipments may contain in total the same weight of fresh pineapple, a vendor that delivers smaller fruit will be paid less than one that delivers fruit of a larger size. This is because the smaller pineapples will yield a smaller cylinder of quality pineapple fruit which can be used in CPF production.

Accordingly, we reject respondents' claim that, although it is true that during the POI the sales value of canned pineapples was higher on a per-kilogram basis than that of juice or concentrate, that does not mean that the pineapples used to make the canned pineapples were more expensive than those used to make the juice or concentrate. We do acknowledge that the purchased quantities of small fruit used exclusively in juice production were not significant during the POI, but the existence of a ''penalty'' for small fruit indicates a lower value for such items.

As discussed above, the respondents have also claimed that a value-based allocation methodology is legally impermissible pursuant to *IPSCO*. Contrary to the respondents' arguments, however, *IPSCO* is not controlling in this case. Nor does *IPSCO* stand for the proposition that in every instance value-based allocations are legally impermissible.

IPSCO involved the Department's use of an appropriate methodology for allocating costs between two *grades* of steel pipe. There were no physical differences between the two grades of pipe, only differences in quality and market value. *IPSCO*, 965 F.2d at 1058. Furthermore, the same materials, labor, and overhead went into the manufacturing lot that yielded both grades of pipe. *Id*. Given these facts, the Department, in its final determination, allocated production costs equally between the two grades of pipe. The Department reasoned that because they were produced simultaneously, the two grades of pipe in fact had identical production costs. *Id*. The CIT rejected the Department's allocation methodology, reasoning that it did not account for differences in value between the two grades of pipe. On appeal, the Court of Appeals for the Federal Circuit held that the CIT erred by substituting its own construction of a statutory provision for the reasonable interpretation made by the Department, *i.e.*, identical production costs. *Id*. at 1061.

While the Court of Appeals noted that the CIT's instructions to allocate costs based on relative value in *IPSCO* resulted in an unreasonable circular methodology (*i.e.*, because the value of the pipe became a factor in determining cost which became the basis for measuring the fairness of the selling price of pipe), nowhere did the appellate court indicate that use of an allocation methodology based on relative value was legally impermissible. On the contrary, *IPSCO* suggests that the courts will defer to the Department's preference for reliance on respondents' normal allocation methodologies, particularly where there are significant differences in the raw materials, *i.e.*, the use of the cylinder in production of CPF and the use of the shells, cores, and ends, in production of juice and concentrate, as well as differences in processing, labor and overhead. Our reasoning here is consistent with *IPSCO* as well as the applicable legislative history. As a result, respondents' reliance on *IPSCO* is misplaced. We also find the respondents' references to the inappropriateness of value-based allocations in a rate-regulated environment to be irrelevant because there is no evidence on the record to suggest that either the subject merchandise or the juice products are sold in a rate-regulated environment.

We have also considered the respondents' comments regarding potentially undesirable consequences of a value-based allocation and find that such scenarios are unlikely to actually take place. However, as with any allocation methodology chosen by the Department, there exists the potential for respondents to manipulate the allocations in opposition to the Department's intent. The respondents' argument that it will be possible to reduce the dumping margin by reducing their prices of subject merchandise in the United States and increasing their prices of non-subject merchandise is misleading. Because it would be most reasonable to base measures of net realizable value upon long term historical data, it is unclear how respondents could use this information to restructure their past results. However, the Department would, of course, continue to review this information closely through the administrative review process. Thus, we believe that this scenario is unlikely as such action would likely result in lower profits on subject merchandise sales (possibly raising the dumping margin) and reduced market share for non-subject merchandise. We also believe it would be inappropriate for the Department to choose a particular course of action based on an argument that in its essence states, if the Department picks a particular methodology we, the respondents, will take advantage of loopholes in that methodology.

Finally, we disagree with the respondents' claim that petitioners' use of a weight-based allocation for fruit cost establishes that method as industry standard practice. The fact that the petitioners use weight as a basis for income tax purposes is not persuasive. We also note the dichotomy in respondents' reasoning that their own tax (and book) methodology must be rejected, while arguing that petitioners tax accounting records should be controlling. We also note that the respondents did not provide any examples of companies that use weight-based fruit cost allocations as the basis for financial or managerial reporting.

Comment 7

Each respondent claims that its normal accounting method of allocating certain costs incurred prior to the split-off point of the CPF and juice production lines results in distortive and inappropriate cost of production figures.

The petitioners argue that the Department should rely on the respondent companies' normal accounting for these costs.

DOC Position

Because of the proprietary nature of this item, we have addressed the parties' comments and analyzed the issue in detail in our proprietary concurrence memorandum. For TIPCO, SAICO, and Malee, our determination was to allocate the costs following the companies' normal methodology for allocating pineapple fruit costs. For Dole, we allocated the costs using the average of the other three respondents' normal fruit cost allocation percentages, consistent with our determination in Comment 6 above.

Company Specific Issues

Dole

Comment 8

The petitioners argue that the methodology used by the Department in its preliminary determination to calculate a dumping margin for Dole based on an estimated quantity of its U.S. sales of Thai-origin merchandise is biased. Specifically, the petitioners contend that this methodology fails to take into account the fact that prices vary within UPC categories because Dole's Philippine-sourced merchandise is sold at a lower price than its Thai-sourced merchandise. In order to apply a methodology that is less distortive and more accurate, the petitioners assert that the Department should calculate one overall Thai-to-Philippine shipment ratio and apply this ratio to the total amount of potential uncollectible dumping duties (PUDD) calculated for all UPC codes.

Dole asserts that no possible distortion could arise from the methodology used by the Department in its preliminary determination. Although prices vary within a given UPC code, Dole argues that there is no correlation between the sales price and the country of origin because the selling price is based on contract prices and standard price lists that do not distinguish between Philippine- and Thai-sourced merchandise. Therefore, Dole asserts that any possible dumping attributable to imports from Thailand is directly related to the volume of imports sourced from Thailand.

DOC Position

We agree with Dole, in part. At verification we confirmed that Dole sells both its Thai- and Philippine-origin merchandise at the same price in the United States. Therefore, the petitioners' assertion that Dole's Philippine-sourced sales were sold at prices lower than its Thai-sourced sales is unfounded. In addition, contrary to the petitioners' assertion, the application of a single shipment ratio to the total PUDD for all sales would be distortive because this approach assumes that the shipment ratio between Thai- and Philippine-sourced merchandise is constant across all UPCs. This is not true. The shipment data confirmed at verification shows that the ratio of Thai- to Philippine-sourced merchandise varied immensely between UPCs. The petitioners' approach blurs the vast differences between these UPC shipment ratios.

In order to calculate a less than fair value margin based on an estimated quantity of Dole's U.S. sales of Thai-origin merchandise during the POI, we have continued to weight average the dumping margin for each UPC product category by the ratio of shipments of subject merchandise from Thailand to the total volume shipped from both Thailand and the Philippines during the last seven accounting periods of 1993. In calculating the ratios, we excluded all negative shipment quantities reported by Dole because these quantities do not represent actual shipments during the second half of 1993. Instead, these quantities reflect the reclassification of merchandise from one UPC category to another.

