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A-549-813  
Sunset Review  
POR: 2000-2005  
Public Document

TO: David M. Spooner  
Assistant Secretary  
for Import Administration

FROM: Stephen J. Claeys  
Deputy Assistant Secretary  
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Preliminary Results of the Full Sunset Review of the Antidumping Duty Order on Canned Pineapple Fruit from Thailand

Summary:

We have analyzed the substantive responses and rebuttal comments of interested parties in the full sunset review of the antidumping duty order on canned pineapple fruit ("CPF") from Thailand and recommend that you approve the positions we have developed in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the relevant issues upon which we received substantive responses and rebuttal comments from interested parties:

1. Likelihood of the continuation or recurrence of dumping
2. Magnitude of the margin likely to prevail

Background:

In April 2006, the Department published the notice of initiation of the second sunset review of the antidumping duty order on CPF from Thailand pursuant to section 751(c) of the Tariff Act of 1930, as amended, (the "Act").<sup>1</sup> The Department received a timely Notice of Intent to Participate from Maui Pineapple Co., Ltd., ("Maui"), in which Maui claimed interested party status under section 771(9)(C) of the Act, as a producer of a domestic-like product in the United States. We received a complete substantive response from Maui within the 30-day deadline specified in 19 CFR §351.218(d)(3)(i) ("Maui's Substantive Response"), and also received a timely and complete substantive response from respondent interested parties, (The Thai Food Processors' Association, Thai Pineapple Canning Industry Corp., Ltd., ("TPC"), Malee Sampran Public Co., Ltd., ("Malee"), The Siam Agro Industry Pineapples and Others Public Co., Ltd., ("SAICO"), Great Oriental Food Products Co., Ltd., ("Great Oriental"), Thai Pineapple Products and Other Fruits Co., Ltd., ("THAICO"), The Tipco Foods (Thailand) PCL ("TIPCO"), Pranburi Hotei Co., Ltd., ("PHC"), and Siam Fruit Canning (1988) Co., Ltd., ("SIFCO")), (collectively, the

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<sup>1</sup> See Initiation of Five-year ("Sunset") Reviews, 71 FR 16,551 (Apr. 3, 2006).

“Respondents”), within the deadline specified in 19 CFR §351.218(d)(3)(i) (“Respondents’ Substantive Response”). Finally, on May 12, 2006, the Department received rebuttal comments from Maui (“Maui’s Rebuttal”).

Section 351.218(e)(1)(ii)(A) of the Department's regulations provides that the Department normally will conclude that respondents have provided adequate response to a notice of initiation where the Department receives complete substantive responses from respondent interested parties accounting on average for more than 50 percent, by volume, or value, if appropriate, of the total exports of the subject merchandise to the United States over the five calendar years preceding the year of publication of the notice of initiation.

On May 22, 2006, the Department issued an adequacy determination stating that the Respondents did not meet the adequacy requirements.<sup>2</sup> On May 30, 2006, and June 8, 2006, we received timely comments pertaining to our calculation methodology from the Respondents and Maui, respectively. Upon review of the parties’ comments, we modified our calculation methodology and determined that the Respondents met the adequacy requirements.<sup>3</sup> As a result, in accordance with 19 CFR § 351.218(e)(2)(i), the Department determined to conduct a full sunset review of this antidumping duty order. On July 25, 2006, the Department determined that the sunset review of the antidumping duty order on CPF from Thailand is extraordinarily complicated and extended the time limit for completion of the final results of this review until not later than February 27, 2007, in accordance with section 751(c)(5)(B) of the Act.<sup>4</sup>

#### History of the Order:

##### I. Original Investigation

In July 1995, the Department issued an amended final determination and the antidumping duty order after correcting certain ministerial errors alleged by the interested parties.<sup>5</sup> As a result, the margins for all respondents, were determined as follows:

Dole -	1.73 percent
TIPCO -	38.68 percent

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<sup>2</sup> See Memorandum from Zev Primor to Tom Futtner “Adequacy Determination in Antidumping Duty Sunset Review of Canned Pineapple from Thailand” (May 22, 2006).

<sup>3</sup> See Memorandum from Zev Primor to Tom Futtner “Correction to the Adequacy Calculation in the Antidumping Duty Sunset Review of Canned Pineapple Fruit from Thailand” (Jul. 12, 2006).

