

freight, we based our calculation on 1999 price quotes from Indian rail freight transporters, adjusted for inflation.

#### Preliminary Results of the Review

We preliminary find that the following dumping margin exists for the period July 1, 2002, through June 30, 2003:

Exporter/manufacture	Weighted-average margin percentage
Shandong Xinhua Pharmaceutical Co., Ltd .....	0.00

#### Assessment Rates

Pursuant to 19 CFR 351.212(b), the Department calculates an assessment rate for each importer of the subject merchandise for each respondent. Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (i.e., at or above 0.5 percent), the Department will issue appraisal instructions directly to CBP to assess antidumping duties on appropriate entries. To determine whether the duty assessment rates covering the period were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(1), we calculate importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to that importer (or customer) and dividing this amount by the total value of the sales to that importer (or customer). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis*, we calculate a per unit assessment rate by aggregating the dumping margins calculated for all U.S. sales to that importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer).

All other entries of the subject merchandise during the POR will be liquidated at the antidumping duty rate in place at the time of entry.

The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of this review.

#### Cash Deposit Rates

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of bulk aspirin from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided

for by section 751(a)(1) of the Act: (1) Because Shandong has a zero margin, no cash deposit shall be required; (2) for a company previously found to be entitled to a separate rate and for which no review was requested, the cash deposit rate will be the rate established in the most recent review of that company; (3) for all other PRC exporters of subject merchandise, the rate will be the PRC country-wide rate, which is 144.02 percent; and (4) for non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that exporter. Because Jilin is no longer covered by the antidumping duty order, no cash deposit is required for entries manufactured and exported by Jilin.

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

#### Public Comment

Any interested party may request a hearing within 30 days of publication of this notice. A hearing, if requested, will be held 37 days after the publication of this notice, or the first business day thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of the preliminary results.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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 administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 1, 2004.

**Jeffrey A. May,**  
Acting Assistant Secretary for Import Administration.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-549-813]

#### Notice of Preliminary Results 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<sup>1</sup>, 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 four producers/exporters of the subject merchandise.

We preliminarily determine that for one producer/exporter, Vita Food Factory (1989) Co., Ltd., sales have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct Customs and Border Protection (CBP) to assess antidumping duties based on the difference between the export price (EP) or the constructed export price (CEP), as applicable, and the NV.

**EFFECTIVE DATE:** April 8, 2004.

**FOR FURTHER INFORMATION CONTACT:** Marin Weaver or Charles Riggall, at (202) 482-2336 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:

##### 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 2, 2003, we published in the **Federal Register** the notice of opportunity to request the eighth administrative review of this order. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 68 FR 39511 (July 2, 2003).

In accordance with § 351.213(b)(2) of the Department's regulations, the following producers/exporters made

<sup>1</sup> The petitioners are Maui Pineapple Company and the International Longshoremen's and Warehousemen's Union.

timely requests that the Department conduct an administrative review for the period from July 1, 2002, through June 30, 2003: Dole Food Company, Inc., Dole Packaged Foods Company, and Dole Thailand, Ltd. (collectively, Dole); Kuiburi Fruit Canning Co., Ltd. (Kuiburi); the Thai Pineapple Public Co., Ltd. (TIPCO); Vita Food Factory (1989) Co. Ltd. (Vita).

In addition, on July 30, 2003, the petitioners, in accordance with § 351.213(b)(1) of the Department's regulations, submitted a timely request that the Department conduct a review of Malee Sampran Public Co., Ltd. (Malee), Prachuab Fruit Canning Co. (Praft), Siam Fruit Canning (1988) Co., Ltd. (SIFCO), and the Thai Pineapple Canning Industry Corp., Ltd. (TPC), as well as for Dole, Kuiburi, TIPCO, and Vita. On August 27, 2003, the petitioners withdrew their review requests for TPC, Praft, SIFCO, and Malee.

On August 22, 2003, we published the notice of initiation of this antidumping duty administrative review, covering the period July 1, 2002, through June 30, 2003. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 68 FR 50750 (August 22, 2003).

