DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Honey From the People's Republic of China: Preliminary Results, Partial Rescission, and Extension of Final Results of Second Antidumping Duty Administrative Review

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

SUMMARY: In response to requests from interested parties, the Department of Commerce (''the Department'') is conducting the second administrative review of the antidumping duty order on honey from the People's Republic of China (''PRC''). The period of review (''POR'') is December 1, 2002 through November 30, 2003. Petitioners issued a timely withdrawal of their request for an administrative review for two companies named in the initiation of this review; consequently, we rescinded our review of these companies. In addition, we rescinded our review of five companies because they are participating in new shipper reviews covering the periods December 1, 2002 through May 31, 2003, or December 1, 2002, through November 30, 2003. Another company had no exports or sales of the subject merchandise during the POR; therefore, we are preliminarily rescinding our review of this company. 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 five respondents made 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).

DATES: *Effective Date:* December 27, 2004.

FOR FURTHER INFORMATION CONTACT: Anya Naschak, Kristina Boughton, or Bobby Wong at (202) 482–6375, (202) 482–8173, or (202) 482–0409, respectively; AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On December 2, 2003, the Department published a Notice of Opportunity to Request an Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation, 68 FR 67401 (December 2, 2003). On December 29, 2003, Anhui Honghui Foodstuff (Group) Co., Ltd. (''Anhui Honghui''); Eurasia Bee's Products Co., Ltd. (''Eurasia''); Jiangsu Kanghong Natural Healthfoods Co., Ltd. (''Jiangsu Kanghong''); Inner Mongolia Autonomous Region Native Produce and Animal By-Products Import & Export Corp. (''Inner Mongolia''); Jinfu Trading Co., Ltd. (''Jinfu''); Shanghai Eswell Enterprise Co., Ltd. (''Eswell''); Shanghai Shinomiel International Trade Corporation (''Shanghai Shinomiel''); and Wuhan Bee Health Company, Ltd. (''Wuhan Bee''), requested that the Department conduct an administrative review of each respective company's entries during the POR. On December 31, 2003, Sichuan-Dujiangyan Dubao Bee Industrial Co., Ltd. (''Dubao'') requested that the Department conduct an administrative review of its entries during the POR. Also on December 31, 2003, the American Honey Producers Association and the Sioux Honey Association (collectively, ''petitioners'') requested, in accordance with section 351.213(b) of the Department's regulations, an administrative review of entries of subject merchandise made during the POR by 20 Chinese producers/exporters.[1]

On January 14, 2004, petitioners filed a letter withdrawing their request for review of Henan, High Hope, Jinan, and Native Produce. On January 22, 2004, the Department initiated the review for the remaining 16 companies. *See* Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 68 FR 3009 (January 22, 2004) (''Review Initiation''). On January 29, 2004, the Department issued antidumping duty questionnaires to the 16 PRC producers/exporters of the subject merchandise covered by this administrative review.

On February 13 and February 18, 2004, petitioners withdrew their request for review of Foodworld and Anhui Native, respectively. On February 24, 2004, Cheng Du stated that all of its direct and indirect export sales of honey to the United States during the POR fall within a separate new shipper review covering the period December 1, 2002 through May 31, 2003, and requested that the Department rescind this proceeding for Cheng Du. *See* Honey From the People's Republic of China: Initiation of New Shipper Antidumping Duty Reviews, 68 FR 47537 (August 11, 2003). On February 25, 2004, Inner Mongolia Youth similarly stated that the only sale it made during the POR was currently being reviewed under another new shipper review, covering the identical period as this current administrative review, and requested that the Department rescind this administrative review for Inner Mongolia Youth. *See* Honey from the People's Republic of China: Initiation of New Shipper Duty Administrative Reviews, 69 FR 5835. On March 5, 2004, Anhui Honghui, Eurasia, and Jiangsu Kanghong withdrew their requests for the administrative review covering the POR because all of their entries of subject merchandise during the POR were also subject to the new shipper review covering the identical POR.

On March 10, 2004, the Department rescinded the administrative review for Foodworld and Anhui Native because petitioners had withdrawn their review request for these companies. *See* Honey from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review, 69 FR 11383 (March 10, 2004).

On March 12, 2004, petitioners also withdrew their request for an administrative review of entries made by Anhui Honghui, Cheng Du, Eurasia, Inner Mongolia Youth, and Jiangsu Kanghong. On April 27, 2004, the Department rescinded the review for Anhui Honghui, Cheng Du, Eurasia, Inner Mongolia Youth, and Jiangsu Kanghong. *See* Honey from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review, 69 FR 22760 (April 27, 2004).

On March 25, 2004, we invited interested parties to comment on the Department's surrogate country selection and/or significant production in the other potential surrogate countries and to submit publicly available information to value the factors of production. On April 15,

[1] The request included: Anhui Honghui, Eurasia, Jiangsu Kanghong, Anhui Native Produce Import & Export Corp. (''Anhui Native''); Cheng Du Wai Yuan Bee Products Co., Ltd. (''Cheng Du''); Foodworld International Club, Ltd. (''Foodworld''); Henan Native Produce and Animal By-Products Import & Export Company (''Henan''); High Hope International Group Jiangsu Foodstuffs Import & Export Corp. (''High Hope''); Inner Mongolia; Inner Mongolia Youth Trade Development Co., Ltd. (''Inner Mongolia Youth''); Jinan Products Industry Co., Ltd. (''Jinan''); Jinfu; Kunshan Foreign Trade Company (''Kunshan''); Native Produce and Animal Import & Export Co. (''Native Produce''); Eswell; Shanghai Shinomiel; Shanghai Xiuwei International Trading Co., Ltd. (''Shanghai Xiuwei''); Dubao, Wuhan Bee; and Zhejiang Native Produce and Animal By-Products Import & Export Group Corp. (''Zhejiang'').

2004, petitioners submitted comments on the selection of the proper surrogate country. On May 10, 2004, petitioners and respondents submitted comments on surrogate information with which to value the factors of production in this proceeding. On May 20, 2004, respondents submitted comments on petitioners' submissions for surrogate values.

With regard to Dubao, Eswell, Jinfu, Wuhan Bee, and Zhejiang, between March and December 2004, the Department received timely filed original and supplemental questionnaire responses and petitioners' comments on those responses.

