

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-549-813]

**Notice of Preliminary Results, Partial Rescission of Antidumping Duty Administrative Review and Preliminary Determination to Revoke Order in Part: Canned Pineapple Fruit From Thailand**

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

**SUMMARY:** In response to requests by producers/exporters of subject merchandise and by the petitioners, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on canned pineapple fruit (CPF) from Thailand. This review covers nine producers/exporters of the subject merchandise. The period of review (POR) is July 1, 2000, through June 30, 2001.

We preliminarily determine that for certain producers/exporters sales have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the export price (EP) or the constructed export price (CEP), as applicable, and the NV.

Furthermore, if the preliminary results for one exporter/producer, Siam Food Products Public Co. Ltd. (SFP) are adopted in our final results of this administrative review, we intend to revoke the antidumping duty order with respect to SFP, based on three consecutive review periods of sales at not less than normal value. *See Intent to Revoke* section of this notice.

**EFFECTIVE DATE:** August 7, 2002.

**FOR FURTHER INFORMATION CONTACT:** David Layton or Charles Riggle, at (202) 482-0371 or (202) 482-0650, respectively; AD/CVD Enforcement Office 5, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:****Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the

Department's regulations are to 19 CFR part 351 (2002).

**Case History**

On July 18, 1995, the Department issued an antidumping duty order on CPF from Thailand. *See Notice of Antidumping Duty Order and Amended Final Determination: Canned Pineapple Fruit From Thailand*, 60 FR 36775 (July 18, 1995). On July 24, 2001, we published in the **Federal Register** the notice of opportunity to request the sixth administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 66 FR 34910 (July 2, 2001); and *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review; Correction*, 66 FR 38455 (July 24, 2001).

In accordance with 19 CFR 351.213(b)(2), the following producers/exporters made timely requests that the Department conduct an administrative review for the period from July 1, 2000, through June 30, 2001: Vita Food Factory (1989) Co., Ltd. (Vita); Kuiburi Fruit Canning Company Limited (Kuiburi); Malee Sampran Public Co., Ltd. (Malee); SFP; The Thai Pineapple Public Co., Ltd. (TIPCO); and Dole Food Company, Inc., Dole Packaged Foods Company, and Dole Thailand, Ltd (collectively, Dole).

In addition, on July 31, 2001, the petitioners, Maui Pineapple Company and the International Longshoremen's and Warehousemen's Union, in accordance with 19 CFR 351.213(b)(1), submitted a timely request that the Department conduct a review of Malee, Prachuab Fruit Canning Company (Praft), Siam Fruit Canning (1988) Co., Ltd. (SIFCO), the Thai Pineapple Canning Industry Corp., Ltd. (TPC), SFP, TIPCO, Vita, and Dole.

On August 20, 2001, we published the notice of initiation of this antidumping duty administrative review, covering the period July 1, 2000, through June 30, 2001. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 66 FR 43570 (August 20, 2001).

On September 17, 2001, in response to the Department's questionnaire, Praft stated that it made no shipments to the United States of the subject merchandise during the POR. The Department independently confirmed with the U.S. Customs Service that there were no shipments from Praft during the POR. *See Memorandum to File from David Layton*, November 5, 2001. Therefore, in accordance with section

351.213(d)(3) of the Department's regulations, and consistent with our practice, we are treating Praft as a non-shipper for purposes of this review and are preliminarily rescinding this review with respect to Praft.

**Scope of the Review**

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

**Verification**

As provided in sections 782(i)(2) and (3) of the Act, we verified information provided by SFP, Vita and Kuiburi. We used standard verification procedures, including on-site inspection of the respondent producers' facilities and examination of relevant sales and financial records.

**Fair Value Comparisons**

We compared the EP or the CEP, as applicable, to the NV, as described in the *Export Price and Constructed Export Price and Normal Value* sections of this notice. We first attempted to compare contemporaneous sales in the U.S. and comparison markets of products that were identical with respect to the following characteristics: weight, form, variety, and grade. Where we were unable to compare sales of identical merchandise, we compared U.S. products with the most similar merchandise sold in the comparison market based on the characteristics listed above, in that order of priority. Where there were no appropriate comparison market sales of comparable merchandise, we compared the merchandise sold in the United States to constructed value (CV), in accordance with section 773(a)(4) of the Act. For all respondents, we based the date of sale on the date of the invoice.

**Export Price and Constructed Export Price**

For the price to the United States, we used, as appropriate, EP or CEP as defined in sections 772(a) and 772(b) of

the Act, respectively. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold (or agreed be sold) before the date of importation by the producer or exporter of the subject merchandise outside the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States. Section 772(b) of the Act defines CEP as the price at which the subject merchandise is first sold inside the United States before or after the date of importation, by or for the account of the producer or exporter of the merchandise, or by a seller affiliated with the producer or exporter, to an unaffiliated purchaser, as adjusted under subsections 772(c) and (d) of the Act.

For all respondents, we calculated EP and CEP, as appropriate, based on the packed prices charged to the first unaffiliated customer in the United States.