Comment 9

Dole argues that the Department's preliminary margin is grossly distorted due to the inclusion of a single, aberrant third country sale. Dole asserts that this sale is outside the ordinary course of trade and should be excluded from the Department's calculation of FMV for the following reasons: (1) The sale was of a product type sold only once in the third country market during the POI; (2) the sale constituted a negligible portion of the third country database; (3) the sale was not to a regular customer; (4) the terms of sale were uncommon for the third country market; and (5) the selling price was abnormally high when compared to the average selling price for other products of the same can size during the POI.

In addition Dole argues that if it were subject to an antidumping order, it would not need to raise its U.S. prices or lower its German prices to avoid the imposition of dumping duties. Therefore Dole asserts that no purpose would be served by an antidumping duty order if it were to be based on this sale. In support of its position Dole cites *Melamine Chemicals, Inc.* v. *United States*, 732 F.2d 924 (Fed. Cir. 1984) (*Melamine Chemicals*), where the Court of Appeals emphasized that the purpose of the antidumping law is ''to discourage the practice of selling in the United States at LTFV * * *. That purpose would be ill-served by application of a mechanical formula to find LTFV sales where none existed.''

The petitioners argue that this sale is not outside of the ordinary course of trade and should be included in the calculation of FMV. The petitioners contend that the terms of sale were not unusual because the same sales terms were offered on numerous third country sales during the POI. In addition, the petitioners assert that the customer was regular because Dole made several sales to this same customer during the POI. Finally, the petitioners contend that Dole's assertion that the selling price for this sale was abnormally high is misleading because sales made at prices below the COP were included in Dole's calculation of the average selling price for this can size. The petitioners argue that the fact that this sale was sold at a higher price than sales sold at prices below the COP does not provide evidence that the price is aberrational.

DOC Position

We agree with Dole that the sale was outside the ordinary course of trade as defined in section 771(15) of the Act and have excluded it from the calculation of FMV. We agree with the petitioners that the customer and terms of sale associated with this sale were not unique. Further, Dole's reliance on Melamine Chemicals is misplaced. *Melamine Chemicals* involved the issue of whether the Department's issuance and application of a regulation concerning exchange rate fluctuations during a less than fair value investigation was lawful. Notably, the sentence immediately following the ones quoted by Dole states, ''A finding of LTFV sales based on a margin resulting *solely* from a factor beyond the control of the exporter would be unreal, unreasonable, and unfair.'' *Melamine Chemical*, 732 F. 2d at 933 (emphasis in original). However, after reviewing all aspects of the sale, we have determined that this sale was outside of the ordinary course of trade and have excluded it from the calculation of FMV.

In determining whether a sale is outside the ordinary course of trade, the Department does not rely on one factor taken in isolation, but rather considers all of the circumstances particular to the sale in question. *See Murata Mfg. Co. v. United States,* 820 F. Supp. 603, 606 (CIT 1993). Furthermore, our analysis of these factors is guided by the purpose of the ordinary course of trade provision, namely to prevent dumping margins from being based on sales which are not representative of home market or third country sales. *See Monsanto Co. v. United States,* 698 F. Supp. 275, 278 (CIT 1988). After reviewing all aspects of this sale, we found the following facts, taken as a whole, determinative: (1) Dole's single third country sale of this product constituted an insignificant portion of its total German sales volume; (2) the sale was of a product that was sold only once during the POI; (3) the sales quantity was significantly lower than the average sales quantity for the POI; (4) the sales price was significantly higher than the average sales price charged on other CPF products sold in the same can size during the POI; (5) the profit margin realized by Dole on this particular sale was substantially higher than the weighted-average profit earned on other sales of CPF in this can size during the POI; and (6) there was only one customer for this product in the third country market during the POI. *See generally Cemex, S.A. v. United States,* Slip Op. 95–72 at 6–14 (CIT April 24, 1995)(factors considered included lack of market demand, volume of sales, sales patterns, shipping arrangements, and relative profitability between models), and *Mantex, Inc. v. United States,* 841 F. Supp. 1290, 1305–09 (CIT 1993) (factors considered included volume and frequency of sales, demand, product use, and relative profitability). The facts provide the basis for our finding that this one sale was outside the ordinary course of trade.

Comment 10

Dole argues that the Department's uneven treatment of pre-sale movement and import duty expenses associated with third country and ESP transactions in the preliminary determination was unfair and at odds with the Department's policy of making ''mirror-image adjustments to FMV and ESP so that they can be fairly compared at the same point in the chain of commerce.'' *See Koyo Seiko Co. v. United States,* 36 F. 3d 1565, 1573 (Fed. Cir. 1994) (Koyo Seiko). Dole notes that the antidumping statute provides for such mirror-image adjustments through the circumstance of sale (COS) adjustment.

Dole argues that the Court of Appeals holding in *Koyo Seiko* regarding the COS and ESP offset provisions was not limited by its decision in *The Ad Hoc Committee of AX-NM-TX-FL Producers of Gray Portland Cement v. United States,* 13 F.3d 398 (Fed. Cir. 1994) (*Ad Hoc Committee*). Dole asserts that the *Ad Hoc Committee* decision addressed the issue of pre-sale movement expenses incurred in connection with home-market sales, and only with regard to FMV where U.S. price is based on purchase price sales. Dole claims that it could not have been the intent of Congress for significant costs such as those incurred for ocean freight and import duties to be ignored when third country sales are used to calculate FMV.

Dole argues that all import duty and movement expenses incurred on its third country sales should be deducted under the COS provision as direct expenses for the following reasons: (1) In accordance with 19 CFR 353.56(a)(1), there is a *bona fide* difference in the COS between U.S. and third country sales made on an ex-warehouse basis; (2) movement and import duty expenses are directly related to the third country terms of sale because the terms call for delivery from Dole's European warehouse; (3) transportation costs are variable, not fixed, and as such are directly related to sales; (4) pre-sale warehousing expenses are directly related to sales because it is necessary to hold the inventory in forward warehouses in order to ensure that the merchandise is available within the delivery times required under the terms of the sales agreement; and (5) *Import Policy Bulletin 94.6* states that movement expenses are a direct cost of making the sale, and are always deducted from the price.

The petitioners argue that the Department properly classified the import duty and movement expenses associated with Dole's third country sales made on an ex-warehouse or delivered basis as indirect selling expenses. The petitioners assert that the costs incurred by Dole for duty and movement expenses would have been incurred whether or not any individual sale had ever taken place and, therefore, cannot be directly associated with individual sales.

