

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-570-863]

**Honey from the People's Republic of China: Preliminary Results of First Antidumping Duty Administrative Review**

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

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

**SUMMARY:** In response to requests from interested parties, the Department of Commerce (the Department) is conducting the first administrative review of the antidumping duty order on honey from the People's Republic of China. The period of review for those entities with an affirmative critical circumstances finding is February 10, 2001, through November 30, 2002. For all other companies, the period of review is May 11, 2001, through November 30, 2002. Two companies named in the initiation of this review had no exports or sales of the subject merchandise during their applicable period of review, and consequently we rescinded the review of these companies. In addition, we rescinded our review of three companies that are participating in new shipper reviews covering the period February 10, 2001, through November 30, 2002. We preliminarily determine that three companies have failed to cooperate by not acting to the best of their ability to comply with our requests for information and, as a result, should be assigned a rate based on adverse facts available. Finally, we have preliminarily determined that one respondent did make sales to the United States of the subject merchandise at prices below normal value.

We invite interested parties to comment on these preliminary results. Parties that submit comments are requested to submit with each argument (1) a statement of the issue, and (2) a brief summary of the argument(s).

**EFFECTIVE DATE:** December 16, 2003.

**FOR FURTHER INFORMATION CONTACT:** Angelica Mendoza or Brandon Farlander at (202) 482-3019 or (202) 482-0182, respectively; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

## SUPPLEMENTARY INFORMATION:

## Background

On December 17, 2002, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on honey from the People's Republic of China (PRC), 67 FR 77222 (December 17, 2002). On December 31, 2002, the Department received a timely request from the American Honey Producers Association and the Sioux Honey Association (collectively, petitioners) requesting that the Department conduct an administrative review of the antidumping duty order on honey shipments exported to the United States from the following PRC honey producers/exporters during the period of May 11, 2001, through November 30, 2002: (1) Anhui Native Produce Import & Export Corp. (Anhui), (2) Henan Native Produce and Animal By-Products Import & Export Company (Henan), (3) High Hope International Group Jiangsu Foodstuffs Import and Export Corp. (High Hope), (4) Inner Mongolia Autonomous Region Native Produce and Animal By-Products Import & Export Corp. (Inner Mongolia), (5) Kunshan Foreign Trade Company (Kunshan), (6) Shanghai Eswell Enterprise Co., Ltd. (Shanghai Eswell), (7) Shanghai Xiuwei International Trading Co., Ltd. (Shanghai Xiuwei), (8) Sichuan-Dujiangyan Dubao Bee Industrial Co., Ltd. (Sichuan Dubao), (9) Wuhan Bee Healthy Co., Ltd. (Wuhan), and (10) Zhejiang Native Produce and Animal By-Products Import & Export Corp. On December 31, 2002, we received a timely request from Zhejiang Native Produce and Animal By-Products Import & Export Corp. a.k.a. Zhejiang Native Produce and Animal By-Products Import and Export Group Corporation (Zhejiang) requesting that the Department conduct an administrative review of its honey shipments to the United States during the period May 11, 2001, through November 30, 2002. On January 22, 2003, the Department initiated an administrative review of the antidumping duty order on honey from the PRC, for the period of May 11, 2001, through November 30, 2002, in order to determine whether merchandise imported into the United States is being sold at less than fair value with respect to these ten companies. *See Initiation of Antidumping and Countervailing Duty Administrative Review and Requests for Revocations in Part*, 68 FR 3009 (January 22, 2003) (*Administrative*

*Review Initiation*).<sup>1</sup> On January 27, 2003, the Department clarified that the period of review (POR) for High Hope, Kunshan, Zhejiang, Wuhan, Shanghai Xiuwei, and Sichuan Dubao is February 10, 2001, through November 30, 2002. *See Memorandum to the File through Donna L. Kinsella, Case Manager, Office 8; POR for Exporters of Honey from the People's Republic of China with Affirmative Critical Circumstances Findings* (January 27, 2003).

On February 20, 2003, the Department issued antidumping duty questionnaires to the above-referenced ten PRC companies. On February 28, 2003, Wuhan submitted a letter certifying that it did not have any other shipments during the first review period that are not already subject to an ongoing new shipper review.<sup>2</sup> On February 28, 2003, Inner Mongolia and Anhui submitted separate letters each certifying that they did not have any shipments of subject merchandise during the period of May 11, 2001, through November 30, 2002.

