

In conjunction with the results of other testing (e.g., cognitive tests, focus groups, the 2003 National Census Test, the 2004 Census Test, and the 2005 National Census Test) the 2006 SFE will help us develop the optimal data collection methodology for the 2010 Census.

*Affected Public:* Individuals or households.

*Frequency:* One-time.

*Respondent's Obligation:* Mandatory.

*Legal Authority:* Title 13 U.S.C., Sections 141 and 193.

*OMB Desk Officer:* Susan Schechter, (202) 395-5103.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dhynek@doc.gov](mailto:dhynek@doc.gov)).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer either by fax (202-395-7245) or e-mail ([susan\\_schechter@omb.eop.gov](mailto:susan_schechter@omb.eop.gov)).

Dated: December 13, 2005.

**Madeleine Clayton,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. E5-7456 Filed 12-15-05; 8:45 am]

**BILLING CODE 3510-07-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-863]

#### Honey from the People's Republic of China: Preliminary Results and Partial Rescission of 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 third 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, 2003, through November 30, 2004. One named respondent 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 two 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).

**EFFECTIVE DATE:** December 16, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Kristina Boughton or Bobby Wong, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-8173 or (202) 482-0409, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 1, 2004, the Department published a *Notice of Opportunity to Request an Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 69 FR 69889 (December 1, 2004). On December 30, 2004, 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 19 Chinese producers/exporters.<sup>1</sup> Also on December 30, 2004,

<sup>1</sup> The request included: Inner Mongolia Autonomous Region Native Produce and Animal By-Products Import & Export Corp. (Inner Mongolia); Kunshan Foreign Trade Company (Kunshan); Zhejiang Native Produce and Animal By-Products Import & Export Corp. aka Zhejiang Native Produce and Animal By-Products Import & Export Group Corp. (Zhejiang); High Hope International Group Jiangsu Foodstuffs Import & Export Corp. (High Hope); Shanghai Eswell Enterprise Co., Ltd. (Eswell); Anhui Native Produce Import & Export Corp. (Anhui Native); Henan Native Produce Import & Export Corp. (Henan); Inner Mongolia Autonomous Region Native Produce and Animal By-Products; Shanghai Xiuwei International Trading Co., Ltd. (Shanghai Xiuwei); Sichuan-Duijiangyan Dubao Bee Industrial Co., Ltd. (Dubao); Wuhan Bee Healthy Company, Ltd. (Wuhan Bee); Jinfu Trading Co., Ltd. (Jinfu); Shanghai Shinomiell International Trade Corporation (Shanghai Shinomiell); Anhui Honghui Foodstuff (Group) Co., Ltd. (Anhui Honghui); Chengdu Waiyuan Bee Products Co., Ltd. (Chengdu Waiyuan); Eurasia Bee's Products Co., Ltd. (Eurasia); Foodworld International Club, Ltd. (Foodworld); Inner Mongolia Youth Trade Development Co., Ltd. (Inner Mongolia Youth); and Jiangsu Kanghong Natural Healthfoods Co., Ltd. (Jiangsu Kanghong).

Wuhan Bee, Zhejiang, Anhui Honghui, Eurasia, Jiangsu Kanghong, Jinfu, and Eswell requested that the Department conduct an administrative review of each respective company's entries during the POR.

On January 3, 2005, Dubao and Chengdu Waiyuan requested that the Department conduct an administrative review of each respective company's entries during the POR. On January 31, 2005, the Department initiated an administrative review of 19 Chinese companies. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 4818 (January 31, 2005).

On February 1, 2005, the Department issued antidumping duty questionnaires to 18 PRC producers/exporters of the subject merchandise covered by this administrative review.<sup>2</sup> On February 3, 2005, the Department received a letter from Inner Mongolia Youth and Shanghai Xiuwei stating that neither company sold subject merchandise to the United States during the POR. On February 22, 2005, petitioners filed a letter withdrawing their request for review of Kunshan, High Hope, Henan, Shanghai Xiuwei, Shanghai Shinomiell, Foodworld, and Inner Mongolia Youth. On February 23, 2005, Anhui Native separately notified the Department that it had no sales of subject merchandise to the United States during the POR, and requested that the Department rescind this proceeding for Anhui Native.