DOC Position

In The *Ad Hoc Committee,* the Court held that the Department could not deduct home market pre-sale movement charges from FMV based on its inherent authority to apply reasonable interpretations in areas where the antidumping law is silent. Instead we will adjust for these expenses under the COS provision of the Department's regulations (19 CFR 353.56). Pursuant to the COS provision, the Department will make an adjustment to FMV only if the expenses are determined to be directly related to the sales under investigation. To determine whether pre-sale movement expenses are direct, the Department examines the respondent's pre-sale warehousing expenses because the pre-sale movement charges incurred in positioning the merchandise at the warehouse are considered, for analytical purposes, to be linked in most instances to pre-sale warehousing expenses. *See, e.g., Ad Hoc Committee of AZ-NM-TX-FL Producers v. United States,* Slip Op. 95–91 at 3–9 (CIT May 15, 1995). Typically the Department treats expenses associated with inventory that is held for purposes of production planning and being able to ship the merchandise quickly with a regular turnover as indirect selling expenses because this inventory is maintained by the company as a service to all customers. *See, e.g., Carbon Steel Wire Rod from Trinidad and Tobago,* 46 FR 43206 (September 22, 1983). In limited circumstances, however, the Department does recognize certain pre-sale expenses as direct. For freight and warehouse expenses, those circumstances usually involve products channeled or customized for certain buyers. *See, e.g., Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Italy,* 59 FR 66921, 66928 (December 28, 1994) (allowing COS adjustment where pre-sale warehousing expenses incurred for designated amount of subject merchandise with certain specifications for particular customers); *Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip from Japan,* 56 FR 16300, 16303 (April 22, 1991) (allowing COS adjustment for pre-sale warehousing expenses found to be directly related to sales on the basis that expenses were incurred and reported for specific products sold to specific customers); and *Final Determination of Sales at Less Than Fair Value: Calcium Aluminate Cement, Cement Clinker and Flux from France,* 59 FR 14136 (March 25, 1994) (respondent demonstrated that specific products were held in a warehouse for specific customers and that the stock in question was only available for sale to those specific customers).

In the instant proceeding, Dole reported two types of third country warehousing expenses: (1) Those associated with moving the merchandise ''in and out'' of the warehouse; and (2) warehouse storage charges. Based upon our review of the evidence on the record, we are not satisfied that Dole has provided evidence to substantiate its claim that either pre-sale warehousing expense is directly linked to the sales under investigation. These pre-sale expenses do not appear to be direct expenses for the following reasons: (1) The amount of time that passes between the date the merchandise arrives at the European warehouse and the date it is shipped to the third country customer; (2) in most instances the third country sales were made from inventory, as demonstrated by the fact that the date of sale and the date of shipment are the same, *i.e.*, the fact that the merchandise was sold from inventory demonstrates that the warehousing was pre-sale; (3) the merchandise held in the European warehouses is not pre-designated for sale to a specific customer; (4) the merchandise sold from inventory was not specialty merchandise, but instead commercial products sold in the normal course of trade in Germany; (5) the merchandise that was held in inventory was sold to numerous third country customers during the POI; (6) Dole incurs the cost of pre-sale warehousing expenses, not the customer, *i.e.*, these expenses are not post-sale warehousing expenses because if they were post-sale, the customer would have to incur the cost of the post-sale warehousing; and (7) in its questionnaire response Dole did not claim the warehouse storage charges as direct selling expenses; rather, Dole characterized warehouse storage costs as indirect expenses.

As noted above, pre-sale movement charges incurred in positioning the merchandise at the warehouse generally are linked to pre-sale warehousing expenses. Therefore, because we have found Dole's third country pre-sale warehouse expenses to be indirect, the expenses involved in moving the merchandise to the warehouse also must be indirect. We do not have the option of treating comparable expenses on U.S. sales as indirect in nature because such sales are ESP sales, and section 772(d)(2)(A) of the Act clearly requires the deduction of such expenses in arriving at USP.

Comment 11

Dole argues that in the event the Department concludes that the third country pre-sale movement and import duty expenses are indirect selling expenses, the Department must similarly characterize identical U.S. movement and import duty expenses as indirect expenses. Dole asserts that 19 CFR 353.56(b)(2) defines the pool of U.S. expenses used to calculate the ''ESP cap'' in the same terms it uses to define the pool of third country expenses subject to the cap. Therefore, Dole contends that the Department is unjustified in categorizing pre-sale movement expenses as ''directly related'' to U.S. sales while finding the same group of expenses to be indirectly related to third country sales.

The petitioners assert that under 19 CFR 353.41(d)(2)(i), ''any cost and expenses, and United States import duties incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States'' must be subtracted from USP. Therefore, the petitioners argue that under the law, U.S. movement and duty expenses cannot be classified as selling expenses, but instead must be subtracted directly from USP.

DOC Position

We agree with the petitioners. Pursuant to section 772(d)(2)(A) of the Act, to treat these expenses as indirect expenses would be clearly contrary to the antidumping law.

Comment 12

Dole contends that the Department made the following clerical errors in its preliminary determination: (1) The Department improperly classified import duty and movement expenses associated with two third country sales made prior to importation as pre-sale rather than post-sale expenses; (2) the Department incorrectly classified freight expenses associated with moving the merchandise between Dole's European warehouse and the German customer as pre-sale rather than post-sale expenses; and (3) the Department inadvertently deducted the swells allowance from USP as both a discount and a warranty expense.

The petitioners agree that post-sale expenses associated with the third country sales should be treated as direct expenses.

DOC Position

We agree with Dole, in part. We have corrected the errors noted in points one and two above for the final determination. Regarding point three, we disagree with Dole's assertion that the swells allowance was deducted twice from USP. We have examined both the computer program and Dole's U.S. database and have concluded that the swells allowance was not deducted as a discount in our preliminary determination. Therefore, this expense was properly deducted from USP just once as a warranty expense in our preliminary determination.

Comment 13

The petitioners argue that the Department should adjust Dole's submitted fruit costs for pineapple obtained from the company's own plantations. The petitioners assert that the Department should use the costs which were actually incurred during the POI instead of Dole's submitted amount, which represents an allocation of the annual plantation costs. According to the petitioners, Dole's methodology is contrary to the Department's questionnaire requirements and practice. In support of their position, the petitioners refer to the *Final Determination of Stainless Steel Bar from Spain*, 59 FR 69931, 66938 (December 28, 1994), where the Department stated:

> The Section D questionnaire clearly requests weighted average production data based on costs incurred during the POI. We have departed from this general policy only when unique circumstances arise, such as when production did not occur during the period of investigation * * * (A)bsent strong evidence to the contrary, the Department assumes that the cost structure during the POI is representative and can be used to calculate the cost of production.

Dole argues that the Department should accept its submitted calculation of fruit costs, as it is appropriate to take account of the growing cycle which occurs at its plantations. According to Dole, the majority of its self-grown pineapple was harvested in the second half of 1994, yet more than half of its annual operating costs were incurred in the first half of the year, during the POI. Dole argues that the use of actual costs incurred during the POI would be distortive, in relation to the quantity of pineapples harvested in that period, while the company's submitted fruit costs reflect a proper matching of expenses and production.