On April 4, 2003, we received responses to Section A of our antidumping duty questionnaire from Zhejiang, Wuhan, and High Hope. In its reply to the antidumping duty questionnaire, High Hope stated that it is unwilling to make the expenditure of time and money required to participate in the review, and therefore, has concluded that it is not able to fully respond to the Department's questionnaire. On April 7, 2003, the Department received notification from Kunshan that it will not be participating in this proceeding, and therefore, it is not responding to our questionnaire. *See Memorandum to the File from Angelica L. Mendoza; Non-Responsive Company*, dated April 7, 2003. On April 18, 2003,

<sup>1</sup> In a separate proceeding, the Department also received timely requests from Shanghai Xiuwei and Sichuan Dubao, in accordance with 19 CFR 351.214(c), for new shipper reviews of the antidumping duty order on honey from the PRC, which has a December annual anniversary month. On February 5, 2003, we initiated new shipper reviews for Shanghai Xiuwei and Sichuan Dubao. *See Initiation of New Shipper Antidumping Duty Reviews*, 68 FR 5868 (February 5, 2003) (*New Shipper Initiation*). The POR for the new shipper reviews of these two companies is identical to the POR for the administrative review.

<sup>2</sup> The Department conducted a six-month new shipper review of Wuhan's sales during the period December 1, 2001, through May 31, 2002. *See, e.g., Preliminary Results of Antidumping Duty New Shipper Review: Honey from the People's Republic of China*, 68 FR 33099 (June 3, 2003); and *Honey from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 68 FR 62053 (October 31, 2003) (*Wuhan NSR Final Results*). On March 18, 2003, Wuhan submitted an additional letter clarifying that although it did have additional exports and sales during the period February 10, 2001, through November 30, 2002, nevertheless the entries for consumption of this merchandise did not occur until after this POR.

the Department received responses to Sections C and D of the antidumping duty questionnaire from Zhejiang and Wuhan. Henan did not respond to its questionnaire.<sup>3</sup>

On April 22, 2003, petitioners withdrew their request for review of Shanghai Eswell. On May 6, 2003, the Department rescinded, in part, the administrative review of the antidumping duty order on honey with respect to Shanghai Eswell. *See Honey from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 68 FR 23963 (May 6, 2003).

On May 6, 2003, the Department preliminarily determined to rescind, in part, the administrative reviews with respect to Anhui, Inner Mongolia, Shanghai Xiuwei, Sichuan Dubao, and Wuhan. *See Memorandum to Barbara Tillman, Acting Deputy Assistant Secretary, AD/CVD Enforcement Group III; Intent to Partially Rescind Administrative Reviews* (May 6, 2003) (Rescission Memo). As discussed in the Rescission Memo, Anhui and Inner Mongolia did not ship subject merchandise during the POR. As also discussed in the Rescission Memo, the Department determined that Shanghai Xiuwei, Sichuan Dubao, and Wuhan should not be subject to this proceeding because all of their POR sales were already subject to ongoing new shipper reviews.

On May 16, 2003, we issued a supplemental questionnaire to Zhejiang. On June 10, 2003, we invited interested parties to comment on the Department's surrogate country selection and/or significant production in the potential countries, and to submit publicly-available information to value the factors of production. On June 20, 2003, we received Zhejiang's supplemental questionnaire response. On June 24, 2003, we received petitioners' comments on the selection of a surrogate country in this proceeding. Zhejiang did not comment on the selection of a surrogate country in this proceeding. On June 30, 2003, petitioners submitted comments on Zhejiang's supplemental questionnaire response. On July 7, 2003, we issued a second supplemental questionnaire to Zhejiang. On July 7, 2003, Zhejiang and

petitioners submitted surrogate information with which to value the factors of production. On July 17, 2003, we received Zhejiang's comments on petitioners' July 7, 2003, surrogate value submission. On July 18, 2003, we received Zhejiang's second supplemental questionnaire response.

On July 25, 2003, the Department issued a final determination to rescind, in part, the administrative reviews of Anhui, Inner Mongolia, Shanghai Xiuwei, Sichuan Dubao, and Wuhan. *See Honey from the People's Republic of China: Final Rescission, in Part, of Antidumping Duty Administrative Review*, 68 FR 44045 (July 25, 2003). On July 25, 2003, the Department also determined to extend the time limits for these preliminary results. *See Honey from the People's Republic of China: Extension of Time Limit for Preliminary Results of First Antidumping Duty Administrative Review*, 68 FR 44046 (July 25, 2003).

