

product is a unique product which is not produced by any other canned pineapple producer in the world nor sold by Dole in any other markets. On September 6, 1994, we granted Dole's requests concerning the reporting of its U.S. sales, but reserved our decision on the appropriate methodology for calculating a less than fair value margin for Dole's Thai-origin merchandise until we had an opportunity to review further its submissions (see Memorandum from Gary Taverman to Richard W. Moreland, dated September 6, 1994).

Sections B and C of the Department's questionnaire which request home-market sales listings and U.S. sales listings, respectively, were received from Dole, TIPCO, and SAICO on September 20, 1994. Malee's Section B and C responses were received on September 22, 1994.

Supplemental questionnaires regarding Sections A, B and C of the Department's questionnaire were issued to Dole on October 14, 1994, and to TIPCO, SAICO, and Malee on October 18, 1994.

On October 21, 1994, we received a timely request from Maui Pineapple Company, Ltd. and the International Longshoremen's and Warehousemen's Union (the petitioners) to postpone the preliminary determination until no later than 210 days after the date of the filing of the petition in this investigation, pursuant to 19 CFR 353.15(c)(1994). On October 26, 1994, finding no compelling reason to deny the request, we granted this request and postponed this final determination until January 4, 1995 (59 FR 54546, November 1, 1994).

Dole submitted supplemental responses to Sections A, B and C of the questionnaire on November 4, and December 21, 1994. Supplemental responses from TIPCO, SAICO, and Malee were submitted on November 8, 1994.

On November 21 and 23, 1994, respondents TIPCO, SAICO, and Malee requested that the Department confirm their selection of invoice date as the proper date of sale for all reported sales. We issued a decision on this issue on November 29, 1994 (see Memorandum from Richard W. Moreland to Barbara R. Stafford, dated November 29, 1994). Subsequently, on December 8, 1994, the Department modified this decision (see memoranda to file dated December 5, December 7, and December 8, 1994), and granted respondents' request to use invoice date as the date of sale for all reported sales. This issue is discussed further in the "Date of Sale" section below.

### Cost of Production Allegation

On September 29, 1994, the petitioners alleged that TIPCO, SAICO, and Malee sold the subject merchandise in Germany during the POI at prices below the cost of production (COP). The petitioners filed a similar allegation against Dole on September 30, 1994.

Based upon our analysis of these allegations, we found that there are reasonable grounds to believe or suspect that TIPCO, SAICO, Malee, and Dole sold CPF in Germany at prices which were below the COP. Accordingly, on October 21, 1994, we initiated COP investigations against these four respondents pursuant to section 773(b) of the Act (1994) (see Memorandum from Richard W. Moreland to Barbara R. Stafford, dated October 21, 1994).

Section D of the Department's questionnaire requesting cost of production and constructed value data was issued to the four respondents on November 7, 1994. Dole's Section D response was received on December 19, 1994. Section D responses from TIPCO, SAICO, and Malee were received on December 27, 1994. Because this information was received too late to be considered for purposes of the preliminary determination, we will analyze this data and use it in the final determination to determine whether any of the respondents made third country sales at prices below the COP.

### Postponement of Final Determination

Pursuant to section 735(a)(2)(A) of the Act (1994), Dole requested on January 4, 1995, that in the event of an affirmative preliminary determination in this investigation, the Department postpone the final determination until no later than 135 days after the date of publication of an affirmative preliminary determination in the **Federal Register**. Pursuant to 19 CFR 353.20(b) (1994), because our preliminary determination is affirmative and Dole is a significant producer of CPF, and no compelling reasons for denial exist, we are postponing the date of the final determination until the 135th day after the date of publication of this notice in the **Federal Register**.

### Scope of the Investigation

The product covered by this investigation is canned pineapple fruit (CPF). For the purposes of this investigation, CPF is defined as pineapple processed and/or prepared into various product forms, including rings, pieces, chunks, tidbits, and crushed pineapple, that is packed and cooked in metal cans with either pineapple juice or sugar syrup added.

CPF is currently classifiable under subheadings 2008.20.0010 and 2008.20.0090 of the Harmonized Tariff Schedule of the United States (HTSUS). HTSUS 2008.20.0010 covers CPF packed in a sugar-based syrup; HTSUS 2008.20.0090 covers CPF packed without added sugar (*i.e.*, juice-packed). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

### Period of Investigation

As stated above, the POI is January 1, through June 30, 1994, for TIPCO, SAICO, and Malee; and January 2, through June 18, 1994, for Dole (see "Case History" section above).

### Such or Similar Comparisons

We determined that all products covered by this investigation constitute a single category of such or similar merchandise. Where there were no sales of identical merchandise in the third country market to compare to U.S. sales, we made similar merchandise comparisons on the basis of the criteria defined in Appendix V to the antidumping questionnaire, on file in Room B-099 of the main building of the Department of Commerce.

In accordance with 19 CFR 353.58(1994), we made comparisons at the same level of trade, where possible. Where we were not able to match sales at the same level of trade, we made comparisons without regard to the level of trade.

Dole stated that its various customers categories (*i.e.*, retail, foodservice and industrial) constituted three separate levels of trade. However, based on information contained in its response, we preliminarily determine that Dole sold CPF to two distinct levels of trade in both the U.S. and German markets. The first level is comprised of sales to customers in the retail and foodservice sectors (Level I); the second is comprised of sales to customers in the industrial sector (Level II).

We have reached this conclusion based on the reported functional differences of Dole's customers. See Import Administration Policy Bulletin 92/1 dated July 29, 1992. Level I customers can be characterized as large national and regional chains which resell CPF to local or independent retail stores or food service outlets. Level II customers can be characterized as companies that use CPF as an ingredient in the production of other food products.