#### Scope of the Review

The product covered by this order 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) of the Act, in February and March 2004 we verified information provided by Dole, Kuiburi, and TIPCO. We used standard verification procedures, including on-site inspection of the respondent producers' facilities and examination of relevant sales and financial records.

#### Product 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 products sold in the United States with the most similar merchandise sold in the comparison markets 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 to 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 (or agreed to be 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, using as a starting price 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 Canned Pineapple Fruit from Thailand: Final Results of Antidumping Duty Administrative Review*, 66 FR 52744 (October 17, 2001) and accompanying Decision Memo at TIPCO Comment 16. *See also Circular Welded Non-Alloy Steel Pipe from Mexico: Final Results of Antidumping Duty Administrative Review*, 65 FR 37518 (June 15, 2000) and accompanying Decision Memo at Hylsa Comment 3.

We calculated EP based on the packed free on board (FOB) or cost and freight (C&F) price to unaffiliated purchasers in 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 April 1, 2004 (TIPCO 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, cost, insurance, and freight (CIF), or C&F prices to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions from the starting price for international freight, marine insurance, and foreign movement expenses (including terminal handling charge,

bill of lading free, customs clearance (shipping) charge, port charges, document legalization fee, stuffing expenses, inland freight and other miscellaneous charges). See Analysis Memorandum for Vita Food Factory (1989) Co., Ltd., dated April 1, 2004 (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 in 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 April 1, 2004 (Kuiburi Analysis Memorandum).

#### Dole

For this period of review (POR), Dole had both EP and CEP transactions. The CEP transactions were made in the United States by Dole Packaged Foods (DPF), a division of Dole. The EP transactions were made directly from Dole Thailand, Ltd. (DTL) to the United States.

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 § 351.401(c) of the Department's regulations. We also made deductions for foreign inland movement expenses, insurance and international freight in accordance with section 772(c)(2)(A) of the Act. For Dole's CEP sales, 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. See Analysis Memorandum for Dole, dated April 1, 2004 (Dole Analysis Memorandum). We calculated EP based on the packed FOB price to unaffiliated purchasers in 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. See Dole Analysis Memorandum.

#### 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 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, 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.*, Germany for both Vita and TIPCO, Canada for Dole, and Spain for Kuiburi.

##### B. Cost of Production Analysis

Pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of comparison markets for each respondent. Because we disregarded sales that failed the cost test in the last completed review for Dole, Kuiburi, TIPCO, and Vita, 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>2</sup> As a result, we initiated an investigation of sales below cost for each of these companies. 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 (SG&A) expenses, interest expense, 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. In addition, we have implemented a change in practice regarding the

<sup>2</sup> The 2001/2002 review was not completed until five 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 2000/2001 review. See *Notice of Final Results of Antidumping Duty Administrative Review, Rescission of Administrative Review in Part, and Final Determination to Revoke Order in Part: Canned Pineapple Fruit from Thailand*, 67 FR 76718 (December 13, 2002).

treatment of foreign exchange gains and losses. For all four respondents, we adjusted the reported financial expense ratios to include all foreign exchange gains and losses in each company's interest expenses. See *Stainless Steel Bar From India: Final Results of Antidumping Duty Administrative Review*, 68 FR 47543, 47544 (August 11, 2003).

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 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>3</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 and the production of dehydrated products, 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

<sup>3</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).

methodology is weight-based, we requested that they recalculate fruit costs allocated to CPF based on NV 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 made the following company-specific adjustments to the cost data submitted in this review.

**TIPCO.** We adjusted TIPCO's cost calculation for the second half of the POR to revise the solid pineapple ratio used to allocate costs between the solid pineapple used for CPF products and the solid pineapple used for tropical fruit salad products. This adjustment reflects a correction of the reported relative weight of these products based on the Department's findings at verification. See TIPCO's Analysis Memorandum for further information.

**Kuiburi.** As discussed above, since the first administrative review of CPF from Thailand the Department has utilized a NRV methodology to allocate pineapple fruit costs among joint products. Under this methodology, the separable costs for each joint product (e.g., solid pineapple products produced primarily from pineapple cylinders and juice and dehydrated core products made primarily from pineapple cores and shells) are subtracted from the gross revenue for each joint product. The ratio of the net realizable value of each joint product to the total net realizable value of all products is then used as the allocation base.