#### Scope of the Antidumping Duty Order

The products covered by this order are natural honey, artificial honey containing more than 50 percent natural honey by weight, preparations of natural honey containing more than 50 percent natural honey by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form.

The merchandise subject to this review is currently classifiable under subheadings 0409.00.00, 1702.90.90, and 2106.90.99 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and U.S. Customs and Border Protection (CBP) purposes, the Department's written description of the merchandise under order is dispositive.

#### Verification

As provided in section 782(i)(2) of the Tariff Act of 1930, as amended (the Act), and section 351.307 of the Department's regulations, we conducted verification of the questionnaire and supplemental responses of Zhejiang. We used standard verification procedures, including on-site inspection of the production facility of Zhejiang's unaffiliated supplier. Our verification results are outlined in the Memorandum to the File, through Abdelali Elouaradia, Program Manager, Verification of U.S. Sales Information Submitted by Zhejiang Native Produce & Animal By-Products Import & Export Group Corporation (a.k.a. Zhejiang Native Produce and Animal By-Products

Import & Export Corp.) (Zhejiang) and Factors of Production Information Submitted by Zhejiang's Unaffiliated Supplier, dated September 26, 2003 (Zhejiang Verification Report). A public version of this report is on file in the Central Records Unit (CRU) located in room B-099 of the Main Commerce Building.

#### Separate Rates

In proceedings involving non-market economy (NME) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to its export activities. In this review, Zhejiang requested a separate company-specific rate.

To establish whether a company is sufficiently independent in its export activities from government control to be entitled to a separate, company-specific rate, the Department analyzes the exporting entity in an NME country under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (*Sparklers*), and amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22586–22587 (May 2, 1994) (*Silicon Carbide*).

The Department's separate-rate test is unconcerned, in general, with macroeconomic/ border-type controls (e.g., export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. *See, e.g., Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less Than Fair Value*, 62 FR 61754, 61757 (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997); and *Honey from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 60 FR 14725, 14726 (March 20, 1995).

Zhejiang provided separate-rate information in its responses to our original and supplemental questionnaires. Accordingly, we performed a separate-rates analysis to

<sup>3</sup> On March 31, 2003, the Department issued a letter to Henan informing the company that it had failed to respond to our antidumping duty questionnaire issued on February 20, 2003. Additionally, we confirmed Henan's address and receipt of our March 31, 2003, letter. *See Memorandum to The File from Angelica L. Mendoza, Case Analyst, First Administrative Review of the Antidumping Duty Order on Honey from the People's Republic of China: Correct Addresses*, dated March 31, 2003.

determine whether this exporter is independent from government control (see *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 56570 (April 30, 1996)).

As stated above in the "Background" section, Kunshan and High Hope did not respond to the Department's antidumping questionnaire. Rather, as noted above, these companies informed the Department that they would not be participating in this proceeding. Moreover, the Department did not receive any type of response from Henan, although we issued it a supplemental request for information as noted in the "Background" section above. Because none of these three companies responded to our request for information regarding separate rates, we preliminarily determine that these companies do not merit separate rates. See, e.g., *Natural Bristle Paint Brushes and Brush Heads from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 57389 (November 6, 1996). Consequently, consistent with the statement in our notice of initiation, we find that, because these companies do not qualify for separate rates, they are deemed to be part of the PRC-entity. See *Administrative Review Initiation*. See also "The PRC-wide Rate and Use of Facts Otherwise Available" section below.

#### *De Jure Control*

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR 20588, 20589.