On March 9, 2005, 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 March 29, 2005, the Department rescinded this review with respect to Kunshan, High Hope, Henan, Shanghai Xiuwei, Shanghai Shinomiell, Foodworld, and Inner Mongolia Youth, because petitioners, the only party to request a review for these companies, withdrew their request for review. *See Notice of Partial Rescission of Antidumping Duty Administrative Review: Honey from the People's Republic of China*, 70 FR 15836 (March 29, 2005).

On April 28, 2005, petitioners withdrew their request for review of

<sup>2</sup> The Department notes that while petitioners requested a review for Inner Mongolia Autonomous Region Native Produce and Animal By-Products Import & Export Corp. and Inner Mongolia Autonomous Region Native Produce and Animal By-Products separately, both names refer to the same company.

Anhui Native, and on April 29, 2005, petitioners withdrew their request for review of Inner Mongolia. On May 25, 2005, the Department rescinded this review with respect to Anhui Native and Inner Mongolia because petitioners, the only party to request a review for these companies, withdrew their request for review. *See Honey from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 30082 (May 25, 2005).

On June 22, 2005, petitioners filed a letter withdrawing their request for review of Wuhan Bee, and on the same day, the respondent also filed a letter withdrawing its request for an administrative review. On July 21, 2005, the Department rescinded this review with respect to Wuhan Bee. *See Honey from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 42032 (July 21, 2005). Also on July 21, 2005, the Department published an extension of the time limits to complete these preliminary results. *See Honey from the People's Republic of China: Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 42033 (July 21, 2005).

On October 11, 2005, petitioners and Eswell, Anhui Honghui, Jiangsu Kanghong, and Zhejiang submitted comments on surrogate information with which to value the factors of production in this proceeding. On October 18 and 21, 2005, the same parties submitted comments on each other's October 11, 2005, surrogate value submissions. From October 18 to 21, 2005, the Department conducted verification of the information submitted by Anhui Honghui, and from October 23 to 27, 2005, the Department conducted verification of the information submitted by Jiangsu Kanghong.

With regard to Anhui Honghui, Eswell, Jinfu, Jiangsu Kanghong, and Zhejiang, between March and December 2005, the Department received timely filed original and supplemental questionnaire responses and petitioners' comments on those responses.

#### *Eurasia:*

We received timely responses from Eurasia to the Department's original questionnaire. We subsequently issued three supplemental questionnaires to Eurasia, receiving responses to the first two supplemental questionnaires and no response to the third supplemental questionnaire, sent October 7, 2005. On October 19, 2005, the Department received a letter from Eurasia's counsel

stating that Eurasia was withdrawing its request for an administrative review. On October 26, 2005, the Department issued a warning letter to Eurasia, noting that petitioners had not withdrawn their request for review and that the Department required Eurasia's response to the supplemental questionnaire. The Department noted that it might have to resort to facts available if Eurasia failed to file a response. The Department received no response to this letter.

#### *Dubao:*

The Department received no response from Dubao to its original questionnaire, sent February 1, 2005. On February 23, 2005, Dubao, through its counsel, withdrew its request for a review in this administrative proceeding. On March 7, 2005, the Department informed Dubao, via its counsel, that petitioners had not withdrawn their request for review of Dubao, that the Department was proceeding with the review, and that the Department required Dubao's questionnaire response or the Department might resort to facts available. On March 17, 2005, the Department notified Dubao for the second time, through its counsel, that the Department was not rescinding the review with respect to Dubao and that Dubao risked application of adverse facts available if it failed to submit a response. The Department did not receive a response to either letter.

#### *Chengdu Waiyuan:*

In response to the Department's issuance of the antidumping duty questionnaire, on February 23, 2005, Chengdu Waiyuan notified the Department that it had no sales of subject merchandise to the United States during the POR, and requested that the Department rescind this proceeding for Chengdu Waiyuan. We received no comments from any interested parties regarding Chengdu Waiyuan's request for rescission. Therefore, because Chengdu Waiyuan had no shipments to the United States during the POR, the Department is preliminarily rescinding this administrative review for Chengdu Waiyuan. *See "Preliminary Partial Rescission of Administrative Review"* section, below.