Inner Mongolia

We received timely responses from Inner Mongolia to the Department's original questionnaire and petitioners commented on these submissions. We subsequently issued a supplemental questionnaire to Inner Mongolia and received a partial response. The Department then received a letter from Inner Mongolia's counsel stating that Inner Mongolia was withdrawing its request for an annual review. On June 23, 2004, the Department issued a letter to Inner Mongolia, noting that petitioners have not withdrawn their request for review, that the Department is proceeding with the review, and that the Department requires Inner Mongolia's continued participation or the Department may resort to facts available. The Department received a response from counsel for Inner Mongolia, in which Inner Mongolia's counsel stated that Inner Mongolia would not be participating in this administrative review any further as it was canceling operations, and that counsel was no longer representing Inner Mongolia. *See* Memorandum to the File from Steve Williams dated July 1, 2004 (''Shanghai Shinomiel and Inner Mongolia Memo'').

Shanghai Xiuwei

We received timely responses from Shanghai Xiuwei to Sections A, C, and D, and petitioners submitted comments on these responses. We issued a supplemental questionnaire to Shanghai Xiuwei and received an incomplete response. The Department issued a letter to Shanghai Xiuwei, requesting for a second time that Shanghai Xiuwei respond completely to the Department's supplemental questionnaire as requested, or risk application of facts available. Shanghai Xiuwei requested that the review be rescinded, as it had been unable to collect certain data from its board or its importers to respond to the Department's questionnaire. On August 27, 2004, the Department issued another letter to Shanghai Xiuwei rejecting its withdrawal request, noting that petitioners had not withdrawn their request for review. We received no response from Shanghai Xiuwei.

Shanghai Shinomeil

The Department received no response from Shanghai Shinomiel to its original questionnaire. The Department subsequently issued a letter to shanghai Shinomeil requesting that it respond to the Department's questionnaire as requested, or risk application of adverse facts available. In addition, the Department spoke with counsel for Shanghai Shinomeil, and Shanghai Shinomeil's counsel informed the Department that Shanghai Shinomiel would not be participating in this administrative review. *See* Shanghai Shinomiel and Inner Mongolia Memo.

Kunshan

The Department received no response from Kunshan to its original questionnaire by the deadlines. The Department issued a second request to Kunshan to respond to the Department's antidumping questionnaire. *See* Letter from Abdelali Elouaradia to Kunshan Foreign Trade Company, dated March 10, 2004. Kunshan notified the Department that it made no shipments to the United States during the POR, and requested that the Department rescind this administrative review for Kunshan. See Letter from Kunshan, to Abdelali Elouaradia (undated). We received no comments from any interested parties regarding Kunshan's request for rescission. Therefore, because Kunshan had no shipments to the United States during the POR, the Department is preliminarily rescinding this administrative review for Kunshan. *See* ''Preliminary partial Rescission of Administrative Review'' section, below.

On June 1, 2004, the Department published an extension of the time limits to complete these preliminary results. *See* Honey from the People's Republic of China: Extension of Time Limit of Preliminary Results of Second Antidumping Duty Administrative Review, 69 FR 30879 (June 1, 2004).

On August 12, 2004, petitioners submitted a letter requesting that the Department apply adverse facts available (''AFA'') to Shanghai Xiuwei, Inner Mongolia, and Shanghai Shinomiel for the preliminary results.

On October 1, 2004, the Department published an additional extension of the time limits to complete these preliminary results. *See* Honey from the People's Republic of China: Extension of time Limit of Preliminary Results of Second Antidumping Duty Administrative Review, 69 FR 58893 (October 1, 2004).

On November 18, 2004, petitioners submitted comments on the valuation of the hone surrogate value and surrogate financial ratios. On December 3, 3004, Eswell, Wuhan Bee, and Zhejiang submitted comments on the surrogate financial ratios.

Extension of Final Results

In accordance with section 751(a)(3)(A) of the Act, as amended, we determine that it is not practicable to complete this review within the original time frame because of the Department's decision to verify certain respondents in this review (*see* ''Verification'' section of this notice for further discussion). We are currently unable to conduct verification or allow sufficient opportunity for the submission of interested party comments, prior to the current final results deadline. Thus, in accordance with section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations, the Department is extending the time limit for completion of the final results of this review until no later than 150 days from the date of publication of this notice.

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 order 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 customs purposes, the Department's written description of the merchandise under order is dispositive.

Verification

As provided in section 782(i)(2) of the Act and 19 CFR 351.307, we intend to verify certain information relied upon in making our final results. On May 3, 2004, petitioners submitted a request that the Department conduct verifications of Inner Mongolia, Jinfu, Eswell, Shanghai Xiuwei, Dubao, Wuhan Bee, and Zhejiang. Petitioners noted that Inner Mongolia's questionnaire responses have not been verified in any of the immediately

preceding new shipper reviews, and that Eswell has never had its information verified. Petitioners state that the remaining respondents should be verified pursuant to 19 CFR 351.307(b)(1)(iv), and submitted information regarding ''good cause'' related to Jinfu, Shanghai Xiuwei, Dubao, Wuhan Bee, and Zhejiang. We intend to verify Dubao and Wuhan Bee. However, we do not intend to verify Jinfu, Eswell, and Zhejiang because we have not been provided with a sufficient basis to conclude that there is ''good cause'' for verification within the meaning of 19 CFR 351.307(b)(1)(iv), and there have not been two administrative reviews without verification within the meaning of 19 CFR 351.307(b)(1)(v)(B). Additionally, because Shanghai Xiuwei and Inner Mongolia have declined to participate in this administrative review, we are unable to verify information submitted on the record by these two companies. *See* ''The PRC-wide Rate and Use of Facts Otherwise Available'' section below.

Preliminary Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(3), we have preliminarily determined that Kunshan made no shipments of subject merchandise to the United States during the POR. In making this determination, the Department examined PRC honey shipment data maintained by U.S. Customs and Border Protection (''CBP''). Based on the information obtained from CBP, we found no entries of subject merchandise during the POR manufactured or exported by Kunshan to the United States. *See also* Memorandum to the File regarding Entries by Kunshan Foreign Trade Company, dated December 15, 2004.

Therefore, based on the results of our CBO query, demonstrating no shipments of subject merchandise by Kunshan during the POR, as well as Kunshan's claim that it had no subject shipments, we are preliminarily rescinding the administrative review, in accordance with 19 CFR 351.213(d)(3) with respect to Kunshan because we found no evidence that Kunshan made shipments of the subject merchandise during the POR.

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 Dubao, Eswell, Jinfu, Wuhan Bee, Zhejiang, Inner Mongolia, and Shanghai Xiuwei requested separate company-specific rates.[2]

Accordingly, we have considered whether each of the companies is independent from government control, and therefore eligible for a separate rate. The Department's separate-rate test to determine whether the exporters are independent from government control does not consider, in general, 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* 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), and 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).

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588 (May 6, 1991) (''Sparklers''), as amplified by Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994) (''Silicon Carbide''). In accordance with the separate-rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

Dubao, Eswell, Jinfu, Wuhan Bee, Zhejiang (collectively ''fully responsive companies'') provided complete separate-rate information in their responses to our original and supplemental questionnaires. Accordingly, we performed a separate-rates analysis to determine whether these exporters are independent from government control.