Zhejiang has placed on the record a number of documents to demonstrate absence of *de jure* control, including the "Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People" (April 13, 1998) (*Enterprises Owned by the Whole People*), the "Company Law of the People's Republic of China" (December 29, 1993) (*Company Law*), "Foreign Trade Law of the People's Republic of China" (May 12, 1994) (*Foreign Trade Law*), and the "Administrative Regulations of the People's Republic of China Governing the Registration of Legal Corporations" (June 3, 1998) (*Legal Corporations Regulations*). See Exhibit 2 of Zhejiang's April 4, 2003,

submission. In particular, we found that the PRC law, *Enterprises Owned by the Whole People*, grants enterprises owned by all the people status of a legal person which allows for autonomy in management and provides full responsibility over their profits and losses. Chapter III of this law outlines the rights and responsibilities of business enterprises owned by the whole people. Under Article 27 of this chapter, enterprises are granted the right to negotiate and sign contracts with foreign parties, and allowed to withdraw and use their portion of foreign exchange earnings. Zhejiang states that the *Company Law* governs the establishment of limited liability companies, and provides that such a company shall operate independently and be responsible for its own profits and losses. See page 6 of Zhejiang's April 4, 2003, submission. We reviewed Article 11 of Chapter II of the *Foreign Trade Law*, which states that "foreign trade dealers shall enjoy full autonomy in their business operation and be responsible for their own profits and losses in accordance with the law." Moreover, in other proceedings, the Department has analyzed such PRC laws and found that they establish an absence of *de jure* control. See, e.g., *Pure Magnesium from the People's Republic of China: Final Results of New Shipper Review*, 63 FR 3085, 3086 (January 21, 1998) and *Preliminary Results of New Shipper Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 30695, 30696 (June 7, 2001).

Zhejiang submitted a copy of its business license in Exhibit 4 of its Section A questionnaire response, dated April 4, 2003. This license was issued by the Zhejiang Province Industrial and Commercial Administration Bureau. Zhejiang explains that its business license is necessary to register the company. Zhejiang affirms that its business operations are limited to the scope of the license, and that the license may be revoked if the company engages in illegal activities or if the company is found to have insufficient capital. At verification, we found that Zhejiang's business license and "Certificate of Approval: For Enterprises with Foreign Trade Rights in the People's Republic of China" were granted in accordance with the above-reference PRC laws. Moreover, the results of verification support the information provided regarding these PRC laws. See Zhejiang Verification Report at 4–5.

Therefore, consistent with our final determination in the less-than-fair-value investigation (LTFV), we preliminarily determine that there is an absence of *de*

*jure* control over Zhejiang's export activities.

#### *De Facto Control*

Typically, the Department considers four factors in evaluating whether a respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by, or subject to, the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See *Silicon Carbide* at 22587.

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. See *Silicon Carbide* at 22586–22587. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

Zhejiang has asserted the following: (1) it is a publicly-owned company that is independent from government control; (2) it sets prices through direct negotiations with U.S. customers, and such prices consider the company's total costs, including acquisition costs as well as movement expenses, overhead expenses and profit; (3) there is no government participation in its setting of export prices; (4) its Manager of the Bee Products Departments and authorized employees have the authority to bind sales contracts; (5) it does not have to notify any government authorities of its management selection; (6) there are no restrictions on the use of its export revenue and that its President decides how profits will be used; (7) it is responsible for financing its own losses; and (8) it is not required to sell any portion of foreign currency earned to the government.<sup>4</sup> Our analysis of the responses during verification reveals no other information indicating the existence of government control. See Zhejiang Verification Report at 6. Consequently, because evidence on the

<sup>4</sup> Zhejiang's questionnaire responses do not suggest that pricing is coordinated among exporters. Zhejiang states that its President is elected by the employees of the company, and in turn, the President selects the other management of the company. See Zhejiang's April 4, 2003, submission.

record indicates an absence of government control, both in law and in fact, over the company's export activities, we preliminarily determine that Zhejiang has met the criteria for the application of a separate rate.

#### The PRC-wide Rate and Use of Facts Otherwise Available

Zhejiang, Kunshan, Henan, and High Hope were given the opportunity to respond to the Department's questionnaire. As explained above, we received questionnaire responses from Zhejiang, and we have calculated a separate rate for Zhejiang. The PRC-wide rate applies to all entries of subject merchandise except for entries from PRC producers/exporters that have their own calculated rate.

As discussed above, Kunshan, Henan, and High Hope are appropriately considered to be part of the PRC-wide entity. Therefore, we determine it is necessary to review the PRC-wide entity because it did not provide information necessary to the instant proceeding. In doing so, we note that section 776(a)(1) of the Act mandates that the Department use the facts available if necessary information is not available on the record of an antidumping proceeding. In addition, section 776(a)(2) of the Act provides that if an interested party or any other person: (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the Department shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination under this title.<sup>5</sup>

According to section 776(b) of the Act, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to

comply with a request for information," the Department may use information that is adverse to the interests of the party as facts otherwise available. Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See *Statement of Administrative Action (SAA)* accompanying the URAA, H. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). Furthermore, "an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference." *Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27340 (May 19, 1997).