#### **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)(3) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.307, we conducted verification of the questionnaire responses of Anhui Honghui and Jiangsu Kanghong in October 2005. We used standard verification procedures, including on-site inspections of the production facilities and examination of relevant sales and financial records. Our verification results are outlined in the verification reports, public versions of which are on file in the Central Records Unit (CRU) located in room B-099 of the Main Commerce Building. *See "Memo to the File: Verification of Sales and of Factors of Production for Anhui Honghui Foodstuff (Group) Co., Ltd. ("Anhui Honghui") in the Antidumping Duty Administrative Review of Honey from the People's Republic of China ("PRC"),"* dated December 9, 2005; *see also "Memo to the File: Verification of U.S. Sales and Factors of Production for Respondent Jiangsu Kanghong Natural Healthfoods Co., Ltd. (Jiangsu Kanghong),"* dated December 9, 2005, (Jiangsu Kanghong Verification Report).

#### **Preliminary Partial Rescission of Administrative Review**

Pursuant to 19 CFR 351.213(d)(3), we have preliminarily determined that Chengdu Waiyuan 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 Chengdu Waiyuan to the United States. The Department also issued a no shipment inquiry to CBP on May 2, 2005, asking for notification from CBP if it had information contrary to our finding of no entries of subject merchandise for Chengdu Waiyuan during the POR. We received no response from CBP. *See also "Memorandum to the File regarding Entries by Chengdu Waiyuan Bee*

Products Co., Ltd.," dated December 9, 2005.

Therefore, based on the results of our corroborative CBP query, indicating no shipments of subject merchandise by Chengdu Waiyuan during the POR, as well as Chengdu Waiyuan'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 Chengdu Waiyuan.

#### 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 Anhui Honghui, Eswell, Eurasia, Jiangsu Kanghong, Jinfu, and Zhejiang submitted information in support of their claim for a company-specific rate.

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 at Comment 1 (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, 22586-7 (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.

Anhui Honghui, Eswell, Jiangsu Kanghong, Jinfu, and 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.

For the reasons discussed below in the section titled "The Use of Facts Otherwise Available and PRC-wide Rate," we have preliminarily determined that Dubao and Eurasia do not qualify for a separate rate and are instead part of the PRC-wide entity.

#### 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 enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing 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.

#### Anhui Honghui:

Anhui Honghui 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*), the "Foreign Trade Law of the People's Republic of China" (May 12, 1994) (*Foreign Trade Law*), the revised *Foreign Trade Law* (April 6, 2004), and "Administrative Regulations of the People's Republic of China Governing the Registration of Legal Corporations" (June 3, 1988) (*Legal Corporations Regulations*). *See* Exhibit 2 of Anhui Honghui's March 10, 2005, submission (Anhui Honghui Section A). Anhui Honghui also submitted a copy of its business license in Exhibit 3 of Anhui Honghui Section

A. The Feidong County Industrial and Commercial Bureau issued this license. Anhui Honghui explains that its business license defines the scope of the company's business activities and ensures the company has sufficient capital to continue its business operations. Anhui Honghui affirms that its business operations are limited to the scope of the license, though it can be amended if it wishes to expand the scope of its operations, and that the license may be revoked if the company has insufficient capital or engages in activities outside the scope of its business. Further, Anhui Honghui states that the license must be renewed or reviewed annually, and to obtain a renewal, it must apply for a renewal and provide a copy of its most recent financial statements to the issuing authority.

#### Eswell:

Eswell 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 3 of Eswell's March 10, 2005, submission (Eswell Section A). Eswell also submitted a copy of its business license in Exhibit 4 of Eswell Section A. The Shanghai Industry and Commerce Administrative Bureau issued this license. Eswell explains that its business license defines the scope of its business operations. Eswell 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 its authorized business scope. Further, Eswell states that the license must be reviewed annually, and to obtain a review qualification, it must apply for a renewal and provide a copy of its most recent financial statements to the issuing authority.

#### Jiangsu Kanghong:

Jiangsu Kanghong has placed on the record a number of documents to demonstrate absence of *de jure* control, including the *Company Law*, the *Foreign Trade Law*, the revised *Foreign Trade Law*, and the *Legal Corporations Regulations*. *See* Exhibit 2 of Jiangsu Kanghong's March 10, 2005, submission (Jiangsu Kanghong Section A). Jiangsu Kanghong also submitted a copy of its business license in Exhibit 3 of Jiangsu Kanghong Section A. The Funing County Industrial and Commercial Bureau issued this license. Jiangsu Kanghong explains that its business license defines the scope of the company's business activities and

ensures the company has sufficient capital to continue its business operations. Jiangsu Kanghong affirms that its business operations are limited to the scope of the license, though it can be amended if it wishes to expand the scope of its operations, and that the license may be revoked if the company has insufficient capital or engages in activities outside the scope of its business. Further, Jiangsu Kanghong states that the license must be renewed or reviewed annually, and to obtain a renewal, it must apply for a renewal and provide a copy of its most recent financial statements to the issuing authority.