[2] Shanghai Shinomiel did not request a separate rate.

As stated above in the ''Background'' section, Inner Mongolia, Shanghai Xiuwei, and Shanghai Shinomiel (collectively ''non-responsive companies'' did not respond in a complete and timely manner to the Department's requests for information and therefore are subject to adverse facts available, and no separate-rates analysis is necessary. Because these three non-responsive companies did not provide complete and verifiable responses to our requests 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* Review Initiation. *See also* ''The Use of Facts Otherwise Available and PRC-wide Rate'' section below.

Absence of 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 enactment decentralizing control of companies; and (3) other formal measures by the government centralizing control of companies. *See* Sparklers, 56 FR at 20589. As discussed below, our analysis shows that the evidence on the record supports a preliminary finding of *de jure* absence of government control for the five fully responsive companies based on each of these factors.

Dubao

Dubao has placed on the record a number of documents to demonstrate absence of *de jure* control, including the ''Regulations of the People's Republic of China for Controlling the Registration of Enterprises as Legal Persons,'' and the ''Foreign Trade Law of the People's Republic of China'' (May 12, 1994) (''Foreign Trade Law ''). *See* Exhibit 3 of Dubao's March 15, 2004, submission (''Dubao Section A''). Dubao also submitted a copy of its business license in Exhibit 2 of Dubao Section A. This license was issued by the Chengdu Municipal Industrial and Commercial Administration. Dubao explains that its business license is necessary to register the company. Dubao 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.

Eswell

Eswell has placed on the record a number of documents to demonstrate absence of *de jure* control, including the ''Company Law of the People's Republic of China'' (December 29, 1993) (''Company Law''), 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 3 of Eswell's March 11, 2004, submission (''Eswell Section A''). In addition, Eswell placed on the record in Exhibit 6 of its October 29, 2004, submission the Certificate of Approval for Enterprises with Foreign Trade rights in the People's Republic of China (''Foreign Trade Rights''). Eswell also submitted a copy of its business license in Exhibit 4 of Eswell Section A. This license was issued by the Shanghai Industry and Commerce Administrative Bureau. Eswell explains that its business license is necessary to register the company. Eswell affirms that its business operations are limited to the scope of the license, and that the license may be revoked if the company engaged in illegal activities or if the company is found to have insufficient capital.

Jinfu

Jinfu has placed on the record a number of documents to demonstrate absence of *de jure* control, the Company Law, Foreign Trade Law, and the Legal Corporations Regulations. *See* Exhibit 2 of Jinfu's March 11, 2004, submission (''Jinfu Section A''). Jinfu also submitted a copy of its business license in Exhibit 3 of Jinfu Section A. The Suzhou Kunshan Industry and Commerce Administrative Bureau issued this license. Jinfu explains that the business license defines its business scope. Jinfu also 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 conducts activities outside of the business scope described on its business license.

Wuhan Bee

Wuhan Bee has placed on the record a number of documents to demonstrate absence of *de jure* control, including the Foreign Trade Law, the Legal Corporations Regulations, The Law of the People's Republic of China: On Chinese-Foreign Joint Ventures (April 13, 1998) and the Law of the People's Republic of China on Chinese-Foreign Equity Joint Ventures (April 4, 1990). *See* Exhibit 2 of Wuhan Bee's March 11, 2004, submission (''Wuhan Bee Section A''). Wuhan Bee also submitted a copy of its business license in Exhibit 3 of Wuhan Bee Section A. The Industrial and Commercial Administrative Bureau of Wuhan City issued this license. Wuhan Bee explains that its business license is necessary to register the company and that the license defines the scope of the company's business activities and ensures that the company has sufficient capital to continue its business operations. Wuhan Bee affirms that its business operations are limited to the scope of the license, unless amended, and that the license may be revoked if the company is found to have insufficient capital or if the company engages in activities outside the scope of its business license.

Zhejiang

Zhejiang has placed on the record a number of documents to demonstrate absence of *de jure* control, including the Company Law, Foreign Trade Law, and the Legal Corporations Regulations. *See* Exhibit 2 of Zhejiang's March 11, 2004, submission (''Zhejiang Section A''). Zhejiang also submitted a copy of its business license in Exhibit 3 of Zhejiang Section A. This license was issued by the Industrial and Commercial Administrative Bureau of Zhejiang Province on May 17, 2001. 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.

We note that three of the five fully responsive companies have stated that they are governed by the Company Law, which they claim 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. All of the fully responsive companies have placed on the record the Foreign Trade Law, and stated that this law allows them full autonomy from the central authority in governing their business operations. We have reviewed Article 11 of Chapter II of the Foreign Trade Law, which states ''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.'' As in prior cases, we have 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). Therefore, we preliminarily determine that there is an absence of *de jure* control over the export activities of Dubao, Eswell, Jinfu, Wuhan Bee, and Zhejiang.

Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by, or subject to, the approval of a government 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 government control, which would preclude the Department from assigning separate rates.

Dubao has asserted the following: (1) It is a privately owned company; (2) there is no government participation in its setting of export prices; (3) its sales manager has the authority to bind sales contracts; (4) it does not have to notify any government authorities of its management selection; (5) there are no restrictions on the use of its export revenue; and (6) it is responsible for financing its own losses. We have examined the documentation provided and note that it does not suggest that pricing is coordinated among exporters of PRC honey.

Eswell has asserted the following: (1) It is a privately owned limited liability company; (2) there is no government participation in its setting of export prices; (3) the president of its affiliated company in the United States or its designated sales agents have the

authority to bind sales contracts; (4) its management is selected by its board of directors and it does not have to notify any government authorities of its management selection; (5) there are no restrictions on the use of its export revenue; and (6) it is responsible for financing its own losses. We have examined the documentation provided and note that it does not suggest that pricing is coordinated among exporters of PRC honey.

Jinfu has asserted the following: (1) It is a privately owned company; (2) there is no government participation in its setting of export prices; (3) its chief executive officer and authorized employee have the authority to bind sales contacts; (4) it does not have to notify any government authorities of its management selection; (5) there are no restrictions on the use of its export revenue; and (6) its board of directors decides how profits will be used. We have examined the documentation provided and note that it does not suggest that pricing is coordinated among exporters of PRC honey.

Wuhan Bee has asserted the following: (1) It is a joint-venture corporation; (2) there is no government participation in its setting of export prices; (3) its general manager and its U.S.-based affiliate have the authority to bind sales contracts; (4) it does not have to notify any government authorities of its management selection; (5) there are no restrictions on the use of its export revenue; and (6) its board of directors decides how profits will be used. We have examined the documentation provided and note that it does not suggest that pricing is coordinated among exporters of PRC honey.