In the most recently completed review, we rejected Kuiburi's reported allocation methodologies from the historic period (1990 through 1994),<sup>4</sup> and 1997 through 2001, because they were based on relative revenues alone and failed to consider the impact of separable costs.<sup>5</sup> Instead, the Department calculated a facts available (FA) NRV ratio for Kuiburi by averaging the historical NRVs of Dole, TIPCO, SIFCO, and Vita, respondents in that review whose methodologies reflected the Department's preferred methodology. At that time, the Department used this FA NRV surrogate methodology because none of the NRV ratio calculations offered by Kuiburi was deemed appropriate.<sup>6</sup> In the instant review, Kuiburi based its allocation of joint products on the surrogate NRV

allocation ratio methodology that the Department developed as FA for Kuiburi in the previous review.<sup>7</sup>

However, Kuiburi also provided an alternative NRV ratio calculation, based on solid and juice revenues without separable costs deducted during the partial historical period (1992–1994). Subsequently, Kuiburi provided two other ratios based on solid and juice revenues during the five-year periods of 1997 through 2001, and 1998 through 2002, but again without separable costs deducted. The Department requested that Kuiburi report the first five-year period for which it could provide both revenues and separable costs. In response, Kuiburi provided a ratio based on the five-year period of 1998–2002, which contains separable costs and revenue. For these preliminary results, we have applied as FA the 1998–2002 ratio with separable costs deducted, and have revised relevant costs accordingly. See Kuiburi Analysis Memorandum.

We have concluded that the 1998–2002 ratio is preferable to the averaged NRV because it is calculated from Kuiburi's own books and records and is based on both revenue and separable costs, and therefore satisfies more of the Department's requirements. In previous segments of this proceeding, the Department has excluded NRV ratios based on data from time periods when the Department had determined that CPF was sold at less than fair value. However, in this case, the Department has determined to use Kuiburi's NRV ratio from the 1998–2002 period as FA, because, among the alternatives available on the record, it most clearly approximates the Department's specified methodology used to calculate the historic NRV, by utilizing five years of data, incorporating separable costs and relying on the company's own data. As noted in the most recent previous review, Kuiburi did not exist until 1992, and did not maintain any records of separable costs in its early years.<sup>8</sup> Therefore, Kuiburi does not have the data to provide a full NRV calculation based on the historic period of 1990 through 1994.

In addition to selecting an alternative FA ratio for allocation of Kuiburi's joint costs, we have recalculated the total pineapple fruit usage to which this NRV ratio is applied. In its reported cost calculation, Kuiburi correctly offset pineapple cost with scrap scales of pineapple cores and shells to outside

buyers. However, after deducting the offset for scrap sales, Kuiburi further reduced total pineapple usage by deducting the calculated values of cores and shell byproducts consumed internally by Kuiburi in the production of dehydrated pineapple cores (cores) and milled juice (shells). We have disallowed these additional offsets for cores and shells consumed to produce Kuiburi dehydrated cores and milled juice because we regard both products as joint products subject to the NRV-based fruit cost allocation, and have revised relevant cost accordingly. See Kuiburi Analysis Memorandum.

Kuiburi produces dehydrated cores from both fresh pineapple cores it purchases from other producers and from cores Kuiburi obtains as byproducts from its processing of whole pineapple. Kuiburi can track the cost of the purchased fresh cores separately and has properly not included the cost of the purchased cores in its joint production costs because they represent a distinct part of the pineapple dedicated to the production of a specific product, dehydrated cores. The Department disagrees specifically with Kuiburi's deduction of the calculated cost of Kuiburi's own byproduct cores that it uses in its own dehydrated core production. On the same basis, the Department disagrees with Kuiburi's deduction of the calculated cost of pineapple shell used to produce milled juice. In this case, Kuiburi argued that milled juice is itself a byproduct and therefore the cost of the shell input should be deducted. However, we regard milled juice as well as dehydrated cores as joint products.