#### Jinfu:

Jinfu has placed on the record a number of documents to demonstrate absence of *de jure* control, including the *Company Law and Foreign Trade Law*. See Exhibit A-2 of Jinfu's March 10, 2005, submission (Jinfu Section A). Jinfu also submitted a copy of its business license in Exhibit A-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 and ensures that the company has sufficient capital to continue its business operations. 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 activities outside the scope of its business or if the company goes bankrupt. Further, Jinfu states that the license is reviewed annually, and to obtain a renewal, it must provide a copy of its most recent financial statements to the issuing authority.

#### Zhejiang:

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, 1988), *Company Law*, the revised *Foreign Trade Law*, and the *Legal Corporations Regulations*. See Exhibit 2 of Zhejiang's March 10, 2005, submission (Zhejiang Section A). Zhejiang also submitted a copy of its business license in Exhibit 3 of Zhejiang Section A. The Industrial and Commercial Administrative Bureau of Zhejiang Province issued this license. Zhejiang explains that its business license defines the scope of the company's business activities and ensures the company has sufficient capital to continue its business operations. Zhejiang affirms that its business operations are limited to the

scope of the license, though it can be amended if it wishes to expand the scope of its operations, and that the license may be revoked if the company has insufficient capital or engages in activities outside the scope of its business. Further, Zhejiang states that the license must be renewed or reviewed annually, and to obtain a renewal, it must apply for a renewal and provide a copy of its most recent financial statements to the issuing authority.

We note that all five of the fully responsive companies state 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 state 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), as affirmed in *Final Results of New Shipper Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 45006 (August 27, 2001). Therefore, we preliminarily determine that there is an absence of *de jure* control over the export activities of Anhui Honghui, Esowell, Jiangsu Kanghong, Jinfu, 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*, 59 FR 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. *Id.* 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.

Anhui Honghui 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 general manager has the authority to bind sales contracts; (4) the company's executive director appoints the company's management and it does not have to notify government authorities of its management selection; (5) there are no restrictions on the use of its export revenue; and (6) its executive director 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.

Esowell has asserted the following: (1) It is a privately owned 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 agent have the authority to bind sales contracts; (4) its management is appointed by its board of directors and it does not have to notify 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.

Jiangsu Kanghong 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 general manager has the authority to bind sales contracts; (4) the company's executive director appoints the company's management and it does not have to notify government authorities of its management selection; (5) there are no restrictions on the use of its export revenue; and (6) its executive director 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.

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) the general manager has the authority to bind sales contracts; (4) the company's board of directors appoints the company's management and it does not have to notify 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 Department Number 1 has the authority to bind sales contracts; (4) the company's president selects the company's management and it does not have to notify government authorities of its management selection; (5) there are no restrictions on the use of its export revenue; and (6) its president 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.

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

Anhui Honhui, Eswell, Jiangsu Kanghong, Jinfu, Zhejiang, Chengdu Waiyuan, Dubao, and Eurasia were given the opportunity to respond to the Department's questionnaire. As explained above, we received complete questionnaire responses from Anhui Honghui, Eswell, Jiangsu Kanghong, Jinfu, and Zhejiang, and we have calculated a separate rate for these 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.<sup>3</sup>

<sup>3</sup> Chengdu Waiyuan's reply to the Department's questionnaire was its February 23, 2005, letter

Dubao and Eurasia are appropriately considered to be part of the PRC-wide entity because they failed to establish their eligibility for a separate rate. Because the PRC-wide entity did not provide requested 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 of the Act; (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) of the Act, 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) of the Act additionally 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

stating it had no sales in the United States during the POR. Based on this and the Department's analysis of CBP data, we have determined that Chengdu Waiyuan had no shipments during the POR and therefore we are preliminarily rescinding this review for Chengdu Waiyuan. See "Partial Rescission" section of this notice.

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.

We find that the PRC-wide entity (including Dubao and Eurasia) did not respond to our request for information and that 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.