In accordance with section 772(c)(2) of the Act, we calculated the EP and CEP by deducting movement expenses and export taxes and duties from the starting price, where appropriate. Section 772(d)(1) of the Act provides for additional adjustments to CEP.

Accordingly, for CEP sales we also reduced the starting price by direct and indirect selling expenses incurred in the United States and an amount for profit.

We determined the EP or CEP for each company as follows:

#### *TIPCO*

For TIPCO's U.S. sales, the merchandise was sold either directly by TIPCO or indirectly through its U.S. affiliate, TIPCO Marketing Co. (TMC), to the first unaffiliated purchaser in the United States prior to importation. We calculated an EP for all of TIPCO's sales because CEP was not otherwise warranted based on the facts of record. Although TMC is a company legally incorporated in the United States, the company does not have either business premises or employees in the United States. TIPCO employees based in Bangkok conduct all of TMC's activities out of TIPCO's Bangkok headquarters, including invoicing, paperwork processing, receipt of payment, and arranging for customs and brokerage. Accordingly, as the merchandise was sold before importation by TMC outside the United States, we have determined these sales to be EP transactions. *See Circular Welded Non-Alloy Steel Pipe from Mexico: Final Results of Antidumping Duty Administrative Review*, 65 FR 37518 (June 15, 2000) and accompanying *Decision Memorandum* at Hylsa Comment 3.

We calculated EP based on the packed FOB or CIF price to unaffiliated purchasers for exportation to the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions from the starting price for foreign movement expenses (including brokerage and handling, port charges, stuffing expenses, and inland freight), international freight, U.S. customs duties, and U.S. brokerage and handling. *See Analysis Memorandum for The Thai Pineapple Public Co., Ltd.*, dated July 31, 2002 (TIPCO Analysis Memorandum).

#### *SFP*

We calculated an EP for all of SFP's sales because the merchandise was sold directly by SFP outside the United States to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise indicated. SFP has one employee in the United States; however, this employee does not: (1) Take title to the subject merchandise; (2) issue invoices or receive payments; or (3) arrange for other aspects of the transaction. The merchandise was shipped directly by SFP in Bangkok to the unaffiliated customer in the United States. The information on the record indicates that SFP's Bangkok office is responsible for confirming orders and for issuing the invoice directly to the customer. Payment also is sent directly from the unaffiliated U.S. customer to SFP in Bangkok. Therefore, the Department has determined that these sales were made in Bangkok prior to importation and, thus, are properly classified as EP transactions.

We calculated EP based on the packed FOB price to unaffiliated purchasers for exportation to the United States. We made deductions for foreign movement expenses in accordance with section 772(c)(2)(A) of the Act. *See Analysis Memorandum for Siam Food Products Public Co. Ltd.*, dated July 31, 2002 (SFP Analysis Memorandum).

#### *Vita*

We calculated an EP for all of Vita's sales because the merchandise was sold directly by Vita outside the United States to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise indicated. We calculated EP based on the packed FOB price to unaffiliated purchasers for exportation to the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions from the starting price for foreign movement expenses (including brokerage and handling, terminal handling charge, bill of lading fee,

customs clearance (shipping) charge, port charges, document fee, stuffing expenses, inland freight and other miscellaneous charges). *See Analysis Memorandum for Vita Food Factory (1989) Co., Ltd.*, dated July 31, 2002 (Vita Analysis Memorandum).

#### *Kuiburi*

We calculated an EP for all of Kuiburi's sales because the merchandise was sold directly by Kuiburi outside the United States to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise indicated. We calculated EP based on the packed, FOB or C&F price to unaffiliated purchasers for exportation to the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions from the starting price for foreign movement expenses and international freight. *See Analysis Memorandum for Kuiburi Fruit Canning Company Limited*, dated July 31, 2002 (Kuiburi Analysis Memorandum).

#### *SIFCO*

We calculated an EP for all of SIFCO's sales because the merchandise was sold directly by SIFCO outside the United States to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise indicated. We calculated EP based on the packed, FOB or C&F price to unaffiliated purchasers for exportation to the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions from the starting price for foreign movement expenses including inland freight (which consisted of handling charges, port/gate charges, stuffing charges, document charges, and truck costs), international freight, and U.S. brokerage and handling. *See Analysis Memorandum for Siam Fruit Canning (1988) Co., Ltd.*, dated July 31, 2002 (SIFCO Analysis Memorandum).

SIFCO reported its sales contract date as the date of sale in its sales data base. However, in its responses to Section A and to the Department's supplemental questionnaire it indicated that certain terms of sale can and do change up to the invoice date. It also indicated that if the terms of sale are changed for a given transaction, the original sales contract is cancelled and a new contract is created. Since SIFCO can and did change the terms of sale after the original contract date, we have determined that invoice date is the proper date of sale.