Zhejiang has asserted the following: (1) It is a publicly owned company; (2) there is no government participation in its setting of export prices; (3) the Manager of the Bee products Department has the authority to bind sales contracts; (4) it does not have to notify any government authorities of its management selection; (5) there are no restrictions on the use of its export revenue; and (6) it is responsible for financing its own losses. We have examined the documentation provided and note that it does not suggest that pricing is coordinated among exporters of PRC honey.

Consequently, because evidence on the record indicates an absence of government control, both in law and in fact, over each respondent's export activities, we preliminarily determine that each fully responsive company has met the criteria for the application of a separate rate.

Use of Facts Otherwise Available and the PRC-Wide Rate

Dubao, Eswell, Jinfu, Wuhan Bee, Zhejiang, Kunshan, Shanghai Xiuwei, Inner Mongolia, and Shanghai Shinomiel were given the opportunity to respond to the Department's questionnaire. As explained above, we received complete questionnaire responses from Dubao, Eswell, Jinfu, Wuhan Bee, and Zhejiang, and we have calculated a separate rate for these companies (collectively ''fully responsive companies''). The PRC-wide rate applies to all entries of subject merchandise except for entries from PRC producers/exporters that have their own calculated rate. *See* ''Separate Rates'' section above.[3]

As discussed above, Shanghai Xiuwei, Inner Mongolia, and Shanghai Shinomiel (collectively ''non-responsive companies'') are appropriately considered to be part of the PRC-wide entity because they failed to establish their eligibility for a separate rate. Furthermore, because the PRC-wide entity did not provide information necessary to the instant proceeding, it is necessary that we review the PRC-wide entity. 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. 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(d) further states that if the party submits further information that is unsatisfactory or untimely, the administering authority may, subject to subsection (e), disregard all or part of the original and subsequent responses. 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 if (1) the information is submitted by the deadline established for its submission, (2) the information can be verified, (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination, (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the administering authority with respect to the information, and (5) the information can be used without undue difficulties.

As addressed below separately for each non-responsive company, we find that the PRC-wide entity did not respond to our request for information, and necessary information either was not provided, or the information provided cannot be verified and is not sufficiently complete to enable the Department to use it for these preliminary results. Therefore, 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 this review for the PRC-wide entity.

Shanghai Shinomiel

As stated above in the ''Background'' section, Shanghai Shinomiel did not respond to the Department's antidumping questionnaire. Rather, as noted above, Shanghai Shinomiel informed the Department that it would not be participating in this proceeding, and failed to respond to the Department's repeated requests for information. *See* Shanghai Shinomiel and Inner Mongolia Memo. The Department has no information on the record for Shanghai Shinomiel with which to calculate a dumping margin in this proceeding; therefore, we find that Shanghai Shinomiel has significantly impeded the proceeding, pursuant to sections 776(a)(2)(A) and 776(a)(2)(B) of the Act. Because Shanghai Shinomiel did not respond to the Department's questionnaires, sections 782(d) and (e) of the Act are not applicable.

[3] Kunshan did not reply to the Department's questionnaire; however, based on its request dated march 24, 2004, and the Department's analysis of CDP data, we have determined that Kunshan had no shipments during the POR and therefore we are preliminarily rescinding this review for Kunshan. *See* ''Partial Rescission'' section of this notice.

Inner Mongolia

As stated above in the ''Background'' section, Inner Mongolia responded to the Department's antidumping questionnaire. The Department subsequently requested additional information from Inner Mongolia in a supplemental questionnaire. *See* Supplemental A, C, and D questionnaire, dated April 19, 2004. On May 14, 2004, the Department received a partial response to this supplemental questionnaire that was seriously deficient. Inner Mongolia stated that it would provide additional information subsequent to this response, but failed to do so. We note that the information omitted included details on Inner Mongolia's and its producers' board members, information critical to the Department's separate-rates analysis (*see* ''Separate Rates'' section above), as well as information on its U.S. affiliate.[4] The Department gave Inner Mongolia an additional opportunity to provide the information the Department had requested on April 19, 2004. The Department explained to Inner Mongolia that it must comply with its requests for information or be subject to facts available for the preliminary results. *See* Letter from Edward Yang to Inner Mongolia dated June 23, 2004. In response to this additional request for information, Inner Mongolia's counsel informed the Department that Inner Mongolia is out of business and would no longer participate in this review. *See* Shanghai Shinomiel and Inner Mongolia Memo.

The Department provided Inner Mongolia with several opportunities to comply with its requests for information and to submit complete and accurate information. However, Inner Mongolia failed to provide the Department with the requested information.

Due to these serious deficiencies, we preliminarily find that Inner Mongolia has failed to provide the information requested, thereby significantly impeding the proceeding. Therefore, pursuant to section 776(a)(2)(A), (B), and (C) of the Act, the Department preliminarily finds that the application of facts available is appropriate for these preliminarily results.

Shanghai Xiuwei

Shanghai Xiuwei responded to the Department's original questionnaire. However, as stated in the ''Background'' section of this notice, the Department requested additional information from Shanghai Xiuwei on April 19, 2004. This supplemental questionnaire included 73 questions that addressed serious deficiencies in Shanghai Xiuwei's response regarding affiliation of importers, sales process, and factors of production. Despite providing Shanghai Xiuwei with ample time to collect the requested information (*see* memorandum to the File from Brandon Farlander, dated April 23, 2004), the Department did not receive any of the requested information from Shanghai Xiuwei. The Department provided Shanghai Xiuwei with an additional opportunity to respond to the Department's request for information on June 23, 2004. Shanghai Xiuwei again failed to provide the information requested and stated that it was unable to supply any of the requested information.[5] The Department supplied Shanghai Xiuwei with numerous opportunities to respond to the Department's requests for information. However, Shanghai Xiuwei refused to submit any information in response. The Department preliminarily finds, pursuant to section 776(a)(2)(A),(B),(C), and (D) of the Act, that Shanghai Xiuwei has repeatedly withheld information requested by the Department, thereby significantly impeding the Department's ability to conduct this proceeding. Therefore, the application of facts available is warranted with respect to Shanghai Xiuwei.