<sup>4</sup> See Extension of Time Limits for Preliminary Results and Final Results of the Full Sunset Review of the Antidumping Duty Order on Canned Pineapple Fruit from Thailand, 71 FR 42,082 (Jul. 25, 2006).

<sup>5</sup> See Notice of Antidumping Duty Order and Amended Final Determination: Canned Pineapple Fruit from Thailand, 60 FR 36,775 (Jul. 18, 1995).

SAICO - 51.16 percent  
Malee - 41.74 percent  
All Others - 24.64 percent

Thai producers subsequently appealed to the Court of International Trade (“CIT”) challenging certain aspects of the Department’s amended final determination. In November 1996, the CIT concluded that the Department erred in its reliance upon the financial accounting records of TIPCO, SAICO, and Malee to allocate fruit costs, and remanded the case to the Department with respect to that issue as well as other issues concerning the calculation of Dole’s dumping margin.<sup>6</sup> On remand, the Department revised its determination to reflect the weight-based fruit cost allocation methodologies submitted by Respondents and changed the time periods used for calculating Dole’s weighted-average dumping margin.<sup>7</sup> On March 18, 1997, the CIT affirmed the Department’s remand determination.<sup>8</sup>

Maui and the Department subsequently appealed the CIT’s finding with respect to the allocation of fruit costs to the United States Court of Appeals for the Federal Circuit (“CAFC”). On July 28, 1999, the CAFC reversed the CIT’s holding that the Department wrongly allocated raw material costs of pineapple in its calculation of the dumping margins in its amended final determination.<sup>9</sup> On July 9, 2003, the Department implemented the CAFC’s 1999 final decision and also revised Dole’s dumping margin from 1.73 percent to 1.25 percent to reflect the CIT-mandated amendment to the calculations regarding consistent time periods for purposes of calculating Dole’s weighted average margin, which was not challenged before the CAFC.<sup>10</sup>

## II. First Sunset Review

From its July 18, 1995 issuance, until the first sunset review of the order, the Department completed five administrative reviews of the antidumping duty order on CPF from Thailand. A detailed history of the first five administrative reviews may be found in the final results of the first sunset review, in which the Department found that revocation of the antidumping duty order

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<sup>6</sup> See Thai Pineapple Public Co., Ltd. et. al. v. United States, 946 F. Supp. 11, 30 (Ct. Int’l Trade 1996).

<sup>7</sup> See Final Results of Redetermination Pursuant to Court Remand, Thai Pineapple Public Co., et. al. v. United States, Consol. Ct. No. 95-00-01064 (Feb. 4, 1997).

<sup>8</sup> See Thai Pineapple Public Co., Ltd. et. al. v. United States, 21 CIT 283, Slip Op. 97-32 (1997).

<sup>9</sup> See Thai Pineapple Public Co., Ltd. v. United States, 187 F.3d 1362 (Fed. Cir. 1999).

<sup>10</sup> See Final Court Decisions and Amended Final Determination of Sales at Less Than Fair Value: Canned Pineapple Fruit from Thailand, 68 FR 41,556, 41,557 (Jul. 14, 2003).

would be likely to lead to the continuation or recurrence of dumping.<sup>11</sup> On May 17, 2001, the International Trade Commission (“ITC”) determined that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.<sup>12</sup> On May 30, 2001, the Department published notice of the continuation of the antidumping duty order on CPF from Thailand.<sup>13</sup>

### III. Sixth Administrative Review

At the request of certain Thai producers and Maui, the Department conducted a sixth administrative review of this order, covering the period July 1, 2000 through June 30, 2001.<sup>14</sup> That review covered the following nine producers/exporters: Dole, TIPCO, Malee, Siam Food Products Company, Limited (“SFP”), TPC, Prachuab Fruit Canning Co., (“Prachuab”), Siam Fruit Canning (1988) Co., Ltd. (“SFC”), Vita Food Factory (1989) Ltd. (“Vita”), and Kuiburi Fruit Canning Company Limited (“KFC”). The Department subsequently rescinded the review of Prachuab when it found no shipments during the period of review by this company. The final results of the review established the following weighted-average dumping margins:<sup>15</sup>

Dole -	0.27 percent ( <u>de minimis</u> )
TIPCO -	0.44 percent ( <u>de minimis</u> )
KFC -	0.39 percent ( <u>de minimis</u> )
TPC -	2.43 percent
SFC-	0.64 percent
Vita-	1.94 percent
Malee-	0.74 percent
SFP-	0.09 percent ( <u>de minimis</u> ) – Revoked <sup>16</sup>
All Others -	24.64 percent

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<sup>11</sup> See Canned Pineapple Fruit from Thailand; Final Results of Full Sunset Review, 66 FR 8,777 (Feb. 2, 2001).

