

On domestic sales, the company would be able to defer Customs duty payments on foreign materials. On domestic shipments of photovoltaic modules, the company would be able to choose the duty rate that applies to finished products (duty-free) instead of the rate otherwise applicable to the foreign components (duty-free to 6.5%). In addition, Sharp may realize logistical/procedural and other benefits from subzone status. The application indicates that the savings from zone procedures would help improve Sharp's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. *Submissions Via Express/Package Delivery Services*: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW., Washington, DC 20005; or

2. *Submissions Via the U.S. Postal Service*: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW., Washington, DC 20230.

The closing period for their receipt is January 20, 2004. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to December 4, 2003).

A copy of the request will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at address Number 1 listed above and at the U.S. Department of Commerce Export Assistance Center, Buckman Hall, Suite 328, 650 East Parkway South, Memphis, TN 38104.

Dated: November 6, 2003.

**Dennis Puccinelli,**

*Executive Secretary.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-549-813]

### Canned Pineapple Fruit From Thailand

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

**ACTION:** 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.

**SUMMARY:** On June 27, 2003, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on canned pineapple fruit (CPF) from Thailand. This review covers seven producers/exporters of the subject merchandise. The period of review (POR) is July 1, 2001, through June 30, 2002. Based on our analysis of the comments received, these final results differ from the preliminary results. The final results are listed below in the Final Results of Review section. Consistent with the preliminary results, we are rescinding the review with respect to Prachuab Fruit Canning Company (Praft) based on our determination that this company had no shipments of subject merchandise to the United States during the POR.

**EFFECTIVE DATE:** November 19, 2003.

**FOR FURTHER INFORMATION CONTACT:** Marin Weaver or Charles Riggle, Office 5, Group II, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2336 and (202) 482-0650, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

This review covers the following producers/exporters of merchandise subject to the antidumping duty order on CPF from Thailand: Vita Food Factory (1989) Co., Ltd. (Vita), Kuiburi Fruit Canning Co., Ltd. (Kuiburi), Malee Sampran Public Co., Ltd. (Malee), The Thai Pineapple Public Co., Ltd. (TIPCO), Thai Pineapple Canning Industry Corp., Ltd. (TPC), Dole Food Company, Inc., Dole Packaged Foods Company, and Dole Thailand, Ltd. (collectively, Dole), and Siam Fruit Canning (1988) Co., Ltd. (SIFCO).

On June 27, 2003, the Department published the preliminary results of this review and invited interested parties to comment on those results. *See Notice of Preliminary Results, Partial Rescission of Antidumping Duty Administrative Review, and Preliminary Determination to Not Revoke Order in Part: Canned Pineapple Fruit From Thailand*, 68 FR 38291 (*Preliminary Results*). On July 28, 2003, we received case briefs from Dole,

Malee, TPC, and the petitioners.<sup>1</sup> On July 28, 2003, SIFCO submitted what it claimed was a case brief, but it was rejected by the Department for being comprised strictly of new factual information.<sup>2</sup> On August 4, 2003, we received rebuttal briefs from Dole, Malee, and the petitioners. We received rebuttal comments from Kuiburi on August 8, 2003.<sup>3</sup>

On July 28, 2003, Malee and the petitioners requested a public hearing, and Dole asked to participate if one was held. A public hearing<sup>4</sup> was held September 5, 2003, and was attended by Dole, Malee, and the petitioners.

##### Scope of the Order

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.

##### Rescission

On October 4, 2002, in response to the Department's questionnaire, Praft stated that it made no shipments of subject merchandise to the United States during the POR. We ran a customs query and found that Praft had no shipments of subject merchandise during the POR. We received no comments regarding our preliminary decision to rescind the review with respect to Praft and, consistent with the preliminary results, we are rescinding the review with respect to Praft.

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

<sup>2</sup> See Letter to Mr. Prayut Visutvatanasak from Gary Taverman, Director, Office 5, Import Administration (July 30, 2003).

<sup>3</sup> Kuiburi was granted permission to submit rebuttal comments on August 8, 2003, due to a delay in its receipt of the petitioners' case brief. See Letter to Mr. Wichian Boonmapajorn from Charles Riggle, Program Manager, Office 5 (August 18, 2003).

<sup>4</sup> The petitioners' request for an *in camera* hearing was rejected because they failed to satisfy the criteria outlined in section 351.310(f) of the Department's regulations. See Letter to the petitioners from Gary Taverman (August 4, 2003).