Application of Adverse Inference

Section 776(b) of the Act provides that, in selecting from among the facts available, the Department may use an inference that is adverse to the interests of the respondent if it determines that a party has failed to cooperate to the best of its ability. 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 Act (''SAA'') accompanying the URAA, H. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). In determining whether a respondent has failed to cooperate to the best of its ability, the Department need not make a determination regarding the willfulness of a respondent's conduct. *See Nippon Steel Corp.* v. *United States,* 337 F. 3rd 1373, 1382–1393 (Fed. Cir. 2003). 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). Instead, the courts have made clear that the Department must articulate its reasons for concluding that a party failed to cooperate to the best of its ability, and explain why the missing information is significant to the review. *Id.*

In determining whether a party failed to cooperate to the best of its ability, the Department considers whether a party could comply with the request for information, and whether a party paid insufficient attention to its statutory duties. *See Tung Mung Dev. Co.* v. *United States,* 223 F. Supp 2d 1336, 1342 (August 6, 2002). Furthermore, the Department also considers the accuracy and completeness of submitted information, and whether the respondent has hindered the calculation of accurate dumping margins. *See* Certain Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review, 62 FR 53808, 53819–53820 (October 16, 1997).

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 requests 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 of the requested information, despite repeated requests that it do so. This information was the sole possession of the respondents, and could not be obtained otherwise. 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

[4] Prior to the Department sending out an additional supplemental questionnaire to Inner Mongolia, on May 24, 2004, Inner Mongolia submitted a letter to the Department, which included a request for withdrawal from this administrative review. Inner Mongolia further stated that the company is canceling its operations and liquidating its assets, and no longer has personnel available to complete this administrative review.

[5] Shanghai Xiuwei requested that it be allowed to withdraw from the review, well after the time limit had passed for making such a request. Moreover, as the Department informed Shanghai Xiuwei, petitioners did not withdraw their request for review, and the Department was therefore required to continue with the review.

available when a respondent fails to cooperate to the best of its ability. *See, e.g.,* Stainless Steel Plate in Coils form 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 Shanghai Xiuwei, Inner Mongolia, and Shjanghai Shinomiel) 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 less-than-fair-value (''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).

Corroboration

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.[6] The SAA state 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, 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 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 (May11, 2001) (''Investigation Prelim'').

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 and in the first administrative review. *See, e.g.,* Investigation Prelim; Honey from the People's Republic of China: Preliminary Results of First Antidumping Duty Administrative Review, 68 FR 69988 (December 16, 2003) (''First Admin Review''); and reinforced in Honey from the People's Republic of China: Final Results of First Antidumping Duty Administrative Review, 69 FR 24128 (May 3, 2004). Because the secondary information from the LTFV investigation was recently corroborated in the first administrative review, and no information has been presented to call into question the reliability of the information from the LTFV investigation or the first administrative review, we find that the petition information is reliable. For a further discussion, *see e.g.,* Memorandum to the File from Kristina Boughton through James Doyle, Office Director regarding the Corroboration of the Petition Rate, dated December 15, 2004 (''Corroboration Memo'').

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 applied in this review is the rate currently applicable to all exporters subject to the PRC-wide rate. Further, as noted above and in the Corroboration Memo, 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 rate of 183.80 is still reliable, relevant, and has probative value within the meaning of section 776(c) of the Act.

Affiliation

Jinfu has claimed that it is affiliated with Jinfu Trading (USA) Inc., (''Jinfu USA'') within the meaning of section 771(33) of the Act. Section 771(33) of the Act states that affiliated persons include: (A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants, (B) any officer or director of an organization and such organization, (C) partners, (D) employer and employee, (E) any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization, (F) two or more persons directly or indirectly controlling, controlled by, or under common control with, any person, (G) any person who controls any other person and such other person. For purposes of this paragraph, a person

[6] 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.

shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person. In order to find affiliation between companies, the Department must find that at least one of the criteria listed above is applicable to the respondents.

Though no party in this case is questioning whether or not Jinfu was in fact affiliated with Jinfu USA at some point during the POR within the meaning of Section 771(33), we note that the effective date of this affiliation is in question ,and is significant to this proceeding for purposes of determining whether Jinfu's U.S. sales should be reported as ''export price'' sales or ''constructed export price'' sales. *See* discussion below under ''United States Price'' section of this notice. in this regard, Jinfu claims that it was affiliated with Jinfu USA as of October 25, 2002, which means the two firms were affiliated throughout the entire POR. In support of this contention, Jinfu has provided documentation it claims establishes that it acquired ownership of Jinfu USA on October 25, 2002.

Nevertheless, in the most recently completed segment of these PRC honey proceedings, the Department determined that Jinfu was not affiliated with Jinfu USA at the time of its first sale to the United States, which occurred on November 2, 2002. *See* Final Results and Final Rescission, In Part, of Antidumping Duty New Shipper Review, 69 FR 64029 (November 3, 2004) (''NSR Chengdu Final Results'') and accompanying Issues and Decision Memorandum at Comment 2. In making this finding in NSR Chengdu Final Results, the Department further noted that evidence on the record suggested that Jinfu did not actually own Jinfu USA until after the new shipper POR, ending May 31, 2003. *See, id.*

In considering for purposes of these preliminary results whether Jinfu was affiliated with Jinfu USA under section 771(33) of the Act, we analyzed all information on the record regarding possible affiliation between Jinfu and Jinfu USA. In particular, we considered whether Jinfu's purchase/investment in Jinfu USA, as delineated in a stock ownership transfer agreement, resulted in a common control relationship between Jinfu USA and Jinfu at any time during the POR.

Based on all of the information on the record, the Department has preliminarily determined that Jinfu and Jinfu USA were not affiliated with the meaning of section 771(33) of the Act until October 25, 2003, which is the date the above-referenced stock transfer agreement was executed. We note that this decision is consistent with our findings in NSR Chengdu Final Results. Moreover, in reaching this decision, the Department considered all the additional information submitted by Jinfu in this proceeding, but determined such additional information did not have sufficient probative value to call into question the decision in NSR Chengdu Final Results. For a further discussion of this issue, see Proprietary Administrative Review of the Antidumping Duty Order on Honey from the People's Republic of China (PRC): Analysis of the Relationship and Treatment of Sales between Jinfu Trading, Co., Ltd. and Jinfu Trading (USA) Inc. from Kristina Boughton, Case Analyst, to James Doyle, Office Director, dated December 15, 2004.

Normal Value Comparisons

To determine whether the respondents' 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

Export Price

For Dubao and Jinfu, and certain sales by Wuhan Bee and 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, foreign brokerage and handling expenses, international freight, marine insurance, U.S. inland freight expenses from port to warehouse, and U.S. import duties and brokerage and handling from the starting price (gross unit price), in accordance with section 772(c) of the Act.