<sup>12</sup> See Canned Pineapple Fruit From Thailand, 66 FR 27,534 (May 17, 2001).

<sup>13</sup> See Continuation of Antidumping Duty Order: Canned Pineapple Fruit From Thailand, 66 FR 29,285 (May 30, 2001).

<sup>14</sup> See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 66 FR 43,570 (Aug. 20, 2001).

<sup>15</sup> 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 76,718 (Dec. 13, 2002).

<sup>16</sup> The Department revoked the order with respect to SFP based on three consecutive years of de minimis dumping margins. *Id.*, at 76,719.

#### IV. Seventh Administrative Review

At the requests of both Maui and certain Thai producers, the Department conducted a seventh administrative review, covering the period July 1, 2001 through June 30, 2002.<sup>17</sup> That review covered the following eight producers/exporters: Dole, TIPCO, Malee, TPC, Prachuab, SFC, Vita, and KFC. The Department again rescinded the review of Prachuab based on a finding of no shipments during the period of review. In November and December 2003, the Department published its final results, which established the following weighted-average dumping margins:<sup>18</sup>

Dole -	0.49 percent ( <u>de minimis</u> )
TIPCO -	0.22 percent ( <u>de minimis</u> )
KFC -	0.46 percent ( <u>de minimis</u> )
TPC -	51.16 percent
SFC -	8.39 percent
Vita -	1.77 percent <sup>19</sup>
Malee -	7.61 percent
All Others -	24.64 percent

#### V. Eighth Administrative Review

At the requests of both Maui and certain Thai producers, the Department conducted an eighth administrative review, covering the period July 1 2002 through June 30, 2003.<sup>20</sup> That review covered the following four producers/exporters: Dole, TIPCO, KFC and Vita. In its final results, the Department established the following weighted-average dumping margins:<sup>21</sup>

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<sup>17</sup> See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 67 FR 55,000 (August 27, 2002); and Initiation of Antidumping and Countervailing Duty Administrative Reviews, Requests for Revocation in Part and Deferral of Administrative Reviews, 67 FR 60,210 (Sept. 25, 2002).

<sup>18</sup> See 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 65,247 (Nov. 19, 2003).

<sup>19</sup> As a result of ministerial errors allegations, the Department issued amended final results reducing Vita's margin from 1.93 percent to 1.77 percent. See Notice of Amended Final Results of Seventh Administrative Review: Canned Pineapple Fruit From Thailand, 68 FR 75,485, 75,486 (Dec. 31, 2003).

<sup>20</sup> See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 68 FR 50,750 (August 22, 2003).

<sup>21</sup> See Notice of Final Results of Antidumping Duty Administrative Review and Final Determination To Revoke Order in Part: Canned Pineapple Fruit From Thailand, 69 FR 50,164, 50,165 (Aug. 13, 2004). The Department revoked the order with respect to Dole, TIPCO, and KFC based on three consecutive years of de minimis dumping margins.

Dole - 0.20 percent (de minimis) – Revoked  
TIPCO - 0.12 percent (de minimis) – Revoked  
KFC - 0.31 percent (de minimis) – Revoked  
Vita - 0.96 percent  
All Others - 24.64 percent

#### VI. Ninth Administrative Review

At the requests of both Maui and certain Thai producers, the Department conducted a ninth administrative review, covering the period July 1, 2003 through June 30, 2004.<sup>22</sup> That review covered TPC and Vita, after the Department rescinded the review with respect to Prachuab, based on a finding of no shipments during the period of review, and established the following weighted-average dumping margins:<sup>23</sup>

Vita - 9.12 percent  
TPC - 51.16 percent  
All Others - 24.64 percent

#### VII. Tenth Administrative Review

The Department most recently initiated the tenth administrative review for the period July 1, 2004 through June 30, 2005.<sup>24</sup> That review covers Vita and Tropical Food Industries Co., Ltd., (“TROFCO”), after the Department rescinded the review with respect to Prachuab based on a finding of no shipments during the period of review. To date, the Department has issued only preliminary results finding the following dumping margins:<sup>25</sup>

Vita - 16.14 percent  
TROFCO - 51.16 percent  
All Others - 24.64 percent

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<sup>22</sup> See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 69 FR 52,857 (Aug. 30, 2004).