As above stated, the PRC-wide entity did not respond to our requests for information. Because the PRC-wide entity did not respond to our request for information, we find it necessary, under section 776(a)(2) of the Act, to use facts otherwise available as the basis for the preliminary results of review for the PRC-wide entity.

In addition, pursuant to section 776(b) of the Act, we find that the PRC-wide entity failed to cooperate by not acting to the best of its ability to comply with a request for information. As noted above, the PRC-wide entity informed the Department that it would not participate in this review, or otherwise, did not provide any response to the Department's questionnaire, despite repeated requests that it do so. Thus, because the PRC-wide entity refused to participate fully in this proceeding, we find it appropriate to use an inference that is adverse to the interests of the PRC-wide entity in selecting from among the facts otherwise available. By doing so, we ensure that the companies that are part of the PRC-wide entity will not obtain a more favorable result by failing to cooperate than had they cooperated fully in this review.

An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. See section 776(b) of the Act. It is the Department's practice to assign the highest rate from any segment of a proceeding as total adverse facts available when a respondent fails to cooperate to the best of its ability. See, e.g., *Stainless Steel Plate in Coils from Taiwan; Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review*, 67 FR 5789 (February 7, 2002) ("Consistent with Department practice in cases where a respondent fails to cooperate to the best of its ability, and in keeping with

section 776(b)(3) of the Act, as adverse facts available, we have applied a margin based on the highest margin from any prior segment of the proceeding.").

In accordance with the Department's practice, we have preliminarily assigned to the PRC-wide entity (including Kunshan, Henan, and High Hope) the rate of 183.80 percent as adverse facts available. See, e.g., *Rescission of Second New Shipper Review and Final Results and Partial Rescission of First Antidumping Duty Administrative Review: Brake Rotors from the People's Republic of China*, 64 FR 61581, 61584 (November 12, 1999). This rate is the highest dumping margin from any segment of this proceeding and was established in the LTFV investigation based on information contained in the petition. See *Notice of Final Determination of Sales at Less Than Fair Value; Honey from the PRC*, 66 FR 50608 (October 4, 2001) and accompanying Issues and Decision Memorandum (*Final Determination*). In selecting a rate for adverse facts available, the Department selects a rate that is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." See *Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

We note that information from a prior segment of this proceeding constitutes "secondary information," and section 776(c) of the Act provides that, when the Department relies on such secondary information rather than on information obtained in the course of a review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.<sup>6</sup> The SAA states that the independent sources may include published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. The SAA also clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. As noted in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished*,

<sup>5</sup> Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department shall promptly inform the party submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that party with an opportunity to remedy or explain the deficiency. Section 782(e) of the Act provides that the Department shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority. Because the PRC-wide entity provided no information, we determine that sections 782(d) and (e) of the Act are not relevant to our analysis.

<sup>6</sup> Secondary information is described in the SAA as "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise." See SAA at 870.

from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 57391, 57392 (November 6, 1996) (TRBs), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

We note that in the LTFV investigation, the Department corroborated the information in the petition that formed the basis of the 183.80 percent PRC-wide entity rate. See *Final Determination*. Specifically, in the LTFV investigation, the Department compared the prices in the petition to the prices submitted by individual respondents for comparable merchandise. For normal value (NV), we compared petitioners' factor-consumption data to data reported by respondents. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Honey from the People's Republic of China*, 66 FR 24101 (May 11, 2001).

In order to satisfy the corroboration requirements under section 776(c) of the Act, in the instant review, we reviewed the Department's corroboration of the petition rates from the LTFV investigation. See Memorandum to the File, dated December 10, 2003, placing the Memorandum to Richard O. Weible, Office Director, The Use of Facts Available for the PRC-wide entity; and Corroboration of Secondary Information, dated May 4, 2001 (AFA & Corroboration Memo) on the record of this administrative review. Following the methodology of our corroboration analysis from the LTFV investigation, we compared the petition information to information on the record of this proceeding. We find that the petition information is both reasonable and reliable when compared to the range of Zhejiang's reported gross unit prices for honey it sold to the United States during the current POR. See AFA & Corroboration Memo at 5 and Exhibit 7 of Zhejiang's July 18, 2003, submission. Moreover, following the methodology of our corroboration analysis from the LTFV investigation, the highest calculated NV for Zhejiang (calculated as a separate NV for each of its two processed honey suppliers) is comparable to the NV relied on by petitioners to calculate the petition rate. See AFA & Corroboration Memo at 6 and the Margin Calculation Output for Zhejiang, dated December 10, 2003.