DOC Position

We agree with Dole. The evidence on the record demonstrates the disproportionate relationship that exists between expenses incurred and pineapples harvested under the accounting methods practiced by Dole's plantations. Dole has presented evidence which has led to our determination that unique circumstances exist in this case, with regard to Dole's self-grown pineapples, and it is clear that the cost structure during the POI is not representative. As noted by Dole, its annual accrual system for plantation costs effectively ensures an approximate relation between the costs incurred and the volume of fruit harvested during the same period. The company's submitted methodology, which presents a similar allocation, does not appear to be unreasonable, given the fluctuation in Dole's growing cycle. We therefore accepted Dole's submitted fruit costs, including the allocation of plantation fruit costs based upon the POI pineapple harvest.

Comment 14

The petitioners claim that Dole improperly excluded pineapple purchases made on the last day of the POI from its fruit cost calculation. The petitioners argue that this fruit was used in POI production and, therefore, the Department should include this amount in the calculation of Dole's COP and CV.

Dole did not object to the petitioners' comments.

DOC Position

We agree with the petitioners. COP and CV should be calculated using the actual costs incurred during the POI and the excluded pineapple purchases were used in POI production. As a result, we increased Dole's fruit costs by the amount of the excluded pineapple purchases.

Comment 15

In its submission, Dole allocated fixed overhead and certain variable overhead costs to its products in the same manner as in its normal accounting system. The petitioners argue that the Department should reallocate these overhead costs on the basis of net realizable value. The petitioners argue that Dole is unable to track its variable overhead costs on a product line basis and suggest that the normal allocation methodology does not use an appropriate activity base. The petitioners also state that the Department should exclude an offset to overhead costs which they claim was improperly applied.

Dole disagrees with the petitioners' assertions and states that the submitted allocation methodology is consistent with its normal accounting for these overhead costs and should be accepted by the Department. Dole did not comment on the overhead offset.

DOC Position

We agree with Dole, in part. The methodology used to allocate these overhead costs is, in fact, used by Dole in its normal course of business. In addition, the activity bases in this methodology are commonly used for overhead allocations and present a reasonable method of allocating these expenses. However, we agree with the petitioners that the overhead offset was directly related to a non-subject product line and should not be allocated over all products. We therefore accepted the allocation methodology used by Dole, but adjusted the submitted overhead costs to exclude the submitted overhead offset.

Comment 16

The petitioners note that the Department calculated a standard case quantity for tropical fruit products that was less than Dole's submitted quantity. Since standard cases were used by Dole as an activity base for allocating sugar and acid costs, the petitioners assert that the Department should correct the quantity of standard cases submitted by Dole. Also, the petitioners assert that the standard case quantity submitted for concentrate was calculated using unverified estimates and should not be relied upon.

Dole did not comment on this issue.

DOC Position

We agree with the petitioners, in part. The number of standard cases was reviewed for all products by the Department, using Dole's normal conversion factors, and only the amount of tropical fruit cases was found to be incorrect. We therefore adjusted the number of standard cases used in the allocation of sugar and acid costs to reflect the quantity calculated by the Department. We also noted that this error affects the allocation of fixed overhead, and adjusted the allocation accordingly.

Comment 17

The petitioners assert that the Department should revise Dole's other materials costs to reflect the packing medium actually used by the company in each of its CPF products. The petitioners argue that, for purposes of computing COP and CV, Dole incorrectly allocated sugar and citric acid costs over all CPF products, including juice-packed products which do not contain sugar.

Dole disagrees with the petitioners and submits that the cost difference for products packed in juice and products packed in syrup is minimal and should not be recognized in the COP and CV calculations. Dole also argues that the packing medium does not affect the pricing of its products and refers to petitioners' own comments from the petition: ''The difference in costs of manufacturing between the various forms and two varieties (juice packed and syrup packed) are sufficiently marginal to allow for equal pricing; consumer preferences are not sufficiently pronounced as to support price differentials.'' Based upon this, Dole argues that sugar and citric acid unit costs were properly submitted for all products, regardless of the actual packing medium used.

DOC Position

We agree with the petitioners that Dole should have reported packing medium costs for each specific product. It is clear from a review of the record that the syrup packing medium costs more to produce than the juice packing medium. We have reflected this cost difference in our revised COP and CV figures for Dole.

Comment 18

Dole claims that the Department should revise the company's submitted G&A factor to reflect the use of 1994 financial data, provided at verification.

The petitioners did not comment on this issue.

DOC Position

We disagree with Dole. Dole's submitted G&A factor was computed based on 1993 financial data for Dole Thailand, Ltd. (DTL), and included an allocation of G&A expenses incurred by Dole Food Company, Inc. (DFC) and Dole Packaged Foods Company (DPF). At verification, Dole provided a revised G&A factor, which was computed based on full-year 1994 financial data. To support its revised calculation, Dole provided the Department with audited financial statements for DFC and unaudited financial statements for DTL. DPF does not prepare audited financial statements.

The Department normally computes the G&A expense factor based on the respondent's audited financial statements for the full-year period that most closely corresponds to the POI. *See, e.g., Final Determination of Sales at Less Than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber from Hong Kong,* 55 FR 30733 (July 27, 1990) (Comment 18). Audited financial statement information provides us with some degree of assurance that an independent party has reviewed the respondent's accounting data and expressed an opinion as to its fairness in reflecting the results of that company's operations. Therefore, because Dole did not provide 1994 audited financial statements for DTL, we calculated the G&A factor using the respondent's audited 1993 financial statements, which we believe are a reasonable surrogate for Dole's 1994 operations. *See also* Comment 35 below.

Comment 19

The petitioners argue that Dole improperly applied waste revenues and sugar refunds as offsets to G&A expenses. The petitioners claim that waste revenues should be applied to fruit costs, reflecting Dole's normal accounting system, in the same ratio that the Department determines fruit costs should be allocated (*see* Comment 6 above). Sugar refunds, according to the petitioners, should be applied to materials costs, since sugar is a raw material. In addition, the petitioners argue that sugar refunds should be applied only to those products to which sugar and citric acid costs were allocated.

Dole did not comment on this issue.

DOC Position

We agree with the petitioners. It would be more appropriate to apply waste revenues to fruit costs, reflecting Dole's normal accounting system. It would also be more appropriate to apply sugar refunds to other materials costs, since sugar is a raw material. We therefore adjusted fruit costs, other materials costs, and G&A costs to reflect the reclassification of waste revenues and sugar refunds.

Comment 20

Dole argues that the Department should use the amount of sugar refunds earned as an offset in its calculation of the G&A factor, rather than the amount of sugar refunds received.

DOC Position

We disagree with Dole. We noted that Dole, in its normal accounting system, does not record these refunds as earned until payment is received. Since the amount of the refund is uncertain until payment is received, this appears to be a reasonable treatment and, therefore, we have not adjusted the sugar refund offset amounts.

TIPCO

Comment 21

The petitioners argue that certain price adjustments reported as a warranty claim should be reclassified as a rebate in the final determination.

TIPCO argues that the reclassification of the claim is unnecessary given its insignificant value. However, TIPCO asserts that the Department can incorporate the claim as either a rebate or a warranty claim.