#### *TPC*

During the POR, TPC had both EP and CEP transactions. We calculated an EP for sales where the merchandise was sold directly by TPC outside the United

States to the first unaffiliated purchaser in the United States prior to importation. We calculated a CEP for sales made by TPC's affiliated U.S. reseller, Mitsubishi International Corporation (MIC), after importation of the subject merchandise into the United States during the first 10 months of the POR. For the remainder of the POR, we calculated CEP for sales of MIC's products by Chicken of the Sea International (COSI) in the United States. EP and CEP were based on the packed, FOB, C&F, or delivered price to unaffiliated purchasers in the United States. We made deductions for discounts and rebates, including early payment discounts, promotional allowances, freight allowances, and billback discounts and rebates. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These include inland freight from plant to port of exportation, foreign brokerage and handling, other miscellaneous foreign port charges, international freight, marine insurance, U.S. customs brokerage, U.S. customs duty, harbor maintenance fees, merchandise processing fee, and U.S. inland freight expenses (freight from port to warehouse and freight from warehouse to the customer).

In accordance with section 772(d)(1) of the Act, for CEP sales, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including commissions, direct selling expenses (credit costs, warranty expenses), and indirect selling expenses incurred by MIC and COSI in the United States. We also deducted from the starting price an amount for profit in accordance with section 772(d)(3) of the Act. *See* Analysis Memorandum for the Thai Pineapple Canning Industry, dated July 31, 2002 (TPC Analysis Memorandum).

#### Malee

For this POR, the Department found that all of Malee's U.S. sales were properly classified as CEP transactions because these sales were made in the United States by Malee's affiliated trading company, Icon Foods.

CEP was based on the packed C.I.F. ex-dock U.S. port price to unaffiliated purchasers in the United States. We made deductions for foreign inland movement expenses, insurance and international freight in accordance with section 772(c)(2)(A) of the Act. These include inland freight from plant to port of exportation, foreign brokerage and handling, other miscellaneous foreign port charges, international freight,

marine insurance, U.S. customs brokerage, U.S. customs duty, harbor maintenance fees and merchandise processing fees. Because all of Malee's sales were CEP, in accordance with section 772(d)(1) of the Act, we deducted from the starting price those selling expenses associated with selling the subject merchandise in the United States, including direct selling expenses and indirect selling expenses incurred by Icon Foods in the United States. We also deducted from the starting price an amount for profit in accordance with section 772(d)(3) of the Act. *See* Analysis Memorandum for Malee Sampran Public Co., Ltd., dated July 31, 2002 (Malee Analysis Memorandum).

#### Dole

For this POR, the Department found that all of Dole's U.S. sales were properly classified as CEP transactions because these sales were made in the United States by Dole Packaged Foods (DPF), a division of Dole.

CEP was based on DPF's price to unaffiliated purchasers in the United States. We made deductions from the starting price for discounts in accordance with 19 CFR 351.401(c). We also made deductions for foreign inland movement expenses, insurance and international freight in accordance with section 772(c)(2)(A) of the Act. Because all of Dole's sales were CEP, in accordance with section 772(d)(1) of the Act, we deducted from the starting price those selling expenses associated with selling the subject merchandise in the United States, including direct and indirect selling expenses incurred by DPF in the United States. We also deducted from the starting price an amount for profit in accordance with section 772(d)(3) of the Act.

#### Normal Value

##### A. Selection of Comparison Markets

Based on a comparison of the aggregate quantity of home market sales and U.S. sales, we determined that, with the exception of Malee and Vita, the quantity of foreign like product each respondent sold in Thailand did not permit a proper comparison with the sales of the subject merchandise to the United States because the quantity of each company's sales in its home market was less than 5 percent of the quantity of its sales to the U.S. market. *See* section 773(a)(1) of the Act. Therefore, for all respondents except Malee and Vita, in accordance with section 773(a)(1)(B)(ii) of the Act, we based NV on the price at which the foreign like product was first sold for consumption in each respondent's

largest viable third-country market, *i.e.*, France for SIFCO, the United Kingdom for SFP, Canada for Dole, Spain for Kuiburi and Germany for TPC and TIPCO. With respect to Malee and Vita, we based NV on the price at which the foreign like product was first sold for consumption in the home market.

##### B. Cost of Production Analysis

Pursuant to section 773(b)(1) of the Act, we initiated a cost of production (COP) investigation of comparison markets for each respondent. Because we disregarded sales that failed the cost test in the last completed review of TIPCO, SFP, TPC, Malee, Kuiburi, SIFCO, and Vita, and in the investigation (*i.e.*, the last completed segment in which Dole participated) for Dole, we had reasonable grounds to believe or suspect that sales by these companies of the foreign like product under consideration for the determination of NV in this review were made at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Act.<sup>1</sup> We conducted the COP analysis as described below.

##### 1. Calculation of COP/Fruit Cost Allocation

In accordance with section 773(b)(3) of the Act, for each respondent, we calculated the weighted-average COP, by model, based on the sum of the costs of materials, fabrication, selling, general and administrative expenses (SG&A), and packing costs. We relied on the submitted COPs except in the specific instances noted below, where the submitted costs were not appropriately quantified or valued.