We further note that, with respect to the relevance aspect of corroboration,

the Department stated in *TRBs* that it will "consider information reasonably at its disposal as to whether there are circumstances that would render a margin irrelevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin." See *TRBs* at 61 FR 57392. See also *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (disregarding the highest margin in the case as best information available because the margin was based on another company's uncharacteristic business expense resulting in an extremely high margin). The rate used is the rate currently applicable to all exporters subject to the PRC-wide rate. Further, as noted above, there is no information on the record that the application of this rate would be inappropriate in this administrative review or that the margin is not relevant. Thus, we find that the information is relevant. Therefore, the Department preliminarily determines that the PRC-wide entity rate of 183.80 is still reliable, relevant, and has probative value within the meaning of section 776(c) of the Act.

#### Normal Value Comparisons

To determine whether Zhejiang's sales of the subject merchandise to the United States were made at prices below normal value, we compared their United States prices to normal values, as described in the "United States Price" and "Normal Value" sections of this notice.

#### United States Price

For Zhejiang, we based United States price on export price (EP) in accordance with section 772(a) of the Act, because the first sale to an unaffiliated purchaser was made prior to importation, and constructed export price (CEP) was not otherwise warranted by the facts on the record. We calculated EP based on the packed price from the exporter to the first unaffiliated

customer in the United States. Where applicable, we deducted foreign inland freight, international freight, marine insurance expenses, and bank charges from the starting price (gross unit price), in accordance with section 772(c) of the Act.

#### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using a factors-of-production methodology if (1) the merchandise is exported from an NME country, and (2)

available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Zhejiang did not contest such treatment in this review. Accordingly, we have applied surrogate values to the factors of production to determine NV for each of Zhejiang's processed honey suppliers. See Factors of Production Valuation Memorandum for the Preliminary Results of the First Administrative Review of the Antidumping Duty Order on Honey from the People's Republic of China, dated December 10, 2003 (Factor Valuation Memo). A public version of this memorandum is on file in the CRU located in room B-099 of the Main Commerce Building.

We calculated NV based on factors of production in accordance with section 773(c)(4) of the Act and section 351.408(c) of our regulations. Consistent with the LTFV investigation of this order and the final results of a recent new shipper review covering the subject merchandise, we determine that India (1) is comparable to the PRC in level of economic development, and (2) is a significant producer of comparable merchandise.<sup>7</sup> Accordingly, we valued the factors of production using publicly-available information from India.

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data, in accordance with our practice. Where appropriate, we adjusted Indian import prices by adding foreign inland freight expenses to make them delivered prices. When we used Indian import values to value inputs sourced domestically by PRC suppliers, we added to Indian surrogate values a surrogate freight cost calculated using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest port of export to the factory. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F. 3d 1401 (Fed. Cir. 1997). When we used non-import surrogate values for factors sourced domestically by PRC suppliers, we based freight for inputs on the actual distance from the input supplier to the

<sup>7</sup> See Final Determination and Wuhan NSR Final Results.

site at which the input was used. When we relied on Indian import values to value inputs, in accordance with the Department's practice, we excluded imports from both NMEs and countries deemed to have generally available export subsidies (*i.e.*, Indonesia, Korea, and Thailand) from our surrogate value calculations. For those surrogate values not contemporaneous with the POR, we adjusted for inflation using the wholesale price indices for India, as published in the International Monetary Fund's publication, *International Financial Statistics*.