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the "Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Canned Pineapple Fruit from Thailand" from Holly Kuga, Acting Deputy Assistant Secretary for Group II, Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, dated October 27, 2003 (Decision Memorandum), which is hereby adopted by this notice.

A list of the issues which parties have raised and to which we have responded, all of which are addressed in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit (CRU), room B-099 of the main Commerce building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at <http://ia.ita.doc.gov/>. The paper copy and electronic version of the Decision Memorandum are identical in content.

**Fair Value Comparisons**

Except for the calculations for Dole, TIPCO, and Malee, we calculated export price (EP) and normal value (NV) based on the same methodology used in the preliminary results. Changes to the U.S.-dollar denominated credit expense for TIPCO and Canadian credit expense and quantity weight field used in the margin calculation for Dole are detailed in their respective analysis memoranda and/or the Decision Memorandum. For Malee, the Department discovered that one sale should be treated as constructed export price during the POR, rather than as EP. The changes made to account for this are detailed in Malee's Analysis Memorandum.

**Cost of Production**

Except for Dole, TIPCO, and Kuiburi, we calculated the cost of production (COP) for the merchandise based on the same methodology used in the preliminary results. Changes to the general and administrative (G&A) expense ratio for TIPCO, tinsplate costs for Dole, and pineapple weight volume, G&A and interest expense, and net realizable value for Kuiburi are detailed in the these companies' respective analysis memoranda and the Decision Memorandum.

**No Revocation in Part**

On July 31, 2002, Dole requested that the Department revoke the antidumping duty order in part as regards Dole based on the absence of dumping pursuant to section 351.222(b)(2) of the Department's regulations. Dole submitted, along with its revocation request, a certification stating that: (1) the company did not sell subject merchandise at less than NV during the POR, and that in the future it would not sell such merchandise at less than NV (see section 351.222 (e)(1)(i)) of the Department's regulations; (2) the company has sold subject merchandise to the United States in commercial quantities during each of the past three years (see section 351.222(e)(1)(ii)) of the Department's regulations; 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 sections 351.222(b)(2)(i)(B) and 351.222(e)(1)(iii) of the Department's regulations.

Based on a recent redetermination pursuant to a court remand and affirmed in *Maui Pineapple Company, Ltd. v. United States*, Slip Op. 03-120 (Court of International Trade September 15, 2003), Court No. 01-03-01017, Dole's margin for the fifth POR (July 1, 1999 to June 30, 2000) of this proceeding is now above *de minimis*. See Final Results of Redetermination Pursuant to United States Court of International Trade Remand Order *Maui Pineapple Company, Ltd. v. United States*, Slip Op. 03-42 (April 17, 2003) Court No. 01-03-01017 filed with the court on June 16, 2003. We preliminarily determined that Dole had failed to demonstrate that it has not made sales at less than NV over the past three years. No comments were placed on the record to dispute this and our remand results have been affirmed. Therefore, for the final results, we will not revoke the order with respect to merchandise produced/exported by Dole.

**Final Results of Review**

As a result of our review, we determine that the following weighted-average percentage margins exist for the period July 1, 2001, through June 30, 2002:

Manufacturer/Exporter	Margin (percent)
Dole Food Company, Inc. (Dole) .....	0.49

Manufacturer/Exporter	Margin (percent)
The Thai Pineapple Public Company, Ltd. (TIPCO) ....	0.22
Kuiburi Fruit Canning Co. Ltd. (Kuiburi) .....	0.46
Thai Pineapple Canning Industry (TPC) .....	51.16
Siam Fruit Canning (1988) Co. Ltd. (SIFCO) .....	8.39
Vita Food Factory (1989) Co. Ltd. (Vita) .....	1.93
Malee Sampran Public Co., Ltd. (Malee) .....	7.61

The Department shall determine, and the U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. In accordance with section 351.212(b)(1) of the Department's regulations, we have calculated importer-specific assessment rates by dividing the dumping margin found on the subject merchandise examined by the entered value of such merchandise with the exception of TPC. Where the importer-specific assessment rate is above *de minimis* we will instruct CBP to assess antidumping duties on that importer's entries of subject merchandise. In the case of TPC, which, due the application of adverse facts available (AFA), we have not calculated importer-specific assessment rates. Therefore, we will instruct CBP to assess antidumping duties on all the subject merchandise at the AFA rate. The Department will issue appropriate assessment instructions directly to the CBP within 15 days of publication of these final results of review.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided by section 751(a) of the Tariff Act of 1930, as amended, (the Act): (1) for the companies named above, the cash deposit rate will be the rate listed above, except where the margins are zero or *de minimis* no cash deposit will be required; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a previous segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published in the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review or in any previous segment of this proceeding, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in these final results of review or in the

most recent segment of the proceeding in which that manufacturer participated; and (4) if neither the exporter nor the manufacturer is a firm covered in this review or in any previous segment of this proceeding, the cash deposit rate will be 24.64 percent, the all-others rate established in the less-than-fair-value investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under section 351.402(f) 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 in the subsequent assessment of double antidumping duties.