The Department's long-standing practice, now codified at section 773(f)(1)(A) of the Act, is to rely on a company's normal books and records if such records are in accordance with home country generally accepted accounting principles (GAAP) and reasonably reflect the costs associated with production of the merchandise. In addition, as the statute indicates, the

<sup>1</sup> The 1999/2000 review was not completed until three months after the current review was initiated. Therefore, at the time the questionnaires were issued, we initiated the COP investigations based on the results of the completed 1998/1999 review and, in the case of Dole, based on our final determination in the investigation. *See Notice of Final Results of Antidumping Duty Administrative Review and Final Determination not to Revoke Order in Part: Canned Pineapple Fruit From Thailand*, 65 FR 77851 (December 10, 2000). *See also Final Determination of Sales at Less Than Fair Value: Canned Pineapple Fruit From Thailand*, 60 FR 29553 (June 5, 1995) and *Notice of Antidumping Duty Order and Amended Final Determination: Canned Pineapple Fruit From Thailand*, 60 FR 36775 (July 18, 1995), representing our findings in the last completed segment in which Dole had participated at the time this review was initiated.

Department considers whether an accounting methodology, particularly an allocation methodology, has been historically used by the company. See section 773(f)(1)(A) of the Act. In previous segments of this proceeding, the Department has determined that joint production costs (i.e., pineapple and pineapple processing costs) cannot be reasonably allocated to canned pineapple on the basis of weight. See *Final Determination of Sales at Less Than Fair Value: Canned Pineapple Fruit From Thailand*, 60 FR 29553, 29561 (June 5, 1995),<sup>2</sup> and *Notice of Final Results of Antidumping Duty Administrative Review: Canned Pineapple Fruit From Thailand*, 63 FR 7392, 7398 (February 13, 1998). For instance, cores and shells are used in juice production, while trimmed and cored pineapple cylinders are used in CPF production. Because these various parts of a pineapple are not interchangeable when it comes to CPF versus juice production, it would be unreasonable to value all parts of the pineapple equally by using a weight-based allocation methodology.

Several respondents that revised their fruit cost allocation methodologies during the 1995/1996 POR changed from their historical net realizable value (NRV) methodology to weight-based methodologies and did not incorporate any measure of the qualitative factor of the different parts of the pineapple. As a result, such methodologies, although in conformity with Thai GAAP, do not reasonably reflect the costs associated with production of CPF. Therefore, for companies whose fruit cost allocation methodology is weight-based, we requested that they recalculate fruit costs allocated to CPF based on NRV methodology.

Consistent with prior segments of this proceeding, the NRV methodology that we requested respondents to use was based on company-specific historical amounts for sales and separable costs during the five-year period of 1990 through 1994. We initially made this request of all companies in this review except Malee. Because, in the past, Malee had allocated fruit costs on a basis that reasonably takes into account qualitative differences between pineapple parts used in CPF versus juice products in its normal accounting records, we did not originally require it to recalculate its reported costs using the NRV methodology. However, Malee

updated its joint cost allocation methodology in 2000. Therefore, pursuant to a supplemental questionnaire, we obtained Malee's calculation of costs based on the Department's historic NRV methodology. For these preliminary results we have continued to use Malee's normal accounting methodology.

We made the following company-specific adjustments to the cost data submitted in this review.

#### SFP

Based on verification findings, we applied the net realizable value ratio to SFP's shared direct labor, fixed overhead, and variable overhead for all product models. As a result of these adjustments, we revised total cost of manufacturing, general and administrative expenses, and interest expense to reflect these changes. See *Verification of the Home Market and Comparison Market Sales Information and the Cost Information in the Response of Siam Food Products Public Company Limited in the 2000-01 Administrative Review of Canned Pineapple Fruit from Thailand*.

#### SIFCO

We recalculated SIFCO's pineapple fruit cost allocations for specific CPF product models. SIFCO correctly allocated its overall fruit costs between solid and juice products using its historic NRV ratio. However, SIFCO included a juice product among its solid products which slightly distorts the product model-specific allocations. We excluded this juice product from the fruit cost allocation for solid products. See SIFCO Analysis Memorandum.

Using information submitted by SIFCO, we also calculated the per-unit cost of the natural juice packing medium for each of SIFCO's juice-packed product models considered in our cost analysis. See SIFCO Analysis Memorandum. In our supplemental questionnaire, we asked that SIFCO calculate the cost of the natural juice packing medium based on NRV and to add this NRV-based cost to its direct material costs. In its supplemental response, SIFCO reported separate juice packing medium costs which we can tie to each product model, but it did not calculate these costs on the basis of NRV. Since we regard natural juice as a joint product with CPF, its pineapple fruit input cost must be linked to the NRV allocation for juice products. The central purpose of establishing the NRV ratio is to divide joint costs between a producer's solid and juice products based on NRV. We understand that

SIFCO, in its normal books and records, ascribes the cost of the natural juice packing medium directly to the solid pineapple fruit costs for CPF. However, we note that after the specific CPF forms are packed in the cans, natural juice packing medium is added as another component. Since the natural juice packing medium is part of SIFCO's juice production, to apply the Department's NRV methodology correctly, the cost of the packing medium is added separately to the total direct material costs for CPF and is based on the overall NRV fruit cost allocation to SIFCO's juice production. Therefore, in order to account for the cost of natural juice used in the production of CPF the Department has calculated a separate unit cost for natural juice packing medium based on information from SIFCO's response. See SIFCO Analysis Memorandum.