We valued the factors of production as follows:

To value raw honey, we continue to use the average of the highest and lowest price for one kilogram (kg.) of raw honey stated in an article published in *The Tribune of India* on March 1, 2000, entitled, "Apiculture, a major foreign exchange earner" (later republished in *The Agricultural Tribune* on May 1, 2000). Consistent with the methodology established in the previous proceeding, to account for raw honey price increases in India, we have inflated the average raw honey price from the March 2000, *Tribune of India* article (*i.e.*, Rs. 35 per kg.) to December 2001 by dividing the Indian WPI for December 2001 by the Indian WPI for March 2000. See *Wuhan NSR Final Results* and accompanying Issues and Decision Memorandum at Comment 2. We note that pricing data submitted by petitioners in Exhibit 1 of their July 7, 2003, submission for Jallowal and Tiwana Bee Farms clearly indicate that inflating the March 2000, *Tribune of India* price data only by the WPI does not appropriately reflect the significant increase in Indian raw honey prices during the POR. Specifically, in reviewing the average raw honey purchase prices from Jallowal and Tiwana Bee Farms, we find that during the period December 2001, through May 2002, raw honey prices dramatically increased on a monthly basis in excess of the WPI. Therefore, to account for such increases in Indian raw honey prices from December 2001, through May 2002, in excess of inflation, we averaged raw honey purchase prices from the Tiwana and Jallowal Bee Farms submitted by petitioners in Exhibit 1 of their July 7, 2003, submission to calculate a total average raw honey price for each month from December 2001, through May 2002. Next, we calculated monthly price increases on a percentage-basis, and then applied these price increases (percentage) to our adjusted raw honey price from the March 2000, *Tribune of India* article.

Then, we calculated a simple average of these adjusted monthly raw honey prices to derive our raw honey surrogate value for the period for which we had raw honey purchase pricing data (*i.e.*, December 1, 2001, through May 31, 2002). In order to make this value fully-contemporaneous to the POR, we further adjusted the raw honey surrogate value for inflation during the period of June 2002, through November 2002 based on the Indian WPI. Finally, we converted the raw honey value from a per kg.-basis to a per metric ton-(MT) basis. See Attachments 2 and 3 of the Factor Valuation Memo for further details. The Department intends to continue to carefully examine this issue for the final results of this review and invites interested parties to submit comments on this issue for purposes of the final results.

To value beeswax, a raw honey by-product, we used the average per kilogram import value of beeswax into India for the POR under the Indian Customs' heading of "152190" obtained from the World Trade Atlas, which notes that its data was obtained from the Ministry of Commerce of India (World Trade Atlas). To value scrap honey, a raw honey by-product, we used the average per kilogram import value of inedible molasses into India for the POR under the Indian Customs' heading of "170390" obtained from the World Trade Atlas. We converted the surrogate values for beeswax and scrap honey from a per kg.-basis to a per MT-basis.

To value coal, we relied upon contemporaneous Indian import values of "steam coal" under the Indian Customs' heading of "2701011902" obtained from the World Trade Atlas. We also adjusted the surrogate value for coal to include freight costs incurred between the supplier and the factory. To value electricity, we used the 2000 total average price per kilowatt hour, adjusted for inflation, for "Electricity for Industry" as reported in the International Energy Agency's publication, *Energy Prices and Taxes, Second Quarter*, 2002. To value water, we used the water tariff rate, as reported on the Municipal Corporation of Greater Mumbai's website. See <http://www.mcgm.gov.in/Stat%20&%20Fig/Revenue.htm> and Attachment 6 of the Factor Valuation Memo for source documents.

To value packing materials (*i.e.*, paint and steel drums), we relied upon contemporaneous Indian import data reported by the World Trade Atlas under the Indian Customs' heading "3209," and a price quote from an Indian steel drum manufacturer,

respectively. We adjusted the surrogate value for steel drums to reflect inflation. We also adjusted the surrogate values of packing materials to include freight costs incurred between the supplier and the factory.

To value factory overhead, selling, general, and administrative expenses (SG&A), and profit, we relied upon publicly-available information in the 2001-2002 annual report of the Mahabaleshwar Honey Producers Cooperative Society, Ltd. (MHPC), a producer of the subject merchandise in India. We applied these rates to the calculated cost of manufacture and cost of production using the same methodology established in *Wuhan NSR Final Results*.

For labor, we used the PRC regression-based wage rate at Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in September 2002, and corrected in February 2003. Because of the variability of wage rates in countries with similar per capita gross domestic products, section 351.408(c)(3) of the Department's regulations requires the use of a regression-based wage rate. The source of these wage rate data on the Import Administration's web site is the *Year Book of Labour Statistics* 2001, International Labour Office (Geneva: 2001), Chapter 5B: Wages in Manufacturing.