As stated above in the "Background" section, Dubao did not respond to the Department's antidumping questionnaire. The Department has no information on the record for Dubao with which to calculate a dumping margin or determine if it is eligible for a separate rate in this proceeding; therefore, we find that Dubao has significantly impeded the proceeding, pursuant to sections 776(a)(2)(A) and 776(a)(2)(B) of the Act. Because Dubao did not respond to the Department's questionnaires, sections 782(d) and (e) of the Act are not applicable.

As stated above in the "Background" section, Eurasia responded to the Department's antidumping questionnaire, and two subsequent supplemental questionnaires. The Department subsequently requested additional information from Eurasia in a supplemental questionnaire. See Supplemental A, C, and D questionnaire, dated October 7, 2005. On October 19, 2005, the Department received a letter from Eurasia stating that it was withdrawing its request for a review. We note that the omitted information included details relating to Eurasia's ownership structure, information critical to the Department's separate-rates analysis (see "Separate Rates" section above), as well as information on freight expenses and payment. The Department gave Eurasia an additional opportunity to provide the information the Department had requested on October 26, 2005. See Letter from Carrie Blozy to Eurasia dated October 26, 2005. The Department received no response to this request.

Due to these serious deficiencies, we preliminarily find that Eurasia 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 preliminary results.

#### 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 Action (SAA)* accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Session, Vol. 1 (1994) at 870. 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. 3d 1373, 1382–1393 (Fed. Cir. 2003). Furthermore, "affirmative evidence of bad faith on the part of a 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).

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 *Pacific Giant Inc. v. United States*, 223 F. Supp 2d 1336, 1342 (CIT 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 (including Dubao and Eurasia) 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 the requested information, despite repeated requests that it do so. This information was in 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.

#### Selection of AFA Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from: (1) the petition; (2) a final determination in the investigation; (3) any previous review or determination; or (4) any information placed on the record. In reviews, it is the Department's practice to select, as AFA, the highest rate determined for any respondent in any segment of the proceeding. See, e.g., *Freshwater Crawfish Tail Meat from the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review*, 68 FR 19504, 19508 (April 21, 2003).

The U.S. Court of International Trade (CIT) and the U.S. Court of Appeals for the Federal Circuit (CAFC) have consistently upheld the Department's practice in this regard. See *Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990) (*Rhone Poulenc*); *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1335 (CIT 2004) (upholding a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in a LTFV investigation); see also *Kompass Food Trading Int'l v. United States*, 24 CIT 678, 689 (2000) (upholding a 51.16 percent total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and *Shanghai Taoen International Trading Co., Ltd. v. United States*, 360 F. Supp. 2d 1339, 1348 (CIT 2005) (upholding a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review).

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse "as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner." *Static Random Access Memory Semiconductors from Taiwan; Final Determination of Sales at Less than Fair Value*, 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had

cooperated fully." SAA at 870. See also *D&L Supply Co. v. United States*, 113 F. 3d 1220, 1223 (Fed. Cir. 1997) and *Final Determination of Sales at Less than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 76910 (December 23, 2004). In choosing the appropriate balance between providing respondents with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's prior commercial activity, selecting the highest prior margin "reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less." *Rhone Poulenc*, 899 F.2d at 1190.

Consistent with the statute, court precedent, and its practice, the Department has preliminarily assigned the rate of 183.80 percent, the highest rate determined in any segment of the proceeding to the PRC-wide entity (including Dubao and Eurasia) as AFA. See *Notice of Final Determination of Sales at Less than Fair Value; Honey from the PRC*, 66 FR 50608 (October 4, 2001) (*Final Determination*). As discussed further below, this rate has been corroborated.

#### Corroboration of Secondary Information Used as AFA

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>4</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. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. See *Tapered Roller Bearings and Parts*

<sup>4</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." SAA at 870.

*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), as affirmed 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; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997). The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. SAA at 870. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: High and Ultra-High Voltage Ceramic Station Post Insulators from Japan*, 68 FR 35627, 35629 (June 16, 2003), as affirmed in *Notice of Final Determination of Sales at Less Than Fair Value: High and Ultra-High Voltage Ceramic Station Post Insulators from Japan*, 68 FR 62560 (November 7, 2003); and *Final Determination of Sales at Less Than Fair Value: Live Swine from Canada*, 70 FR 12181, 12183-4 (March 11, 2005).

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, 24105 (May 11, 2001) (*Investigation Prelim*), as affirmed in the *Final Determination*.