DOC Position

We agree with the petitioners, in part. We agree that this price adjustment was improperly reported as a warranty claim. It is the Department's practice to allow only those expenses related to quality-based complaints to be classified as a warranty expense. *See, e.g., Final Determination of Sales at Less Than Fair Value: Fresh and Chilled Atlantic Salmon from Norway,* 56 FR 7661 (February 25, 1991). In this instance, the records do not indicate that the price adjustments were associated with quality based complaints.

We disagree with the petitioners, however, that the price adjustment should be treated as a rebate. A rebate is a refund of monies paid, a credit against monies due on future purchases, or the conveyance of some other item of value by the seller to the buyer after the buyer has paid for the merchandise. In this instance, the price adjustment was accounted for by reducing the selling price to the customer. Accordingly, we are treating these expenses as discounts.

Comment 22

TIPCO argues that the Department should compute G&A expenses for the final determination using the company's submitted 1994 G&A ratio calculation for the six months of the POI. TIPCO claims that the Department should not compute a G&A ratio based on 1993 financial data and apply that ratio to 1994 CPF manufacturing costs because the company's change in its accounting for factory administrative costs would make such a calculation nonsensical. Further, TIPCO maintains that application of a 1993 G&A ratio to 1994 costs would double count factory administrative costs since these costs would be included in both the numerator and the denominator of the G&A ratio calculation. Lastly, TIPCO argues that if the Department determines the company's 1994 G&A ratio is unacceptable because it is based on a six-month period, then the Department should compute G&A expenses based on the unaudited financial statement data for the full-year 1994 provided by TIPCO at verification.

The petitioners assert that, in keeping with its normal practice, the Department should use TIPCO's full-year 1993 audited financial statements to compute the company's G&A expense ratio for the final determination.

DOC Position

We have followed our normal practice for calculating G&A expenses by using TIPCO's 1993 full-year, audited financial statements. *See also* Comment 35 below. However, to correct for any possible distortion between 1993 and 1994 costs due to TIPCO's change in accounting classifications, we have adjusted the company's 1993 G&A and cost of sales figures for an annualized estimate of factory administrative costs based on amounts incurred during the POI. This adjustment would represent our estimate of 1993 factory administrative costs since the actual 1993 cost figure is not available from the case record.

We also adjusted TIPCO's net interest expense calculation to take into account the change to 1993 cost of sales that occurred due to the reclassification of factory administration costs in 1994.

Comment 23

TIPCO states that the Department should accept the company's reported can weights for purposes of allocating certain can production department costs. TIPCO argues that difference between the can weights used by TIPCO in the submission and the POI can weights obtained at verification are insignificant. According to TIPCO, any increases to weights associated with certain can sizes will only be offset with decreases to weights for other can sizes.

The petitioners state that the Department should adjust the costs of cans to incorporate the current weights obtained from the production department at verification

DOC Position

We did not adjust for the differences in can weights since they had an immaterial affect on the cost of CPF sold during the POI. In its COP/CV submission, TIPCO used the standard weight of cans to allocate the can production departments direct labor and overhead costs. At verification, we noted that the can weights used to allocate labor and overhead costs were outdated. Therefore, we obtained can weights specific to the POI. Although we raised this as an issue in our verification report, after reviewing the POI can weight data obtained at verification, we note that the difference in the reported weights has only a slight effect on CPF costs since can production labor and overhead during the POI were insignificant.

Comment 24

TIPCO states that it properly classified seasonal labor costs as direct, not indirect, labor. The only labor classified as indirect was the labor expense associated with salary of administrative personnel who were employed throughout the year in a supervisory or administrative capacity.

The petitioners have no comments on this issue.

DOC Position

We agree with the respondent and have accepted their classification of seasonal labor as direct labor for the final determination. During verification, we traced the payroll records of several seasonal production employees from source documentation to a specific fabrication cost item reported in TIPCOs income statement. We then reconciled this fabrication cost item to the amount reported in the COP and CV submission. During this testing, we noted that TIPCO normally accounted for the cost of the seasonal employees as part of direct labor costs.

Comment 25

The petitioners state that, at verification, the Department discovered that TIPCO incorrectly allocated electricity to certain pieces of machinery (*e.g.,* electric generators) based on horsepower production factors rather than horsepower consumption factors. According to the petitioners, the Department should correct TIPCO's reported variable overhead costs for this error.

TIPCO states that it has already made changes to account for the electricity allocation issue found at verification in a supplemental submission.

DOC Position

At verification, we found that TIPCO had overstated the amount of electricity allocated to certain overhead departments. A supplemental submission that corrects the misstatement was requested by the Department and received on February 28, 1995. We reviewed this submission and found the corrections to be appropriate. We have used this corrected data in reaching our final determination.

Comment 26

TIPCO states that the Department should accept its submission methodology of making a downward adjustment to the cost of manufacturing to account for certain revenues received in connection with the production of subject merchandise. If this approach is not accepted, TIPCO believes that the Department should make an upward adjustment to prices pursuant to section 773(a)(4)(B) of the Act.

The petitioners did not comment on this issue.

DOC Position

Because of the business proprietary nature of this item, we have addressed TIPCO's comment and analyzed the issue in detail in the proprietary concurrence memorandum. Our determination was to allow the revenues in question as an offset to TIPCO's submitted COP and CV figures.

Comment 27

Both the respondent and the petitioners raise certain issues regarding the appropriateness of the methods used by TIPCO to compute the weight of its pineapple juice and solid fruit for purposes of allocating costs.

DOC Position

We believe that the issues surrounding the appropriateness of TIPCO's weight calculations are moot. For the final determination, TIPCO's fresh pineapple costs were allocated based on its normal accounting system and not on the company's proposed weight-based methodology. *See* Comment 6 above.

SAICO

Comment 28

SAICO argues that the Department should exclude certain U.S. sales of spoiled CPF from the calculation of any dumping margins, contending that these sales are aberrational and that claims for spoiled goods are extremely rare. SAICO cites the *Final Determination of Sales at Less Than Fair Value: Certain Welded Stainless Steel Pipe from Korea,* 57 FR 53693, 53782 (November 12, 1992) where defective corrosion-damaged pipe was excluded and the *Final Determination of Sales of Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe from Korea,* 57 FR 42942,42949 (September 17, 1992) (*Welded SST Pipe*) in which aberrant and damaged sales were disregarded from the analysis. Additionally, SAICO argues, that the Department normally excludes cancelled or returned sales from its margin analysis. *See Welded SST Pipe.*

If the Department does not exclude the cancelled sales, SAICO argues that the expenses associated with the replacement shipments should be treated as indirect selling expenses because the circumstances of sale between the U.S. and German market do not differ. Treating the claim expenses as a circumstance of sale adjustment would distort the dumping margin. If the Department decides that the indirect selling expenses should apply only to the U.S. market, SAICO asserts that the allocation of the claim expense should still be made over all POI sales. To do otherwise would assume that prices of specific sales include a full allowance for aberrational and unforeseeable costs.

The petitioners contend that the Department should adjust for the actual costs incurred by SAICO for shipment of the spoiled merchandise shipped to the U.S. customer. In their proprietary case brief, the petitioners provide a calculation of costs involved in this process based on all aspects of this transaction.