Certain information regarding the sales made from Dubao to its unaffiliated customers raises concerns regarding the status of Dubao's relationship with its customers, the status of its customers as legitimate importers of record, and when and how Dubao received payment for its sales. Therefore, the Department intends to further examine this information for the final results of review. Moreover, the Department intends to further examine this information for the final results of review. Moreover, the Department will issue an additional supplemental questionnaire following the preliminary results of review. Due to the proprietary nature of this information, the specific issues are identified in the Proprietary Analysis Memorandum to the File from Anya Naschak, Case Analyst, dated December 15, 2004. For purposes of these preliminary results, the Department has determined to rely on the U.S. sales data submitted by Dubao. For these preliminary results for Dubao, we deducted foreign inland freight and foreign brokerage and handling expenses from the starting price (gross unit price), in accordance with section 772(c) of the Act. For Wuhan Bee, we added billing and quantity adjustments and freight revenue to the starting price and deducted discounts, foreign inland freight, and foreign brokerage and handling expenses from the starting price (gross unit price), in accordance with section 772(c) of the Act. And for Zhejiang, where applicable, we deducted foreign inland freight and international freight from the starting price (gross unit price), in accordance with section 772(c) of the Act.

Based on the Department's preliminary decision on affiliation between Jinfu and Jinfu USA, the Department requested that Jinfu supply EP sales information for all of its sales to the United States during the POR. Therefore, we calculated EP and deducted foreign inland freight and foreign brokerage and handling expenses from the starting price (gross unit price), in accordance with section 772(c) of the Act.

Where foreign inland freight, foreign brokerage and handling, or marine insurance were provided by PRC service providers or paid for in renminbi, we valued these services using Indian surrogate values (*see* ''Factors of Production'' section below for further discussion). For those expenses that were provided by a market-economy provider and paid for in market-economy currency, we used the reported expense.

Constructed Export Price

For Eswell and certain sales by Wuhan Bee and Zhejiang, we calculated CEP in accordance with section 772(b) of the Act, because certain sales were made on behalf of the PRC-based company by its U.S. affiliate to unaffiliated purchasers. We based CEP on packed, delivered or ex-warehouse prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for movement expenses in accordance with section

772(c)(2)(A) of the Act; these included foreign inland freight, foreign brokerage and handling charges, international freight, marine insurance, U.S. brokerage and handling, U.S. import duties, and U.S. inland freight expenses.

In accordance with section 772(c)(1) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses and indirect selling expenses. We also made an adjustment for profit in accordance with section 772(d)(3) of the Act.

Specifically, for Eswell we deducted (where applicable) foreign inland freight, international freight, marine insurance, U.S. brokerage, U.S. customs duties, U.S. inland freight from the port to warehouse, U.S. inland freight from the warehouse to the customer, commissions, credit expenses, other direct selling expenses (lab tests), indirect selling expenses, CEP profit, and added (where applicable) freight revenue.

For Zhejiang we deducted (where applicable) foreign inland freight, international freight, marine insurance, U.S. brokerage, U.S. customs duties, U.S. inland freight from the port to warehouse, U.S. inland freight from the warehouse to the customer, commissions, credit expenses, indirect selling expenses, as well as CEP profit.

Wuhan Bee reported to the Department further manufacturing costs associated with blending subject merchandise with non-subject merchandise in the United States. On December 3, 2004, Wuhan Bee submitted comments on the appropriate methodology for assessing further manufacturing costs for these preliminary results. The Department has examined these comments and determined, for these preliminary results, the appropriate methodology for calculating a further manufacturing cost. Because of the proprietary nature of this information, further discussion of this issue can be found in the Memorandum to the File from Kristina Boughton: Wuhan Bee Healthy Co. Ltd. Analysis Memorandum for the Preliminary Results of Review, dated December 15, 2004. For Wuhan Bee, to calculate CEP we added (where applicable) billing and quantity adjustments and freight revenue to the gross unit price. Then we deducted (where applicable) discounts, foreign inland freight, foreign brokerage and handling charges, international freight, marine insurance, U.S. brokerage, U.S. customs duties, U.S. inland freight from the port to warehouse, U.S. inland freight from the warehouse to the customer, further manufacturing, credit expenses, commissions, inventory carrying costs, indirect selling expenses, and CEP profit.

Where foreign inland freight, foreign brokerage and handling, or marine insurance, were provided by PRC service providers or paid for in renminbi, we valued these services using Indian surrogate values (*see* ''Factors of Production'' section below for further discussion). For those expenses that were provided by a market-economy provider and paid for in market-economy currency, we used the reported expense.

Normal Value

Non-Market-Economy Status

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. *See* Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results 2001–2002 Administrative Review and Partial Rescission of Review, 68 FR 7500 (February 14, 2003). None of the parties to these reviews have contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

Section 773(c)(4) of the Act requires the Department to value an NME producer's factors of production, to the extent possible, in one or more market-economy countries that (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. India is among the countries comparable to the PRC in terms of overall economic development, as identified in the February 24, 2004, Memorandum from the Office of Policy to Abdelali Elouaradia.[7] In addition, based on publicly available information placed on the record (*e.g.,* world production data), India is a significant producer of the subject merchandise. Accordingly, we considered India the surrogate country for purposes of valuing the factors of production because it meets the Department's criteria for surrogate-country selection. *See* Memorandum to the file from Anya Naschak through James Doyle entitled, ''Selection of a Surrogate Country,'' dated December 15, 2004 (''Surrogate Country Memo'').

Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on the factors of production which included, but we were not limited to: (A) Hours of labor required; (B) quantities of raw materials employed; (C) amounts of energy and other utilities consumed; and (D) representative capital costs, including depreciation. We used factors of production reported by the producer or exporter for materials, energy, labor, and packing. To calculate NV, we multiplied the reported unit factor quantities by publicly available Indian values.

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data, in accordance with our practice. When we used publicly available import data from the Ministry of Commerce of India (''Indian Import Statistics'') for December 2002 through November 2003 to value inputs sourced domestically by PRC suppliers, we added to the 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, 1408 (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 site at which the input was used. In instances where we relied on Indian import data to value inputs, in accordance with the Department's practice, we excluded imports from both NME countries and countries deemed to maintain broadly available, non-industry-specific subsidies which may benefit all exporters to all export markets (*i.e.*, Indonesia, South Korea, and Thailand) from our surrogate value calculations. *See, e.g., Final Determination of Sales at Less Than Fair Value Certain Automotive Replacement Glass Windshields from the People's Republic of China,* 67 FR 6482 (February 12, 2002) and accompanying Issues and Decisions Memorandum at Comment 1. *See, also, Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical*

[7] This memorandum is attached to the letters sent to interested parties to this proceeding requesting comments on surrogate country and surrogate value information, dated March 25, 2004.