<sup>23</sup> See Canned Pineapple Fruit From Thailand: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 70 FR 61,432 (Oct. 24, 2005).

<sup>24</sup> See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 70 FR 51,009 (Aug. 29, 2005).

<sup>25</sup> See Canned Pineapple Fruit from Thailand: Preliminary Results of Antidumping Duty Administrative Review, 71 FR 44256 (Aug. 4, 2006).

## Discussion of the Issues:

In accordance with section 751(c)(1) of the Act, the Department is conducting this sunset review to determine whether revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping. In this case, the Department considered the weighted average dumping margins determined in the investigation and subsequent reviews, and the volume of imports of CPF from Thailand for the period before and the period after the issuance of the antidumping order. In making these considerations, the Department finds the following indicative of the likely continuation or recurrence of dumping: whether dumping continued at any level above de minimis after the issuance of the antidumping duty order; whether the imports ceased after the issuance of the order; and whether dumping was eliminated and import volumes declined significantly after the issuance of the order.

The Department found that dumping of the subject merchandise continued at levels above de minimis after the issuance of the order, including throughout the five years preceding this sunset review. The Department also found that imports of the subject merchandise declined significantly after the issuance of the order, and have remained at such levels throughout the pendency of the order, including throughout the five years preceding this sunset review. We address the comments of the interested parties below.

### 1. Likelihood of the Continuation or Recurrence of Dumping

#### Maui's Substantive Response:

Pursuant to the statute and guidance provided by the Statement of the Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 316, 103d Cong., (1994) (the "SAA"), Maui asserts that revocation of the antidumping duty order on CPF from Thailand is likely to lead to continued dumping by foreign producers/exporters.<sup>26</sup>

In support of its assertion, Maui contends that the imposition of the antidumping duty order on CPF from Thailand dramatically reduced the volume of those imports and provided statistics of U.S. imports between 1990 and 2005.<sup>27</sup> In particular, Maui notes the decrease in import volumes by comparing the average annual volume in the two years prior to the filing of the petition with the average annual import volume in the first year following the imposition of the order and the annual averages for the entire post-investigative period of 1996 through 2005.

In addition, Maui asserts that while the order was revoked with respect to certain producers during recent years, others continued to be restrained by their own significant margins, or by the "all others" rate. Maui concludes that the shipment data support the notion that Thai

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<sup>26</sup> See Maui's Substantive Response at 18.

<sup>27</sup> See Maui's Substantive Response, Attachment 2.

producers/exporters cannot sell in the United States without dumping, and that the revocation of the order would lead to renewed and even increased dumping.<sup>28</sup>

#### Respondents' Substantive Response:

Respondents state that it is unlikely revocation of the antidumping duty order on CPF from Thailand would result in sales at less than fair value.<sup>29</sup> Respondents claim that the main CPF producers are already revoked from the order and that they account for a majority of exports from Thailand.

Additionally, Respondents claim that Maui, the sole domestic producer of CPF, has recently begun to shift its overall agricultural production to fresh pineapple while reducing its CPF production. Respondents also claim that Maui has moved its production to more profitable segments of the markets, such as sales to the U.S. Government, where it is given a priority over foreign competitors. Moreover, Respondents claim that Maui focuses its sales mainly on the West Coast of the United States while Thai producers serve different geographical markets. Finally, Respondents claim that the Thai producers, which are still subject to the order, sell the subject merchandise to Japan and the European markets, and thus have a very limited capacity to increase sales of CPF to the United States should the order be revoked.<sup>30</sup>

#### Maui's Rebuttal:

Maui argues that the Respondents focus their arguments on other economic factors which are irrelevant to the Department's analysis. Maui claims that factors such as market segmentation, and overlap in competition between CPF and the domestic like product, have nothing to do with whether dumping is likely to continue or recur if revocation is granted. Additionally, Maui argues that Respondents failed to provide the pre-order export volumes to the United States as required by the Department's regulations, thus making any comparison with the last five year data meaningless. According to Maui, because the volume of CPF exports have remained well below the pre-investigation levels, the Department should continue to find likelihood of dumping should the order be revoked.<sup>31</sup>

#### Department's Position:

As part of its determination of whether revocation of an antidumping order is likely to lead to the continuation or recurrence of dumping, the Department will examine whether: a) dumping

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<sup>28</sup> See Maui's Substantive Response at 19-20.