#### Kuiburi

Based on verification findings, we adjusted Kuiburi's calculation of general and administrative (G&A) expenses and interest expense as a ratio of its cost of goods sold. Kuiburi included packing costs in the denominator of its original calculation of G&A and interest expenses. We recalculated the ratios after adjusting the denominator to deduct Kuiburi's packing costs. See *Verification of Sales and Cost Information Submitted by Kuiburi Fruit Canning Co., Ltd. in the Sixth Administrative Review of the Antidumping Duty Order on Canned Pineapple Fruit from Thailand*.

#### Vita

Based on verification findings, we adjusted Vita's allocation of fruit costs to canned pineapple products. Vita allocated fruit costs to canned pineapple fruit as fruit costs to solid products times the drained weight of canned pineapple fruit divided by the sum of the drained weights of canned pineapple fruit, tropical fruit and pouch pack products, i.e., all solid products containing pineapple. We found that Vita had erroneously multiplied the ratio to packing medium weight instead of total drained weight of the pineapple in the product. By adjusting the allocation of pineapple cost to tropical fruit, we also necessarily adjusted the cost of pineapple allocable to canned pineapple fruit products. See *Verification of the Home Market and Comparison Market Sales Information and the Cost Information in the Response of Vita Food Factory (1989) Co., Ltd. in the 2000-2001 Administrative Review of Canned*

<sup>2</sup> This determination was upheld by the Court of Appeals for the Federal Circuit. *The Thai Pineapple Public Co. v. United States*, 187 F.3d 1362 (Fed. Cir. 1999) (finding that the Department's cost allocation methodology in the original investigation was reasonable and supported by substantial evidence).

Pineapple Fruit from Thailand, dated July 31, 2002.

## 2. Test of Comparison Market Sales Prices

As required under section 773(b) of the Act, we compared the adjusted weighted-average COP for each respondent to the comparison market sales of the foreign like product, in order to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the revised COP to the comparison market prices, less any applicable movement charges, taxes, rebates, commissions and other direct and indirect selling expenses.

## 3. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were made at prices below the COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in "substantial quantities." Where (1) 20 percent or more of a respondent's sales of a given product were made at prices below the COP and thus such sales were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act, and (2) based on comparisons of price to weighted-average COPs for the POR, we determined that the below-cost sales of the product were at prices which would not permit recovery of all costs within a reasonable time period, in accordance with section 773(b)(2)(D) of the Act, we disregarded the below-cost sales.

We found that for certain CPF products, Dole, Kuiburi, TIPCO, SFP, SIFCO, Malee, TPC and Vita made comparison-market sales at prices below the COP within an extended period of time in substantial quantities. Further, we found that these sales prices did not permit the recovery of costs within a reasonable period of time. We therefore excluded these sales from our analysis in accordance with section 773(b)(1) of the Act.

### C. Calculation of Normal Value Based on Comparison Market Prices

We determined price-based NVs for each company as follows. For all respondents, we made adjustments for differences in packing in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and we deducted movement expenses

consistent with section 773(a)(6)(B)(ii) of the Act. In addition, where applicable, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, as well as for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred on comparison market or U.S. sales where commissions were granted on sales in one market but not in the other (the "commission offset"). Specifically, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of (1) the amount of the commission paid in the U.S. market, or (2) the amount of indirect selling expenses incurred in the comparison market. If commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to NV following the same methodology. Company-specific adjustments are described below.

#### TIPCO

We based third-country market prices on the packed, FOB prices to unaffiliated purchasers in Germany. We adjusted for the following movement expenses: brokerage and handling, port charges, stuffing expenses, liner expenses and foreign inland freight. We made COS adjustments by deducting direct selling expenses incurred for third-country market sales (commissions, credit expenses and bank charges) and adding U.S. direct selling expenses (commissions, credit expenses and bank charges).

#### SFP

We based third-country market prices on the packed, FOB prices to unaffiliated purchasers in the United Kingdom. We adjusted for foreign movement expenses. We made COS adjustments by deducting direct selling expenses incurred for third-country market sales (credit expenses, bank charges, warranties and commissions) and adding U.S. direct selling expenses (credit expenses, warranties, and bank charges). We applied the commission offset in the manner described above.

#### Vita

We based home market prices on the packed, delivered prices to unaffiliated purchasers in Thailand. We adjusted for inland freight. We made COS adjustments by deducting direct selling expenses incurred for home market

sales (credit expenses, warranty expenses, commissions, and bank charges) and adding U.S. direct selling expenses (credit expenses, commissions and bank charges).