Under our NRV methodology, to the extent the dehydrated cores and milled juice are produced from cores and shells obtained as byproducts from Kuiburi's whole fruit purchases, milled juice and dehydrated cores are part of the joint production process and must be included in the NRV allocation. Both dehydrated cores and milled juice are accounted for on the "juice" side of the NRV allocation. As discussed above, the goal of the NRV methodology is to rationalize cost allocation of pineapple purchased whole, but for which the cylinder portions are normally used for CPF and other higher revenue products while the cores and shell are normally devoted to juice products. With the introduction of new products such as the dehydrated cores, it is important to reemphasize that the purpose of the NRV joint product methodology in this case is to distinguish between products that are primarily made from the cylinder portion of the pineapple and

<sup>4</sup> Kuiburi began operations in 1992, so its reported historical period costs were actually from 1992 through 1994.

<sup>5</sup> *Final Results POR 7* and accompanying Issues and Decision Memorandum at Comment 13.

<sup>6</sup> *Id.*

<sup>7</sup> See *Notice of Final Results, Partial Rescission of Antidumping Duty Administrative Review, and Final Determination to Not Revoke Order in Part: Canned Pineapple Fruit From Thailand*, 68 FR 65247 (November 19, 2003) (*Final Results POR 7*).

<sup>8</sup> *Id.*

other products that are primarily made from the shells and cores.

We also adjusted the general and administrative expenses based on findings at verification. *See* Kuiburi's Analysis Memorandum.

*Dole.* Based on verification findings we adjusted the values of sugar and citric acid as used in Dole's cost calculation. We increased the total value of the sugar used in Dole's cost calculation because we found that Dole had underreported its sugar costs, and we decreased citric acid costs because Dole had overstated them. Additionally, we recalculated Dole's can and labor costs to subtract the costs and labor associated with 6-ounce lithograph cans. *See* Dole Analysis Memorandum for further information.

## 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 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 do 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 during the POR 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 determine 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 disregard the below-cost sales.

We found that for certain CPF products, Dole, Kuiburi, TPCO, 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 § 351.410 of the Department's regulations. We also made adjustments, in accordance with § 351.410(e) of the Department's regulations, 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 or C&F prices to unaffiliated purchasers in Germany. We adjusted for the following movement expenses: brokerage and handling, port charges, stuffing expenses, inland freight, and international 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).

*Vita.* We based third-country market prices on the packed FOB, C&F, or free alongside ship (FAS) prices to unaffiliated purchasers in Germany. We adjusted for the following movement

expenses: international freight, inland freight, terminal handling charges, container stuffing charges, bill of lading fees, customs clearance charges, port charges, document legalization fees and other miscellaneous charges. We made COS adjustments by deducting direct selling expenses incurred for third-country market sales (credit expenses, commissions, bank charges, warranty expenses, and packing costs) and adding U.S. direct selling expenses (credit expenses, commissions, and bank charges).

*Kuiburi.* We based third-country market prices on the packed, FOB or C&F prices to an unaffiliated purchaser 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).

*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 for third-country market sales (credit expenses, warranty, advertising, royalties, and commissions) and adding U.S. direct selling expenses (credit expenses, advertising, warranty, and commissions). We adjusted Dole's Canadian interest rate so that it reflects the one month prime commercial paper rate published by the Bank of Canada instead of the prime business rate which Dole had used to calculate credit expenses. In addition, because the NV LOT is more remote from the factory than the CEP LOT (*see the Level of Trade* section, below), and available data provide no appropriate basis to determine a LOT adjustment between NV and CEP, we made CEP offset pursuant to section 773(a)(7)(B) of the Act.

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

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, interest 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.

Where we compared U.S. price to CV, we made adjustments to CV for COS differences, in accordance with section 773(a)(8) of the Act and § 351.410 of the Department's regulations, and as described under the *Calculation of Normal Value* section above. 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 did not compare U.S. price to CV for Dole, Kuiburi, or TIPCO because all U.S. sales were compared to contemporaneous sales of identical or similar merchandise in the ordinary course of trade. For Vita we compared U.S. price to CV when there were no contemporaneous sales of identical or similar merchandise in the ordinary course of trade.