<sup>29</sup> See Respondents' Substantive Response at 3.

<sup>30</sup> See Respondents' Substantive Response at 7.

<sup>31</sup> See Maui's Rebuttal at 2- 4.

continued at any level above de minimis after the issuance of the order or the suspension agreement, as applicable; b) imports of the subject merchandise ceased after issuance of the order or the suspension agreement, as applicable; or c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.

The Department preliminarily determines that revocation of the order on CPF from Thailand is likely to lead to the continuation of dumping. First, the Department examined the dumping margins determined in the investigation and in subsequent administrative reviews of this order. In the original investigation, the Department found that Thai producers were selling at less than fair value in the United States at levels greater than de minimis, specifically between 1.25 and 41.74 percent. In the last five administrative reviews, with exception of the revoked producers, margins have persisted above de minimis levels. See the “History of Order” section above.

With respect to import volumes, the Department examined statistics compiled from the ITC’s Trade Data Web and found that the total import volumes of CPF from Thailand have remained well below their pre-order levels. The pre-order level of imports of CPF from Thailand in 1994 was 339,839,317 lbs, while during the past five years imports of CPF ranged from 168,761,513 lbs to 277,579,374 lbs. The Department notes that the level of these imports is significantly below those in the years prior to the issuance of the order.

Respondents make no assertion that there is good cause to consider “other factors” (see section 751(c)(2) of the Act). Nonetheless, Respondents presented a number of additional arguments as to why the revocation of the order will not have an “adverse” impact on the domestic industry.<sup>32</sup> With respect to the issue of whether there is good cause to consider other factors, the burden is on an interested party to provide information or evidence that would warrant consideration of the other factors in question. Thus, parties must present information in support of their claim that the factor at issue is relevant. It is then the Department’s responsibility to analyze the information provided, request more information if necessary, and determine if the information and/or evidence affects the Department’s likelihood determination.<sup>33</sup>

The Department finds, in light of the relationship between dumping margins and import volumes, that the other factors asserted by Respondents in this case are not relevant to the likelihood of continued dumping. For example, Respondents’ observations concerning Maui’s production shift to fresh pineapple or that Respondents may compete in geographically different markets, are not relevant to the issue of whether continued dumping is likely. Accordingly, we have not considered these factors in making our preliminary determination.

Based on the record evidence that dumping was not eliminated after the issuance of the order,

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<sup>32</sup> See Respondents’ Substantive Response at 3-7.

<sup>33</sup> See Fresh and Chilled Atlantic Salmon From Norway: Final Results of the Full Sunset Review of Antidumping Duty Order, 70 FR 77378 (Dec. 30, 2005).

while imports declined significantly, the Department preliminarily determines that revocation of the order on CPF from Thailand is likely to lead to the continuation of dumping.

## 2. Magnitude of the Margin Likely to Prevail

### Maui's Substantive Response:

Maui states that applying the principles set forth in the SAA, the Department should rely upon the margins of dumping found in the investigation as the dumping margins that are likely to prevail if the order is revoked, because those margins best reflect the behavior of the Respondents absent the constraints of an antidumping order.<sup>34</sup>

### Respondents' Substantive Response:

Respondents argue that the level of the margin's magnitude should be divided into four categories. For companies which were revoked from the order (i.e., Dole, KFC, TIPCO and SFC), Respondents argue that the Department should either inform the ITC that these companies are no longer subject to the order or that the Department should assign to them zero margin based on the de minimus rate derived from three consecutive administrative reviews.<sup>35</sup>