#### SIFCO

We based third-country market prices on the packed, FOB or C&F prices to unaffiliated purchasers in France. We adjusted for foreign movement expenses and international freight. We made COS adjustments by deducting direct selling expenses incurred for third-country market sales (credit expenses, bank charges, and commissions) and adding U.S. direct selling expenses (credit expenses, bank charges and commissions).

#### TPC

We based third-country market prices on the packed, FOB or C&F prices to unaffiliated purchasers in Germany. We adjusted for foreign movement expenses and international freight. For comparisons to EP, we made COS adjustments by deducting direct selling expenses incurred for third-country market sales (credit expenses, letter of credit charges, and bank charges) and adding U.S. direct selling expenses (credit expenses, letter of credit charges, bank charges, and warranty expenses). For comparisons to CEP, we made COS adjustments by deducting direct selling expenses incurred on third-country market sales.

#### Kuiburi

We based third-country market prices on the packed, FOB and CNF prices to unaffiliated purchasers in Spain. We adjusted for foreign movement and international freight expenses. We made COS adjustments by deducting direct selling expenses incurred for third-country market sales (credit expenses and bank charges) and adding U.S. direct selling expenses (credit expenses, bank charges, and commissions).

#### Malee

We based home market prices on the packed, delivered prices to unaffiliated purchasers in Thailand. We adjusted for foreign inland freight. We made COS adjustments by deducting direct selling expenses incurred for home market sales (credit expenses, warranty expenses, advertising expenses and commissions). We also made a level of trade (LOT) adjustment where appropriate. See the *Level of Trade* section, below.

#### Dole

We based third-country market prices on Dole Foods of Canada Ltd.'s (DFC)

prices to unaffiliated purchasers in Canada. We adjusted for foreign movement expenses and international freight. We made COS adjustments by deducting direct selling expenses incurred on third-country market sales. In addition, because the NV level of trade (LOT) is more remote from the factory than the CEP LOT (see the *Level of Trade* section, below), and there is no basis for determining whether the difference in the levels of trade between NV and CEP affects price comparability, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act.

#### *D. Calculation of Normal Value Based on Constructed Value*

For those CPF products for which we could not determine the NV based on comparison market sales because there were no contemporaneous sales of a comparable product in the ordinary course of trade, we compared the EP or CEP to CV. In accordance with section 773(e) of the Act, we calculated CV based on the sum of the COM of the product sold in the United States, plus amounts for SG&A expenses, comparison market profit, and U.S. packing costs. We calculated each respondent's CV based on the methodology described in the *Calculation of COP* section of this notice, above. In accordance with section 773(e)(2)(A) of the Act, we used the actual amounts incurred and realized by each respondent in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the comparison market to calculate SG&A expenses and comparison market profit.

For price-to-CV comparisons, we made adjustments to CV for COS differences, in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. We made COS adjustments by deducting direct selling expenses incurred on comparison market sales and adding U.S. direct selling expenses for comparison to EP transactions in the United States. We made no price-to-CV comparisons for Kuiburi, TIPCO, SFP or SIFCO because all U.S. sales were compared to contemporaneous sales of a comparable product in the ordinary course of trade. For the other companies we made the following adjustments:

#### *Vita*

We made COS adjustments by deducting direct selling expenses incurred for home market sales (credit expenses, warranty expenses, commissions, and bank charges) and adding U.S. direct selling expenses

(credit expenses, commissions and bank charges).

#### *TPC*

For comparisons to EP, we made COS adjustments by deducting direct selling expenses incurred for third-country market sales (credit expenses, letter of credit charges, and bank charges) and adding U.S. direct selling expenses (credit expenses, letter of credit charges, bank charges, and warranty expenses). For comparisons to CEP, we made COS adjustments by deducting direct selling expenses incurred on third-country market sales.

#### *Malee*

We made COS adjustments by deducting direct selling expenses (credit expenses, warranty expenses, advertising expenses and commissions) incurred for home market sales made at the level of trade equivalent to the CEP level of trade.

#### *Dole*

We made COS adjustments by deducting direct selling expenses incurred on third-country market sales. In addition, because the NV level of trade (LOT) is more remote from the factory than the CEP LOT (see the *Level of Trade* section, below), and there is no basis for determining whether the difference in the levels of trade between NV and CEP affects price comparability, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act.

#### **Level of Trade**

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same LOT as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For EP sales, the U.S. level of trade is also the level of the starting-price sale, which is usually from exporter to importer. For CEP sales, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP transactions, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export

transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). See *Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada*, 67 FR 8781 (February 26, 2002).

In implementing these principles in this review, we obtained information from each respondent about the marketing stage involved in the reported U.S. and comparison market sales, including a description of the selling activities performed by the respondents for each channel of distribution. In identifying levels of trade for EP and comparison market sales, we considered the selling functions reflected in the starting price before any adjustments. For CEP sales, we considered only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. We expect that, if claimed LOTs are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar.