This notice also is the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Failure to comply is a violation of the APO.

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

Dated: November 10, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

## APPENDIX

### List of Comments in the Issues and Decision Memorandum

#### I. ISSUES SPECIFIC TO DOLE

*Comment 1:* Comparison Market  
*Comment 2:* Third-Party Verification  
*Comment 3:* Use of Facts Available  
*Comment 4:* Affiliation  
*Comment 5:* General and Administrative (G&A) Expense Ratio  
*Comment 6:* Tinline  
*Comment 7:* Credit Expenses  
*Comment 8:* Quantity Weighting Factors  
*Comment 9:* Calculation of the Constructed Export Price (CEP) and Commission Offsets

#### II. ISSUES SPECIFIC TO KUIBURI

*Comment 10:* Volume of Pineapple Input for Product Specific Fruit Costs  
*Comment 11:* Costs Outside the POR  
*Comment 12:* G&A and Interest Expenses

*Comment 13:* Net Realizable Value (NRV)

#### III. ISSUES SPECIFIC TO MALEE

*Comment 14:* NRV

#### IV. ISSUES SPECIFIC TO TIPCO

*Comment 15:* Proposed Interest Income Offset

*Comment 16:* G&A Expenses

*Comment 17:* Direct Materials Cost

*Comment 18:* Credit Expenses

#### V. ISSUES SPECIFIC TO TPC

*Comment 19:* Appropriate Basis for Determining Normal Value

*Comment 20:* Application of Adverse Facts Available

*Comment 21:* Appropriateness of Margin Selected for Adverse Facts Available

*Comment 22:* Control of TPC by MC

#### VI. GENERAL ISSUE

*Comment 23:* Assessment Rates

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-882]

#### Antidumping Duty Order: Refined Brown Aluminum Oxide (Otherwise Known as Refined Brown Artificial Corundum or Brown Fused Alumina) From the People's Republic of China

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

**ACTION:** Notice of antidumping duty order.

**SUMMARY:** Pursuant to section 736(a) of the Tariff Act of 1930, as amended, the Department of Commerce is issuing an antidumping duty order on refined brown aluminum oxide (otherwise known as refined brown artificial corundum or brown fused alumina) from the People's Republic of China.

**EFFECTIVE DATE:** November 19, 2003.

**FOR FURTHER INFORMATION CONTACT:** David J. Goldberger, Jim Mathews or Tinna E. Beldin, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-4136, (202) 482-2778 or (202) 482-1655, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Scope of Order

The merchandise covered by this investigation is ground, pulverized or

refined brown artificial corundum, also known as refined brown aluminum oxide or brown fused alumina, in grit size of  $\frac{3}{8}$  inch or less. Excluded from the scope of the investigation is crude artificial corundum in which particles with a diameter greater than  $\frac{3}{8}$  inch constitute at least 50 percent of the total weight of the entire batch. The scope includes brown artificial corundum in which particles with a diameter greater than  $\frac{3}{8}$  inch constitute less than 50 percent of the total weight of the batch. The merchandise under investigation is currently classifiable under subheading 2818.10.20.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

##### Antidumping Duty Order

On November 10, 2003, the International Trade Commission (the ITC) notified the Department of Commerce (the Department) of its final determination pursuant to section 735(b)(1)(A)(i) of the Tariff Act of 1930, as amended (the Act), that the industry in the United States producing refined brown aluminum oxide (RBAO) is materially injured by reason of less-than-fair-value imports of subject merchandise from the People's Republic of China (PRC). In addition, the ITC notified the Department of its final determination that critical circumstances do not exist with respect to imports of subject merchandise from the PRC that are subject to the Department's affirmative critical circumstances finding.

Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price of the merchandise for all relevant entries of RBAO from the PRC. These antidumping duties will be assessed on all unliquidated entries of RBAO from the PRC entered, or withdrawn from the warehouse, for consumption on or after May 6, 2003, the date on which the Department published the *Notice of Preliminary Determination of Sales Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Refined Brown Aluminum Oxide (Otherwise known as Refined Brown Artificial Corundum or Brown Fused Alumina) from the*