To value truck freight, we used an average truck freight cost based on Indian market truck freight rates on a per MT basis published in the *Iron and Steel Newsletter*, April 2002. To value rail freight, we used an average rail freight cost based on rail freight costs of transporting molasses to various cities within India as stated on the Indian Railways' website (Indian Government Agency).

To value marine insurance expenses, where necessary, we used publicly-available price quotes from a marine insurance provider at <http://www.rigconsultants.com/insurance/html>.

For details on factor of production valuation calculations, see Factor Valuation Memo.

### Currency Conversion

We made currency conversions pursuant to section 351.415 of the Department's regulations at the rates certified by the Federal Reserve Bank.

### Preliminary Results of Review

We preliminarily determine that the following antidumping duty margins exist:



Exporter	POR	Margin (percent)
Zhejiang Native Produce & Animal By-Products Import & Export Corporation a.k.a. Zhejiang Native Produce & Animal By-Products Import & Export Group Corporation .....	02/10/01 - 11/30/02	77.09
PRC-wide Entity (including Kunshan, Henan, and High Hope) .....	02/10/01 - 11/30/02	183.80

For details on the calculation of the antidumping duty weighted-average margin for Zhejiang, *see* the Analysis Memorandum for the Preliminary Results of the First Administrative Review of the Antidumping Duty Order on Honey from the People's Republic of China, dated December 10, 2003. A public version of this memorandum is on file in the CRU.

#### Assessment Rates

Pursuant to section 351.212(b), the Department calculates an assessment rate for each importer of the subject merchandise. Upon issuance of the final results of this review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (i.e., at or above 0.50 percent), the Department will issue appraisal instructions directly to CBP to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise. For assessment purposes, we calculated importer-specific assessment rates for the subject merchandise by aggregating the dumping duties due for all U.S. sales to each importer and dividing the amount by the total quantity of the sales to that importer. If these preliminary results are adopted in our final results of review, we will direct CBP to assess the resulting rate against the total quantity for the subject merchandise on each of Zhejiang's importer's/customer's entries during the POR.

#### Cash-Deposit Requirements

The following cash-deposit rates will be effective upon publication of the final results of this review for all shipments of honey from the PRC entered, or withdrawn from warehouse, for consumption on or after publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for subject merchandise exported by Zhejiang, the cash-deposit rate will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated or reviewed companies not listed above that have separate rates, the cash-deposit rate will continue to be the company-specific rate published for the most recent period

(except for Kunshan, Henan, and High Hope, whose cash-deposit rates have changed in this review to the PRC-wide entity rate as noted below); (3) the cash-deposit rate for all other PRC exporters (including Kunshan, Henan, and High Hope) will be the "PRC-wide" rate established in the final results of this review; and (4) the cash deposit rate for all other non-PRC exporters will be the rate applicable to the PRC exporter that supplied that exporter.

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

#### Schedule for Final Results of Review

The Department will disclose calculations performed in connection with the preliminary results of this review within five days of the date of publication of this notice in accordance with section 351.224(b) of the Department's regulations. Any interested party may request a hearing within 30 days of publication of this notice in accordance with section 351.310(c) of the Department's regulations. Any hearing would normally be held 37 days after the publication of this notice, or the first workday thereafter, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Requests for a public hearing should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) to the extent practicable, an identification of the arguments to be raised at the hearing.

Unless otherwise notified by the Department, interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with section 351.309(c)(ii) of the Department's regulations. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, which must be limited

to issues raised in the case briefs, must be filed within five days after the case brief is filed. If a hearing is held, an interested party may make an affirmative presentation only on arguments included in that party's case brief and may make a rebuttal presentation only on arguments included in that party's rebuttal brief. Parties should confirm by telephone the time, date, and place of the hearing within 48 hours before the scheduled time. The Department will issue the final results of this review, which will include the results of its analysis of issues raised in the briefs, not later than 120 days after the date of publication of this notice.

#### Notification to Importers

This notice also serves as a preliminary 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 these review periods. 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 this notice are published in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: December 10, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-427-818]

#### Low Enriched Uranium from France: Extension of the Time Limit for the Preliminary Results of Antidumping Duty Administrative Review

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

**EFFECTIVE DATE:** December 16, 2003.