For companies that participated in reviews and were not subjected to adverse facts available ("AFA"), Respondents urge the Department to use the companies' simple average of all rates derived from administrative reviews conducted since the investigation. Using this approach, Respondents calculate that Malee should receive an average rate of 4.03 percent, Prachuab an average rate of 7.02 percent, SIFCO an average rate of 3.64 percent, and TROFCO an average rate of 4.02 percent. For companies that participated in administrative reviews and received an AFA rate, the Respondents request that the Department ignore the AFA rate and focus only on calculated rates. Using this approach, Respondents calculate an average rate of 5.61 percent for Vita, an average rate of 6.82 percent for TPC, and an average rate of 3.16 percent for SAICO. For companies that never participated in an administrative review, Respondents suggest the rate of 3.16 percent, a rate that reflects the average of all margins from the second review to the present while excluding any AFA determination.<sup>36</sup>

### Maui's Rebuttal:

Maui urges the Department to select margins which prevailed in the original investigation since

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<sup>34</sup> See Maui's Substantive Response at 20.

<sup>35</sup> See Respondents' Substantive Response at 7-8.

<sup>36</sup> Id. at 7-12.

these are the only rates without the discipline of the order.<sup>37</sup> Specifically, with regard to the Respondents' methodology of averaging rates from prior administrative reviews while dropping rates based on AFA, Maui claims that such methodologies are contrary to the Department's policy of relying on margins that best reflect the behavior of producers without the constraints of an antidumping duty order. With regard to companies which never participated in an administrative review, Maui disagrees with Respondents that the rate best reflecting their future behavior is an average rate from all prior administrative reviews. Rather, Maui urges that the Department use the "all others" rate which is, according to Maui, consistent with the Department's policy and practice.<sup>38</sup>

#### Department's Position:

In a sunset review, the Department will normally provide to the ITC the margin that was determined in the final determination of the original investigation. For companies not specifically investigated, or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "all others" rate from the investigation because these rates are the only calculated rates that reflect the behavior of exporters without the discipline of the order in place.

According to Department practice, a more recent rate may be appropriate where a company chooses to increase dumping in order to increase or maintain market share. However, without company-specific information or argument related to increasing exports corresponding to increased dumping, we have no basis to determine that a more recent rate is more probative of the margin likely to prevail.

With regard to companies that were revoked from the order due to three consecutive years of zero or de minimis margin calculations, the Department agrees with Respondents that these companies are no longer subject to the antidumping order on CPF from Thailand, and that they should not be included in the Department's report to the ITC. However, we find unpersuasive the Respondents' argument that companies that did not participate in the original investigation or received an AFA rate should receive an average rate based only on calculated rates. Such a method of "cherry picking" rates from those reviews that resulted in low margins, while ignoring rates due to AFA application or parties' inability to participate in a review due to unfamiliarity with the trade law, clearly conflicts with the Department's regulations and practice.

While Respondents' suggested rates were derived primarily from the period of review of the first sunset review, which is not relevant to the current review, we note that in determining the magnitude of the margins likely to prevail if the order were to be revoked, the SAA makes clear that the Department will normally select a dumping margin from the original investigation. The

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<sup>37</sup> See Maui Rebuttal at 4.

<sup>38</sup> Id. at 4-5.

SAA sets forth an explanation for this preference:

The Administration intends that Commerce normally will select the rate from the investigation, because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order or suspension agreement in place.<sup>39</sup>

Thus, based on guidance in the SAA, the magnitude of the margin of dumping in most cases is to be the company-specific final margin from the original investigation, as that margin best reflects the behavior of the producers/exporters free of the constraints of an antidumping duty order. Therefore, we will report to the ITC the company-specific and “all others” rates determined in the original investigation, because those rates best reflect the behavior of producers/exporters without the discipline of the order.

Preliminary Results of Review

After taking into consideration the circumstances of this case, including the history of margins and import volumes, as well as potentially relevant information presented by Respondents, we preliminarily determine that revocation of the antidumping duty order on CPF from Thailand is likely to lead to the continuation of dumping at the margins listed below:

Manufacturer/producer/exporter	Weighted-average margin (percent)
SAICO	51.16
Malee	41.74
All Others	24.64

Based on our analysis and consideration of the substantive responses and rebuttal comments received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the preliminary results of review in the Federal Register.

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David M. Spooner  
Assistant Secretary  
for Import Administration

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(Date)

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<sup>39</sup> See SAA at 890.