#### 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. LOT 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 LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in the LOTs 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 Dole, claimed that all of their sales involved identical selling function, irrespective of channel of distribution or market. We examined these selling functions for Vita, TIPCO, 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 Dole, we have preliminarily found that there is an identical LOT in the U.S. and relevant comparison market, and no LOT adjustment is required for comparison of U.S. sales to comparison market sales.

#### Dole

Dole reported six specific customer categories and one channel of distribution (sales through an affiliated reseller) for its comparison market, and eight specific customer categories and two channels of distribution for the U.S. market. The primary channel of distribution reported is sales through an affiliated reseller for its U.S. sales. The second channel of distribution in the United States is direct sales. In its response, Dole claims, and the Department concurs, 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 both CEP and EP 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)). 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, which are incurred for all such sales. Consequently, we find that all CEP sales occurred at the same LOT. In contrast, the NV 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).

For CEP sales, having determined that the comparison market sales were made at a level more remote from the factory 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 biased. 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 selling 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.

Additionally, it appears that Dole's Canadian sales involve significantly more selling functions than Dole's U.S. EP sales. Therefore, we conclude that Dole's NV sales are made at a different, and more remote, level of trade than its EP sales. Nonetheless, we are unable to make a LOT adjustment for EP sales because there is no data on the record that would allow the Department to establish whether there is a pattern of consistent price differences between sales at different levels of trade in the comparison market. Therefore, a LOT adjustment is not possible for comparisons of EP sales to comparison market sales.

#### Intent To Revoke in Part

On July 28, 2003, both Kuiburi and TIPCO requests that, pursuant to 19 CFR 351.222(b)(2), the Department revoke the antidumping duty order in part based on their three consecutive years of sales at not less than normal value. On July 31, 2003, Dole made the same request. Dole, Kuiburi and TIPCO submitted, along with their revocation requests, a certification stating that: (1) Each company sold subject merchandise at not less than normal value during the POR, and that in the future each company would not sell such merchandise at less than normal value (*see* 19 CFR 351.222(e)(1)(i)); (2) each 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) each 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)(iii), 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, Rescission of Administrative Review in Part, and Final Determination to Revoke Order in Part: Canned Pineapple Fruit from Thailand*, 67 FR 76718 (December 13, 2002) and *Notice of Final Results of Antidumping Duty Administrative Review, Rescission of Administrative Review in Part, and Final Determination to Not Revoke Order in Part: Canned Pineapple Fruit from Thailand*, 68 FR 65247 (November 19, 2003)), Dole, Kuiburi, and TIPCO have preliminarily demonstrated three consecutive years of sales at not less than normal value. Furthermore, Dole's, Kuiburi's, and

TIPCO's aggregate sales to the United States have been made in commercial quantities during the last three segments of this proceeding. *See* the April 1, 2004, Memorandum to Holly Kuga: 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 Dole, Kuiburi, and TIPCO under § 351.222 of the Department's regulations 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 Dole, Kuiburi, and TIPCO 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 Dole, Kuiburi, and TIPCO. In accordance with 19 CFR 351.222(f)(3), we will terminate the suspension of liquidation for any such merchandise entered, or withdrawn from warehouse, for consumption on or after July 1, 2003, 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 date 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, 2002, through June 30, 2003:

Manufacturer/exporter	Margin (percent)
Dole Thailand, Ltd. (Dole) .....	0.18
Thai Pineapple Public Co., Ltd. (TIPCO) .....	0.12
Kuiburi Fruit Canning Co., Ltd. (Kuiburi) .....	0.30
Vita Food Factory (1989) Co., Ltd. (Vita) .....	0.96

Within five days of the publication of this notice we will disclose to parties to this proceeding the calculations used in our analyses. *See* section 351.224(b) of the Department's regulations. 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* section 351.310(c) of the Department's regulations. 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 § 351.212(b) of the Department's regulations, the Department calculated an assessment rate for each importer of subject merchandise. Upon completion of this review, the Department will instruct CBP to assess antidumping duties on all entries of subject merchandise by those importers. 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 calculated 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 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 26.64 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 § 351.402(f)(2) of the Department's regulations 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: April 1, 2004.