DOC Position

We agree with the petitioners that the sales of spoiled merchandise should not be treated as cancelled sales given that SAICO received payment in full for the merchandise. Instead, we are treating the expenses associated with the compensation for the spoiled sales as warranty expenses because they were associated with quality-based complaints. We allocated the total expenses SAICO incurred in connection with the spoiled sales over all sales made to the United States during the POI.

The expenses were not allocated over total worldwide sales because the data we have applies only to U.S. sales; we do not know whether SAICO made replacement shipments for spoiled merchandise to any other markets during the POI. Additionally, we do not believe it would be appropriate to allocate the expenses to the particular spoiled sales. SAICO does not have any warranty programs in place, and therefore its sales prices do not reflect an allowance for unforeseeable costs.

Comment 29

The petitioners interpret export bill discounts as sales-specific expenses that were necessitated by the credit terms that SAICO provided to certain customers. As such, the petitioners argue that these expenses were actual expenses SAICO incurred on certain sales and should be treated as direct selling expenses.

SAICO contends that because there is no adjustment to U.S. or foreign market selling price for actual interest expenses (but only imputed interest expenses), these expenses should not be deducted from U.S. price.

DOC Position

We agree with SAICO that these charges are included in imputed credit expense and therefore should not be deducted from U.S. price. Accordingly, we have not done so.

Comment 30

SAICO claims that, contrary to the assertions in the Department's verification report, the company produces syrup for CPF from a combination of water, sugar, and citric acid. It further maintains that pineapple juice is not an ingredient in its packing syrup but, instead, is used only for its

CPF products packed in their ''natural juices.'' SAICO therefore asserts that the Department misstated in its cost verification report that the company improperly omitted the cost of pineapple juice for CPF products packed in heavy and light syrup.

The petitioners contend that the Department should revise SAICO's reported CPF costs to include the cost of pineapple juice used in heavy and light packing syrup. The petitioners believe that SAICO's cost of production for CPF should include the cost of all materials used to produce the merchandise, including pineapple juice used for packing syrup.

DOC Position

We have revised COP and CV to include an amount for the cost of pineapple juice used in SAICO's heavy and light packing syrups. During verification, we obtained documentation (verification exhibits 10 and 15) that led us to conclude that, despite SAICO's claims to the contrary, the company did in fact use pineapple juice as an ingredient in its heavy and light packing syrup.

Comment 31

SAICO argues that it could not rely on its normal accounting method for plantation pineapples for two reasons. First, it notes the fact that, at the time of its response preparation (as well as at the time of verification), the company's auditors had not made their year-end adjustment for pineapple costs. Thus, according to SAICO, essential data were missing for the company to compute the cost of plantation pineapples under its normal system. Second, SAICO maintains that, even if the year-end adjustment could have been made, the adjusting figure itself is an aggregate amount and cannot be divided into the materials, labor, and overhead cost elements that the company was required to report.

SAICO further argues that, in determining the proper cost-reporting period for the company's self-grown pineapples, the Department should select the period that captures to the extent practicable the costs incurred with respect to pineapples harvested during the POI. SAICO maintains that the pineapple costs computed on a 18-month period reasonably reflect such costs and that the Department should therefore rely on this methodology in its final determination.

The petitioners argue that SAICO's pineapple production costs should be based on the procedures used in the company's normal accounting system. Thus, the petitioners maintain that the Department should revise SAICO's reported costs for self-grown pineapples to reflect the costs actually recorded by the company during the POI, including adjustments made by the company's auditors.

DOC Position

As part of our verification testing, we obtained and verified detailed information relating to SAICOs pineapple plantation costs. Contrary to SAICOs assertions in its case brief, this information showed monthly plantation costs, including capitalized preproduction costs, segregated by cost element. Moreover, the information is sufficient to compute a POI estimate of the year-end adjustment made by SAICOs auditors.

The lack of the year-end auditors adjustment and separable cost elements notwithstanding, SAICO has failed to offer any reason why its normal accounting method should not be used to compute the cost of its self-grown pineapples. Nor has the company provided the Department with information or analysis supporting its contention that such a methodology would be distortive for purposes of computing the cost of CPF during the POI. We have therefore used the plantation cost data obtained at verification to recompute the cost of SAICOs self grown pineapples following the company's normal accounting method.

Comment 32

SAICO argues that certain plantation cost adjustments are reasonable and necessary in order to avoid distorting the cost of the company's self-grown pineapples harvested during the POI. First, SAICO believes that it properly excluded from total plantation costs all of the costs incurred at its three newest plantations—plantation numbers 7, 8, and 9. Second, SAICO states that it is more appropriate for the Department to allocate the company's plantation overhead costs based on the direct labor hours charged to each crop instead of on land area as reported in SAICO's original COP and CV submission.

The petitioners do not specifically address these adjustments in their case or rebuttal briefs. As a general comment, however, the petitioners do argue that the Department should base the cost of SAICO's self-grown pineapples on costs recorded under the company's normal plantation accounting system.

DOC Position

With respect to SAICO's exclusion of costs for plantations 7, 8, and 9, we believe in principle that this adjustment is consistent with the companys normal method of deferring preproduction costs during the pineapple growing cycle. During verification, however, we found that plantation 7 had begun harvesting its pineapple crop during the POI. Consequently, in accordance with its normal method of accounting for self-produced pineapples, SAICO had begun recognizing as an expense the pineapple preproduction costs associated with the harvested plants. We have therefore revised SAICOs submitted fresh pineapple costs to account for the POI costs recorded by the company for plantation 7. In addition, we have excluded the preproduction costs incurred at plantations 8 and 9, in accordance with SAICO's normal accounting method.

For plantation overhead costs, we have accepted SAICO's labor-hour allocation method to charge a portion of total overhead costs to non-pineapple crops produced at the plantations. We found that SAICO did in fact normally charge all of its overhead costs to pineapples and none to the other crops produced at the company's plantations. We believe that this method unreasonably inflates the overhead costs associated with pineapple production since the overhead costs incurred generally relate to the overall operations of the plantations. Moreover, in this instance, given the labor-intensive nature of the plantation operations and the fact that the overhead costs correspond more closely with direct labor hours than land area, we believe that SAICO's proposed labor-hour allocation method represents an acceptable means of charging overhead costs to all plantation crops harvested during the POI.

Comment 33

SAICO argues that it is appropriate to include 1994 shutdown costs as part of the calculation of fixed overhead costs for the POI. According to SAICO, the 1994 shutdown costs are more closely associated with the POI than those incurred during the 1993 shutdown period.

The petitioners contend that SAICO's production costs should be based on the methods used by the company in its normal accounting system. According to the petitioners, SAICO shut down its processing plant during 1993 to prepare the facility for production operations during the subsequent months, that is, until the next shutdown in 1994. Thus, the petitioners maintain that the 1993 shutdown costs were incurred for and directly relate to production during the POI, and that the Department should therefore adjust SAICO's reported fixed overhead costs to account for shutdown costs under the company's normal methodology.