Circumstances: Certain Color Television Receivers From the People's Republic of China, 68 FR 66800, 66808 (November 28, 2003), unchanged in the Department's final results at 69 FR 20594 (April 16, 2004). Also consistent with our policy, we excluded, in a few instances, import data that appeared to be aberrational when compared to the average import value of all countries not excluded. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Color Television Receivers From the People's Republic of China,* 69 FR 20594, April 16, 2004, and accompanying issues and Decision Memorandum at Comment 5. *See* Memorandum to the File, through James Doyle, Office Director, entitled, ''Factors of Production Valuation Memorandum for the Preliminary Results of the Second Antidumping Duty Review of Honey from the People's Republic of China,'' dated December 15, 2004 (''Factor Valuation Memo''), for a complete discussion of the import data what we excluded from our calculation of surrogate values. This memorandum is on file in the Central Records Unit (''CRU'') located in room B–099 of the Main Commerce Building.

Where we could not obtain publicly available information contemporaneous with the POR to value factors, we adjusted the surrogate values using the Indian Wholesale Price Index (''WPI'') as published in the International Financial Statistics (''IFS'') of the International Monetary Fund (''IMF''), for those surrogate values in Indian rupees. We made currency conversions, where necessary, pursuant to section 351.415 of the Department's regulations to U.S. dollars using the applicable average exchange rate for the POR. We based the average exchange rates on exchange rate data from the Import Administration Web site at *http://ia.ita.doc.gov/exchange/index.html. See* Factor Valuation Memo. We valued the factors of production as follows:

To value raw honey, we used the average of two raw honey prices, provided in an article published in The Tribune (of India) on December 15, 2003, entitled, ''Honey sweet despite price fall.'' A copy of the original article, which was submitted by petitioners, is attached at Attachment 3 of the Factor Valuation Memo. The respondents in this review submitted other news articles to be used as potential sources for the surrogate value data for raw honey, including an article from the Hindu Business Line dated April 2003 and an article from IndiaInfoline.com dated September 2003. We have not used either of these alternate sources proposed by respondents in the preliminary results, as discussed in the Factor Valuation Memo.

In selecting the raw honey values from The Tribune (of India) article as the best available information with which to value raw honey in this proceeding, we note that the Department has conducted extensive research on potential raw honey surrogate values for this administrative review. The relevant research is included as Attachment 17 of the Factor Valuation Memo. Additionally, the Department contacted U.S. Foreign Agriculture Service (''FAS'') officers in India to conduct research on its behalf (*see* Memorandum to the File from Anya Naschak, dated November 19, 2004). The information obtained from these FAS officers included price quotes from the North India Beekeepers Society (''NIBS''). The Department also evaluated the reasonableness of using Mahabaleshwar Honey Producers Cooperative Society, Ltd.'s (''MHPC'') cost of raw honey from its financial statements. None of these other sources of information are as reliable as the raw honey values appearing in The Tribune (of India) article. Specifically, the Department cannot confirm the quality or reliability of the NBS values, and the MHPC price is that a single producer. In addition, we note ''the Department's preference is to use industry-wide values, rather than the values of a single producer, wherever possible, because industry-wide values are more representative of prices/costs of all producers in the surrogate country.'' *See* Notice of Final Determination of Sales at Less Than Fair Value: Honey From the People's Republic of China, 66 FR 50608 (October 4, 2001), and accompanying Issues and Decision Memorandum at Comment 2 (''Final Determination''). *See also* Final Results of the First Administrative Review of the Antidumping Duty Order on Honey from the People's Republic of China, 69 FR 25060 (May 5, 2004), and accompanying Issues and Decision Memorandum at Comment 3.

The use of The Tribune (of India) article is also consistent with the Department's recent decision in the third new shipper review of this order. *See* NSR Chengdu Final Results and accompanying Issues and Decision Memorandum at Comment 4. For a further discussion of this issue, see Factor Valuation Memo, as well as the preliminary results of the new shipper reviews that are contemporaneous with the instant review. *See* Honey from the People's Republic of China: Notice of Preliminary Results of Antidumping Duty New Shipper Reviews, 69 FR 69350 (November 29, 2004) (''NSR Anhui Prelim Results'').

To value water, we used the water tariff rate, as reported on the Municipal Corporation of Greater Mumbai's Web site. *See http://www.mcgm.gov.in/Stat%20&%20Fig/Revenue.htm.* Because this data is not contemporaneous with the POR, an adjustment has been made for inflation using WPI data.

To value diesel fuel for autos, we used the rate published in International Energy Agency, Energy Prices and Taxes—Quarterly Statistics (Fourth Quarter 2003), under ''Automotive Diesel for Commercial Use.'' *See* Factor Valuation Memo.

To value beeswax, scrap honey, coal, paint, and labels, we used Indian Import Statistics, contemporaneous with the POR, removing data from certain countries as discussed in the Factor Valuation Memo. We also adjusted the surrogate values to include freight costs incurred between the shorter of the two reported distances from either (1) the closet PRC seaport to the location producing the subject merchandise, or (2) the PRC domestic materials supplier to the location where the subject merchandise is produced. See Factor Valuation Memo.

We valued electricity using the Annual Report (2001–2002) on The Working of State Electricity Boards & Electricity Departments of the Planning Commission (Power and Energy Division) of the Government of India (May 2002), as submitted by respondents in their May 10, 2004, submission at Exhibit 5. We inflated the value for electricity using the POR average WPI rate. See Factor Valuation Memo.

To value drums, we relied upon a price quote from an Indian steel drum manufacturer from September 2000, as provided by Petitioners in their May 10, 2004, submission at Exhibit 9. We inflated the value for drums using the POR average WPI rate. *See* Factor Valuation Memo.

To value factory overhead, selling, general, and administrative expenses (''SG&A''), and profit, we relied upon publicly available information in the 2002–2003 annual report of MHPC, a producer of the subject merchandise in India, upon which both petitioners and respondents have argued that the Department should rely upon. Petitioners aver in their November 18, 2004, submission that the Department should continue to rely on the methodology used in NSR Chengdu Final Results. Respondents argued in their December 3, 2004, submission that the Department should exclude the line

item for ''Honey Sale Commission'' from the calculation of SG&A. However, we preliminarily find that the Department's calculation in NSR Chengdu Final Results was appropriate. Therefore, for these preliminary results we are continuing to include ''Honey Sale Commission'' in our calculation of the SG&A ratio and have applied the resulting ratios to the calculated cost of manufacture and cost of production using the same methodology established in NSR Chengdu Final Results and accompanying Issues and Decision Memorandum at Comment 5 and reinforced in NSR Anhui Prelim Results. For a further discussion of this issue, see Factor Valuation Memo.

Because of the variability of wage rates in countries with similar levels of per capita gross domestic product, section 351.408(c)(3) of the Department's regulations requires the use of regression-based wage rate. Therefore, to value the labor input, we used the PRC's regression-based wage rate published by Import Administration on its Web site. The source of the wage rate data on the Import Administration Web site is the Yearbook of Labor Statistics 2002, International Labor Organization (''ILO''), (Geneva: 2002), and gross national income (GNI'') data as reported in World Development Indicators, The World Bank, (Washington, DC: 2003 and 2004). *See* Factor Valuation Memo.