**Jeffrey A. May,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 04-8014 Filed 4-7-04; 8:45 am]

BILLING CODE 3510-DS-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-892, A-533-838]

#### **Carbazole Violet Pigment 23 from India and the People's Republic of China: Notice of Postponement of Preliminary Antidumping Duty Determinations**

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

**ACTION:** Notice of Postponement of Preliminary Antidumping Duty Determinations in Antidumping Investigations.

**EFFECTIVE DATE:** April 8, 2004.

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

**SUMMARY:** The Department of Commerce (the Department) is postponing the

preliminary determinations in the antidumping investigations on carbazole violet pigment 23 (CVP-23) from India and the People's Republic of China (PRC) from April 29, 2004 to June 18, 2004. This postponement is made pursuant to section 733(c)(1)(B) of the Tariff Act of 1930, as amended (the Act).

#### **SUPPLEMENTARY INFORMATION:**

##### **Postponement of Preliminary Determination**

The preliminary determinations for these investigations are currently due no later than April 29, 2004. Under section 733(c)(1)(B) of the Act, the Department can extend the period for reaching a preliminary determination until not later than the 190th day after the date on which the administering authority initiates an investigation if the Department concludes that the parties concerned are cooperating and determines that: (i) the case is extraordinarily complicated by reason of (I) the number and complexity of the transactions to be investigated or adjustments to be considered, (II) the novelty of the issues presented, or (III) the number of firms whose activities must be investigated, and (ii) additional time is necessary to make the preliminary determination.

We have concluded that the statutory criteria for postponing the preliminary determinations have been met. Specifically, the parties concerned are cooperating in these investigations. Furthermore, additional time is necessary to complete the preliminary determinations due to the number and complexity of the transactions to be investigated and adjustments to be considered. For example, for the PRC, each respondent has reported a different production process consisting of some 30 inputs, some of which may need to be converted into different concentration levels before being introduced into the main processes. Moreover, there are several inputs that are recycled, further complicating the manner in which we determine normal value. The investigation in India involves potentially complex affiliation issues. In addition, there are numerous respondents subject to the two investigations. Finally, on March 23, 2004, the petitioners (Nation Ford Chemical Company and Sun Chemical Corporation) alleged critical circumstances with respect to imports of CVP-23 from the PRC. We are currently reviewing these allegations.

Pursuant to section 733(c)(1)(B) of the Act, we have determined that these investigations are "extraordinarily complicated" and additional time is necessary. We are, therefore, postponing

the preliminary determinations by 50 days to June 18, 2004.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: April 1, 2004.

**Jeffrey A. May,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 04-8013 Filed 4-7-04; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-583-837]

#### **Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan: Preliminary Results of Antidumping Duty Administrative Review**

**ACTION:** Notice of preliminary results of antidumping duty administrative review.

**SUMMARY:** Upon the request of the petitioners, the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on Polyethylene Terephthalate Film, Sheet, and Strip ("PET film") from Taiwan, with respect to Nan Ya Plastics Corporation, Ltd., ("Nan Ya") and Shinkong Synthetic Fibers Corporation ("Shinkong"), in accordance with 19 CFR 351.213. The period of review ("POR") is December 21, 2001, through June 30, 2003. Our preliminary results of review indicate that Nan Ya and Shinkong have sold subject merchandise at less than normal value ("NV") during the POR. If these preliminary results are adopted in our final results of this administrative review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on Nan Ya's and Shinkong's entries of subject merchandise made during the POR, in accordance with section 751(a)(2)(C) of the Tariff Act of 1930, as amended ("The Act"), and 19 CFR 351.212(b). We invite interested parties to comment on these preliminary results. We will issue the final results of review no later than 120 days from the date of publication of this notice.

**EFFECTIVE DATE:** April 8, 2004.

**FOR FURTHER INFORMATION CONTACT:** Zev Primor or Tom Martin at (202) 482-4114 and (202) 482-3936, respectively; AD/CVD Enforcement Office IV, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th