DOC Position

We recalculated SAICO's fixed overhead costs for the POI based on the company's 1993 shutdown costs and following its normal accounting method. SAICO has historically amortized its annual plant shutdown costs on a prospective basis over the months following the shutdown period. Despite this fact, SAICO departed from its normal method and amortized shutdown costs retroactively for purposes of its COP and CV response. SAICO offered no explanation for this change in methodology other than to say that the 1994 shutdown costs were more "closely associated" with the POI. We found no justification for this claim. Further, we note the fact that SAICO's normal prospective accounting method was in accordance with Thai GAAP basis.

Comment 34

SAICO argues that the Department should not adjust the company's CPF costs for a certain POI transaction that the company's own outside auditors did not see fit to reflect in SAICO's 1994 interim financial statements.

The petitioners argue that this item should have been recorded as a loss in SAICO's accounting records and reflected in the company's reported COP and CV figures.

DOC Position

Because of the business proprietary nature of this item, we have addressed the parties' comments and analyzed the issue in detail in the proprietary concurrence memorandum. Our determination was to exclude the transaction from SAICO's reported COP and CV calculations.

Comment 35

SAICO argues that the Department should use the company's 1993 audited financial statement information to compute G&A and interest expense for the final determination. SAICO maintains that the 1994 financial data obtained by the Department at verification was unaudited and incomplete. Specifically, SAICO notes the fact that the 1994 data do not contain information necessary to compute the offsets for interest income, trade receivables, or finished goods inventory.

The petitioners contend that the Department should calculate SAICO's G&A and net interest expense factors based on the company's 1994 financial data since this information encompasses the six months of the POI.

DOC Position

We have used the 1993 audited financial statements to compute G&A and interest expense factors. The Department normally computes G&A and interest expense factors based on SAICO's audited financial statement information for the full-year period that most closely corresponds to the POI. Audited financial statement information provides us with some degree of assurance that an independent party has reviewed SAICO's accounting data and expressed an opinion as to its fairness in reflecting the results of that company's operations. In addition, since companies often incur G&A and interest expenses sporadically throughout the fiscal year, we rely on the respondent's full-year audited data to ensure that our G&A and interest calculations capture the expenses incurred by the company over most, if not all, of its operating cycle. The full-year statements also make certain that we have considered any year-end adjusting entries made by respondent to its G&A and interest expenses. *See, e.g., Final Determinations of Sales at Less Than Fair Value: Certain Hot Rolled Carbon Steel Flat Products, Certain Cold Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut to Length Carbon Steel Plate from France*, 58 FR 37125, 37135 (July 9, 1993) (*Certain Carbon Steel Products from France*).

Comment 36

The petitioners state that, for the final determination, the Department should increase SAICO's reported cost of production to include the compensation paid by SAICO to its Board of Directors. The compensation paid to the Board of Directors was directly charged to retained earnings and was not recorded in the income statement.

SAICO did not comment on this issue.

DOC Position

For the final determination, we have determined that it is appropriate to include the Board of Directors' compensation in G&A costs.

Comment 37

SAICO believes that the Department should revise its submitted values for the clerical corrections and modifications presented at the first day of verification. These modifications were: (1) A single drained weight used in the COP/CV tables for a specific control number that had been incorrectly stated, (2) using actual cases instead of standard cases of finished goods to calculate can and lid costs, and (3) revising the total net weights of the CPF production used to allocate variable overhead to correct for a minor mathematical error.

The petitioners state that the Department should revise SAICO's cost of production to reflect the actual costs obtained during verification.

DOC Position

The clerical corrections and modification were tested at verification and are appropriate adjustments. We have incorporated the adjustments into SAICO's COP and CV figures.

Comment 38

SAICOs states that the sugar ratio used by the company in its COP and CV submission accurately reflects the differing amounts of sugar required in the production of heavy and light syrup products.

The petitioners did not comment on this issue.

DOC Position

We have relied on SAICO's submitted sugar ratio for allocating sugar costs between heavy and light syrup products for the final determination. SAICO's sugar ratio was found to be an average of the daily sugar ratio reported in the company's production logs. This ratio was analyzed and tested at verification with no discrepancies noted.

Comment 39

Both respondent and petitioners raise certain issues regarding the appropriateness of the methods used by SAICO to compute the weight of its pineapple juice and solid fruit for purposes of allocating costs.

DOC Position

We believe that the issues surrounding the appropriateness of SAICO's weight calculations are moot. For the final determination, SAICO's fresh pineapple costs were allocated based on its normal accounting system and not on the company's proposed weight-based methodology. *See* Comment 6 above.

Malee

Comment 40

Malee argues that the Department should exclude from its less than fair value calculation certain additional ocean freight and demurrage expenses it incurred on some of its sales to the United States. It asserts that it has already been reimbursed in part for these expenses by its freight forwarder and states that it will be reimbursed in full. Further, Malee contends that in prior cases the Department has not included expenses where the respondent was seeking reimbursement for the expense. *See, e.g., Certain Internal-Combustion, Industrial Forklift Trucks from Japan: Final Results of Antidumping Duty Administrative Review*, 57 FR 3167, 3179 (January 28, 1992) (*Forklift Trucks from Japan*).

DOC Position

We agree with Malee that these expenses should be excluded from our calculations. In *Forklift Trucks from Japan*, the Department had no evidence on the record that the respondent's insurance company had rejected its claim, or that it would not be reimbursed in part or in full, for expenses associated with stolen trucks. In that instance, the Department determined that lack of this evidence was not dispositive that reimbursement would not occur, and thus the expenses were not treated as direct selling expenses.

In this case, at verification we found evidence that Malee was to be reimbursed by its freight forwarder for the demurrage charges. We examined Malee's records and confirmed that it has already been reimbursed in part for these expenses. Documents on the record indicate that Malee will be fully reimbursed for the remaining balance of the charges.

Comment 41

Malee argues that the Department should exclude certain interest expense which was reported as a bank charge in its sections B and C responses. This expense represents the interest expense for delayed payment.

Malee states that since the Department's only use for interest expenses in the sales response is for calculating the interest rate to be used for the imputed credit expenses, the Department does not include a company's actual interest expenses as a direct expense. Moreover, this interest expense for late payment is already included in Malee's interest expense reported in the COP/CV databases and thus has been double counted. As a result, the interest expense for late payment should be removed as a direct adjustment from the sales listing.

The petitioners argue that similar to other direct expenses, the late payment expense is an expense incurred by Malee for sales of CPF to its customers; therefore, the petitioners contend that this expense should be deducted as a direct expense. The petitioners claim that because this expense is charged by Malee's bank for late payment after Malee has already received payment from the bank, it is not included in the imputed credit expense.

DOC Position

We agree with the petitioners that this interest expense should be deducted as a direct expense because this is a transaction specific bank charge. Because Malee received payment before it incurred this expense, it is not captured by our imputed credit cost. Furthermore, Malee's concern regarding double counting of late payment expenses is not substantiated because we do not have documents on the record demonstrating that this expense was recorded as an interest expense in Malee's accounting records. Accordingly, we continue to treat this expense as a bank charge.