To value truck freight, we used an average truck freight cost based on Indian truck freight rates on a per-metric-ton basis published in the Iron and Steel Newsletter, April 2002, which we adjusted for inflation. *See* Factor Valuation Memo.

We valued marine insurance, where necessary, based on publicly available price quotes from a marine insurance provider at *http://www.rjgconsultants.com/insurance.html.* We also valued brokerage and handling using the source, dated November 12, 1999, that petitioners provided in their May 10, 2004, submission. Since the brokerage rate was not contemporaneous with the POR, we adjusted the rate for inflation. See Factor Valuation Memo.

In accordance with section 351.301(c)(3)(ii) of the Department's regulations, for the final results of this administrative review, interested parties may submit publicly available information to value the factors of production until 20 days following the date of publication of these preliminary results.

Preliminary Results of Review

We preliminarily determine that the following antidumping duty margins exist:

Exporter	Margin (percent)
Sichuan-Dujiangyan Dubao Bee Industrial Co., Ltd.	41.99
Shanghai Eswell Enterprise Co., Ltd.	38.25
Jinfu Trading Co., Ltd.	73.67
Wuhan Bee Healthy Company, Ltd.	5.69
Zhejian Native Produce and Animal By-Products Import & Export Group Corp.	44.98
Shanghai Xiuwei International Trading Co., Ltd.	183.80
Inner Mongolia Autonomous Region Native Produce and Animal By-Products Import & Export Corp.	183.80
Shanghai Shinomiel International Trade Corporation	183.80
PRC-Wide Rate	183.80

For details on the calculation of the antidumping duty weighted-average margin for each company, *see* the respective company's Analysis Memorandum for the Preliminary Results of the Second Administrative Review of the Antidumping Duty Order on Honey from the People's Republic of China, dated December 15, 2004. Public Versions of these memoranda are on file in the CRU.

Assessment Rates

Pursuant to section 351.212(b) of the Department's regulations, 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 appraisement instructions directly to CBP to assess antidumping duties on appropriate entries by applying the assessment rate to the entered quantity or 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 or entered value of the sales to that importer.[8] 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 or entered value for the subject merchandise on each of the respondents' 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 Dubao, Eswell, Jinfu, Wuhan Bee, and 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 Inner Mongolia and Shanghai Xiuwei, whose cash-deposit rates have changed in their review to the PRC-wide entity rate as noted below); (3) the cash-deposit rate for all other PRC exporters (including Inner Mongolia, Shanghai Xiuwei, and Shanghai Shinomiel) 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 is 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

[8] Where entered value was not reported, we relied on the quantity of subject merchandise.

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 is 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 include 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 150 days after the date of publication of this notice (*see* ''Extension of Final Results'' section above).

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 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 15, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04–28119 Filed 12–23–04; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–812]

Honey From Argentina: Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: In response to requests by interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping order of honey from Argentina. The review covers seven firms. The period of review (POR) is December 1, 2002 through November 30, 2003.

We preliminarily determine that sales of honey from Argentina have been made below the normal value (NV) in the case of Nutrin S.A (Nutrin). In the case of the other six respondents, Asociacion de Cooperativas Argentinas (ACA), Compania Apicola Argentina (CAA), HoneyMax S.A. (HoneyMax), Seylinco S.A. (Seylinco), TransHoney S.A. (TransHoney), and Nexco S.A. (Nexco), we preliminary determine a zero or *de minimis* margin. If these preliminary results are adopted in our final results of administrative review, we will instruct Customs and Border Protection (CBP) to assess antidumping duties based on the difference between the export price (EP) or constructed export price (CEP) and NV. Interested parties are invited to comment on these preliminary results. Parties who submit argument in these proceedings are requested to submit with the argument: (1) A statement of the issues, (2) a brief summary of the argument, and (3) a table of authorities.

EFFECTIVE DATE: December 27, 2004.

FOR FURTHER INFORMATION CONTACT: David Cordell for TransHoney and for CAA, Brian Sheba for HoneyMax and Seylinco, Angela Strom for ACA, Nexco and Nutrin, or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 7866, Washington, DC 20230; telephone (202) 482–0649 OR (202) 482–0408.

SUPPLEMENTARY INFORMATION:

Background

On December 10, 2001, the Department published the antidumping duty order on Honey from Argentina. *See Notice of Antidumping Duty Order: Honey from Argentina,* 66 FR 63672. On December 31, 2003, the American Honey Producers Association and the Sioux Honey Association (collectively, petitioners) requested an administrative review of the antidumping duty order on honey from Argentina in response to the Department's notice of opportunity to request a review published in the **Federal Register**. Petitioners requested the Department review entries of subject merchandise made by 13 Argentine producers/exporters. In addition, the Department received requests for review from five Argentine exporters. On January 15, 2004, petitioners withdrew four of their 13 requests. The Department initiated the review for the remaining nine companies. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 3117–3119 (January 22, 2004).

On February 18, 2004, petitioners withdrew their requests for review for a further two companies. The Department subsequently rescinded the review with respect to these two companies Compania Europea Americana, S.A. and Radix S.r.L. *See Honey from Argentina: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 69 FR 12121 (March 15, 2004).

On February 11, 2004, the Department issued sections A, B, and C of the antidumping questionnaire to all exporters subject to review. We received responses on March 22 and April 6, 2004, (ACA); March 3 and March 29, 2004, (HoneyMax); March 19 and April 2, 2004, (Nexco); March 10 and April 2, 2004, (Seylinco); March 17, and April 2, 2004, (TransHoney); March 18 and April 2, 2004, (CAA). We received no response from Nutrin. After numerous attempts to contact counsel for Nutrin, on June 24, 2004, Nutrin's counsel stated Nutrin would not be responding to the Department's requests for information. *See* Memoranda to the File dated April 7, 2004, and June 24, 2004. We received no comments from petitioners.

The Department issued additional supplemental questionnaires on April 16 (TransHoney); March 30, May 6, July 26, and August 20 (CAA); April 15 and May 4 (ACA); April 15 and July 30 (Nexco); May 6 and August 2 (Honeymax) and May 6 (Seylinco). We received responses to these additional supplemental questionnaires on May 3 (TransHoney); May 6, May 20, August 16, September 3, September 20, September 27, and September 29 (CAA); April 28 and May 12 (ACA); May 7 and August 13 (Nexco); May 20 (Seylinco); and May 27 and August 23 (HoneyMax). On June 30, 2004, the Department