In this review, all respondents except Malee and Dole claimed that all of their sales involved identical selling functions, irrespective of channel of distribution or market. We examined these selling functions for Vita, SIFCO, SFP, TIPCO, TPC, and Kuiburi, and found that sales activities were limited to negotiating sales prices, processing of purchase orders/contracts, invoicing, and collecting payment. There was little or no strategic and economic planning, advertising or sales promotion, technical services, technical assistance, or after-sale service performed in either market by the respondents. Therefore, for all respondents except Malee and Dole, we have preliminarily found that there is an identical LOT in the U.S. and relevant comparison market, and no level-of-trade adjustment is required for comparison of U.S. sales to comparison market sales.

#### *Malee*

Malee reported that all of its sales made to the United States were to distributors and involved minimal selling functions on the part of Malee. Malee reported two different channels of distribution for its sales in the home market: (1) Sales through an affiliated

reseller, Malee Enterprise Co. Ltd. (Malee Enterprise) (formerly Malee Supply (1994) Co. Ltd.), which are made at a more advanced marketing stage than the factory-direct sales, and (2) factory-direct sales involving minimal selling functions and which are at a marketing stage identical to that of the CEP transactions after deductions.

In the home market, Malee reported numerous selling functions undertaken by Malee Enterprise for its resales to small wholesalers, retailers and end-users. In addition to maintaining inventory, Malee Enterprise also handled all advertising during the POR. The advertising was directed at the ultimate consumer. Malee also reported that Malee Enterprise replaces damaged or defective merchandise and, as necessary, breaks down packed cases into smaller lot sizes for many sales. Malee made direct sales to hotels, restaurants and industrial users. Malee claimed that its only selling function on direct sales was delivery of the product to the customer.

Our examination of the selling activities, selling expenses, and customer categories involved in these two channels of distribution indicates that they constitute separate levels of trade, and that the direct sales are made at the same level as Malee's U.S. sales. Where possible, we compared sales at Malee's U.S. LOT to sales at the identical home market LOT. If no match was available at the same LOT, we compared sales at Malee's U.S. LOT to Malee's sales through Malee Enterprise at the more advanced LOT.

To determine whether a LOT adjustment was warranted, we examined the prices of comparable product categories, net of all adjustments, between sales at the two home market LOTs we had designated. We found a pattern of consistent price differences between sales at these LOTs. In making the LOT adjustment, we calculated the difference in weighted-average prices between the two different home market LOTs. Where U.S. sales were compared to home market sales at a different LOT, we reduced the home market price by the amount of this calculated LOT difference.

#### Dole

Dole reported six specific customer categories and one channel of distribution (sales through an affiliated reseller) for its comparison market and seven specific customer categories and one channel of distribution (sales through an affiliated reseller) for its U.S. sales. In its response, Dole claims that all of its sales to unaffiliated comparison market customers (i.e., the six customer

categories) are at the same LOT because these sales are made through the same channel of distribution and involve the same selling functions.

Dole had only CEP sales in the U.S. market. Dole reported that its CEP sales were made through a single channel of distribution (i.e., sales through its U.S. affiliate, Dole Packaged Foods (DPF)), which we have treated as one LOT because there is no apparent difference in the selling functions performed by DPF for the different customers. After making the appropriate deductions under section 772(d) of the Act for these CEP sales, we found that the remaining expenses associated with selling activities performed by Dole are limited to expenses related to the arrangement of freight and delivery to the port of export that are reflected in the CEP price. In contrast, the normal value prices include a number of selling expenses attributable to selling activities performed by DFC in the comparison market, such as inventory maintenance, warehousing, delivery, order processing, advertising, rebate and promotional programs, warranties, and market research. Accordingly, we concluded that CEP is at a different LOT from the NV LOT, i.e., the CEP sales are less remote from the factory than are the NV sales.

Having determined that the comparison market sales were made at a level more remote from the cannery than the CEP transactions, we then examined whether a LOT adjustment or CEP offset may be appropriate. In this case, Dole only sold at one LOT in the comparison market; therefore, there is no information available to determine a pattern of consistent price differences between the sales on which NV is based and the comparison market sales at the LOT of the export transaction, in accordance with the Department's normal methodology as described above. *See Porcelain-on-Steel Cookware from Mexico Final Results of Administrative Review*, 65 FR 30068 (May 10, 2000). Further, we do not have information which would allow us to examine pricing patterns based on respondent's sales of other products, and there are no other respondents or other record information on which such an analysis could be based.

Accordingly, because the data available do not provide an appropriate basis for making a LOT adjustment, but the LOT in the comparison market is at a more advanced stage of distribution than the LOT of the CEP transactions, we made a CEP offset adjustment in accordance with section 773(a)(7)(B) of the Act. This offset is equal to the amount of indirect expenses incurred in the

comparison market not exceeding the amount of indirect selling expenses deducted from the U.S. price in accordance with 772(d)(1)(D) of the Act.