Comment 42

The petitioners argue that the Department should adjust Malee's submitted factory overhead costs to include an amount for foreign exchange gains or losses incurred on purchases of machinery depreciated over a 7.5 year period. Additionally, the petitioners argue that the Department should adjust factory overhead by removing an offset for reimbursement of an overpayment on a machine purchase.

Malee agrees with the petitioners that fixed overhead should be adjusted for the depreciation effect of the foreign exchange gains or losses, but suggests that these amounts should be depreciated over five years. Malee did not comment on the reimbursement offset.

DOC Position

We agree with the petitioners, in part. Since the foreign exchange gains or losses relate directly to machinery purchases, we consider it appropriate to include them in the basis of the assets. Therefore, we adjusted Malee's fixed overhead costs to include the depreciation effect of the foreign exchange gains or losses. We calculated the revised depreciation expense using the five-year useful life suggested by Malee, which is a reasonable period for the company's equipment. Also, we removed the reimbursement offset from the overhead calculation as the company's normal record-keeping included this item in other income. We believe this is a reasonable treatment for a minor reimbursement. Malee's reclassification of this item to a credit in fixed overhead does not represent a more precise treatment, since the company did not identify the credit to the specific machine or even to the specific group which uses this machinery. Therefore, we reclassified this credit to the other income account, in accordance with Malee's normal accounting treatment.

Comment 43

Malee argues that the activities of its parent company, Boon Malee, are not related to the production of the subject merchandise and, therefore, its G&A expenses should not be included in the G&A factor calculation. To support this position, Malee refers to the *Certain Carbon Steel Products from France*, 58 FR at 37136, where the Department agreed that the G&A expenses of a parent company whose activities were not related to production of the subject merchandise should not be used in place of those of the company actually producing the subject merchandise.

The petitioners claim that the G&A factor should be revised to include 1993 G&A expenses incurred by Malee's parent company. They argue that since Boon Malee is a holding company with no operations, its G&A expenses should be included in Malee's calculation. Malee's cite from *Certain Carbon Steel Products from France* is misplaced, according to the petitioners. They assert that the Department decided to base its G&A factor on the financial records of the producer, which included an allocation of the parent company's G&A expenses.

DOC Position

We agree with the petitioners. We noted that Malee is the only directly-owned active subsidiary of Boon Malee, which is a holding company that has no operations. In addition, we noted that Boon Malee's G&A expenses are related to a building that it rents to Malee. As discussed in *Certain Carbon Steel Products from France*, the Department's general approach to calculating a G&A factor is to use Malee's G&A expenses, along with an allocation of G&A expenses from the parent company. 58 FR at 37136; *See also Camargo Correa Metais* v. *United States*, Slip Op. 93–163 at 18 (CIT August 13, 1993). Therefore, we included Boon Malee's G&A expenses in our adjusted calculation of Malee's G&A factor.

Comment 44

The petitioners argue that we should revise Malee's submitted G&A expenses to include inventory write-downs made during the year. These adjustments are normally recorded by Malee to cost of sales. According to the petitioners, write-downs are a period expense, similar to G&A expenses, and thus should be reported as part of the fully-absorbed cost of products sold during the period. The petitioners argue that both inventory write-downs and inventory write-offs have the same function of recognizing losses of future revenue and thus should be treated the same for COP.

Malee argues that inventory write-downs are not a cost of production and should not be included in COP. It claims that the only effect of these adjustments is on the value of inventory for balance sheet purposes, and on cost of goods sold for income statement purposes. Further, Malee argues that there is a fundamental difference between COP and cost of goods sold and states that the effect of such revaluation is self-cancelling over time. Malee claims that these write-downs are a method of absorbing losses more gradually as inventory declines in expected market value.

DOC Position

We agree with the petitioners that the inventory write-downs should be reflected in Malee's production costs. During verification, we noted that inventory write-downs are a normal, recurring period adjustment made annually by Malee. Also, we agree with the petitioners that such adjustments are part of the fully-absorbed cost of goods sold and should be included in the calculation of COP and CV. We therefore adjusted the G&A factor calculation to include the amount of inventory write-downs.

Comment 45

Malee asserts that certain proprietary payments, applied as offsets to COM, should be determined based upon the amounts earned rather than the amounts received during the POI. It claims that it is more appropriate to match the income earned during the POI with the expense incurred. It would be inappropriate, according to Malee, to use the amounts received during the POI, since they relate to production in a prior period.

The petitioners did not comment on this issue.

DOC Position

We agree with Malee, in part. We noted that certain proprietary payments are accrued at the time production occurs and the payment is effectively earned. However, we noted that other payments are not recorded as earned until a letter is received confirming the amount to be paid to Malee. This letter is normally received after the production is completed. We agree with Malee that the actual receipt date is a function of timing and cash flow and has no relationship to the production occurring in that same period. Therefore, we adjusted the offset amounts to reflect the payments earned during the POI rather than the amounts received by Malee during the same period.

Comment 46

Malee asserts that the Department should recalculate COP and CV using the can and lid costs which were submitted to the Department at the start of verification as a correction of an error.

The petitioners claim that the revisions submitted at the start of verification should not have been accepted by the Department. These corrections adjusted per kilogram costs by a significant percentage, according to the petitioners. They argue that the explanation provided for this error was inadequate and should not have been accepted by the Department.

DOC Position

We agree with Malee. We reviewed Malee's explanation for its submitted cost revisions, which are described in the March 1, 1995, submission, and considered it to be reasonable. During verification, we reconciled the revised can and lid costs to stock reports and to the general ledger. Therefore, we accepted these costs for purposes of calculating COP and CV.

Comment 47

Malee states that the Department should recalculate COP and CV using the verified drained weight/net weight ratios, which were submitted at the start of verification. It also requests that the Department calculate the interest offset using the consolidated financial statements, as discussed at verification.

The petitioners did not comment on these issues.

DOC Position

We agree with Malee. We have used the submitted and reviewed drained weight/net weight ratios to calculate fruit costs and we used the consolidated financial statements to calculate CV interest expense.

Continuation of Suspension of Liquidation

We are directing the Customs Service to continue to suspend liquidation of all entries of CPF from Thailand, as defined in the ''Scope of the Investigation'' section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after January 11, 1995, the date of publication of our preliminary determination in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the FMV of the merchandise subject to this investigation exceeds the U.S. price, as shown below. This suspension of liquidation will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Producer/manufacturer exporter	Weighted-average margin
Dole	2.36
TIPCO	38.68
SAICO	55.77
Malee	43.43
All Others	25.76

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine whether these imports are causing material injury, or threat of material injury, to the industry in the United States, within 45 days. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: May 26, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–13695 Filed 6–2–95; 8:45 am]

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[A–570–839]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Partial-Extension Steel Drawer Slides With Rollers From the People's Republic of China

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

EFFECTIVE DATE: June 5, 1995.

FOR FURTHER INFORMATION CONTACT: John Brinkmann or Michelle Frederick, Office of Antidumping Investigations,