#### Intent To Revoke in Part

On July 31, 2001, SFP requested that "the Department revoke the antidumping order in part as regards SFP based on the absence of dumping pursuant to 19 CFR 351.222(b)(2)." SFP submitted, along with its revocation request, a certification stating that: (1) The company sold subject merchandise at not less than normal value during the POR, and that in the future it would not sell such merchandise at less than normal value (*see* 19 CFR 351.222(e)(1)(i)); (2) the company has sold the subject merchandise to the United States in commercial quantities during each of the past three years (*see* 19 CFR 351.222(e)(1)(ii)); and (3) the company agreed to its immediate reinstatement in the order, as long as any exporter or producer is subject to the order, if the Department concludes that the company, subsequent to the revocation, sold the subject merchandise at less than NV. *See* 19 CFR 351.222(b)(2)(i)(B), and as referenced at 19 CFR 351.222(e)(1)(iii).

Based on the preliminary results in this review and the final results of the two preceding reviews (*see Notice of Final Results of Antidumping Duty Administrative Review and Final Determination Not To Revoke Order in Part: Canned Pineapple Fruit From Thailand*, 65 FR 77851 (December 13, 2000) and *Notice of Final Results of Antidumping Duty Administrative Review and Recission of Administrative Review in Part: Canned Pineapple Fruit from Thailand*, 66 FR 52744, (October 17, 2001)), SFP has preliminarily demonstrated three consecutive years of sales at not less than normal value. Furthermore, SFP's aggregate sales to the United States have been made in commercial quantities during the last three segments of this proceeding. *See* the July 31, 2002 Memorandum to Bernard Carreau: Preliminary Determination to Revoke in Part the Antidumping Duty Order on Canned Pineapple Fruit from Thailand. Interested parties are invited to comment in their case briefs on all of the requirements that must be met by SFP under section 351.222 of the Department's regulations in order to qualify for revocation from the antidumping duty order. Based on the above facts and absent any evidence to the contrary, the Department preliminarily determines that the continued application of the order to SFP is not otherwise necessary to offset



dumping. Therefore, if these preliminary findings are affirmed in our final results, we intend to revoke the order with respect to merchandise produced and exported by SFP. In accordance with 19 CFR 351.222(f), we will terminate the suspension of liquidation for any such merchandise entered, or withdrawn from warehouse, for consumption on or after July 1, 2001, and will instruct Customs to refund any cash deposit.

### Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act, based on exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

### Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted-average margins exist for the period July 1, 1999, through June 30, 2000:

Manufacturer/Exporter	Margin (percent)
Siam Food Products Company Ltd. (SFP) .....	0.09
Dole Food Company, Inc. (Dole) .....	0.63
The Thai Pineapple Public Company, Ltd. (TIPCO) .....	0.44
Kuiburi Fruit Canning Co. Ltd. (Kuiburi) .....	0.39
Thai Pineapple Canning Industry (TPC) .....	2.43
Siam Fruit Canning (1988) Co. Ltd. (SIFCO) .....	0.64
Vita Food Factory (1989) Co. Ltd. (Vita) .....	1.94
Malee Sampran Public Co., Ltd. (Malee) .....	0.56

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. See 19 CFR 351.224(b). Interested parties are invited to comment on the preliminary results. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. Parties who submit arguments are requested to submit with each argument: (1) A statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on a diskette. Any interested party may request a hearing within 30 days of publication of this notice. See 19

CFR 351.310(c). If requested, a hearing will be held 44 days after the publication of this notice, or the first workday thereafter. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any written comments or hearing, within 120 days from publication of this notice.

### Assessment

Pursuant to 19 CFR 351.212(b), the Department calculated an assessment rate for each importer of subject merchandise. Upon completion of this review, the Department will instruct the U.S. Customs Service to assess antidumping duties on all entries of subject merchandise by that importer. We have calculated each importer's duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of examined sales. Where the assessment rate is above *de minimis*, the importer-specific rate will be assessed uniformly on all entries made during the POR.

### Cash Deposit Requirements

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of CPF from Thailand entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for companies listed above will be the rate established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis*, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the LTFV investigation conducted by the Department, the cash deposit rate will be 24.64 percent, the "All Others" rate established in the LTFV investigation.

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their

responsibility under 19 CFR 351.402(f)(2) 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 occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 31, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 02-19995 Filed 8-6-02; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-549-807]

### Certain Carbon Steel Butt-Weld Pipe Fittings From Thailand: Preliminary Results of Antidumping Duty Administrative Review

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

**ACTION:** Notice of Preliminary Results of Antidumping Duty Administrative Review.

**SUMMARY:** In response to a timely request by Tube Forgings of America, Inc., (the petitioner), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain carbon steel butt-weld pipe fittings (pipe fittings) from Thailand. This review covers Thai Benkan Corporation, Ltd. (TBC), a manufacturer/exporter of this merchandise to the United States, during the period July 1, 2000, through June 30, 2001. We have preliminarily determined that sales of the subject merchandise have been made below normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the NV and the export price (EP) or constructed export price (CEP). Interested parties are invited to comment on these preliminary results. Parties who submit arguments in this proceeding are requested to submit with the arguments: (1) a statement of the issues; and (2) a brief summary of the arguments.

**EFFECTIVE DATE:** August 7, 2002.