To satisfy the corroboration requirements under section 776(c) of the Act, in the instant review, we compared this margin rate to the margins we found for respondents in this review. Specifically, we found that respondents reported sales of subject merchandise for which the highest margins corroborate the 183.80 percent rate as established in the LTFV investigation and affirmed in the first and second administrative reviews. See

*Investigation Prelim; Honey from the People's Republic of China: Preliminary Results of First Antidumping Duty Administrative Review*, 68 FR 69988, 69991-2 (December 16, 2003) and affirmed in *Honey from the People's Republic of China: Final Results of First Antidumping Duty Administrative Review*, 69 FR 24128, 24130 (May 3, 2004); and *Honey from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review*, 70 FR 38873, 38880 (July 6, 2005) (*AR2 Final Results*).

Based on our analysis of respondents' margin results, we find that the margin of 183.80 percent is reliable and relevant. As the rate is both reliable and relevant, and no information has been presented to call into question the reliability of this information, we determine that it has probative value. For the company-specific information used to corroborate this rate, see "Memorandum to the File: Corroboration of the PRC-Wide Adverse Facts Available Rate," dated December 9, 2005.

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." TRBs, 61 FR at 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). Similarly, the Department does not apply a margin that has been discredited. See *D & L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated).

The rate applied in this review 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 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 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. 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), the effective date of this affiliation is in question, and is significant to this proceeding for purposes of determining whether certain of Jinfu's U.S. sales should be reported as "export price" sales or "constructed export price" sales. See discussion below under "U.S. 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 the most recently completed segment of these PRC honey proceedings, the Department determined that Jinfu was not affiliated with Jinfu USA until October 25, 2003, at the earliest. See *AR2 Final Results* and accompanying Issues and Decision Memorandum at Comment 8. In making this finding in *AR2 Final Results*, the Department noted that it intended to examine Jinfu's date of affiliation further in the instant review. 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 note that in the previous administrative review, the

Department found that evidence on the record in that review did not reflect a specific date of acquisition by Jinfu's CEO of Jinfu USA. Nevertheless, in that review, the Department found that the "Certificate of Transfer of Stocks," a stock ownership transfer agreement, was the most significant in establishing affiliation between Jinfu and Jinfu USA. Specifically, in the *AR2 Final Results*, we found that Jinfu's purchase/investment in Jinfu USA, as delineated in the Certificate of Transfer of Stocks, resulted in a common control relationship between Jinfu USA and Jinfu upon the date (October 25, 2003) that document was signed. See *AR2 Final Results* and accompanying Issues and Decision Memorandum at Comment 8. This decision is also consistent with our findings in the new shipper review that Jinfu requested. See *Final Results and Final Rescission, In Part, of Antidumping Duty New Shipper Review*, 69 FR 64029 (November 3, 2004) and accompanying Issues and Decision Memorandum at Comment 2.

For purposes of this review, the Department continues to find that the stock ownership transfer agreement, which the Department placed on the record of this review, results in affiliation between Jinfu and Jinfu USA. The issue at hand is when the document was actually signed. The document itself indicates a date of October 25, 2003. However, Jinfu has stated that the document was not signed until December 2003. This information is contained in an affidavit, signed by Jinfu's CEO, in which he states: "In December 2003, Jinfu's Trading council in the new antidumping new shipper review asked me for a copy of the Certificate of Transfer. I realized that I had forgotten to sign the Certificate of Transfer of Stocks. " See Attachment I of the October 5, 2005, supplemental questionnaire from the Department to Jinfu; see also Attachment I of the November 18, 2005, supplemental questionnaire from the Department to Jinfu.

However, Jinfu was unable to provide the exact date in December on which it was signed. Therefore, according to the information on the record, the Department has preliminarily determined that Jinfu and Jinfu USA were not affiliated within the meaning of section 771(33) of the Act until December 31, 2003, which is the last possible date that the above-referenced stock transfer agreement could have been executed. We note that this decision is consistent with our findings in *AR2 Final Results*. Moreover, in reaching this decision, the Department considered the limited 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 *AR2 Final Results*. For a further discussion of this issue, see "Memorandum to James C. Doyle, Office Director: Analysis of the Relationship and Treatment of Sales between Jinfu Trading, Co., Ltd. and Jinfu Trading (USA) Inc.," dated December 9, 2005.

#### 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 "U.S. Price" and "Normal Value" sections of this notice.

#### U.S. Price

##### Export Price

For Jiangsu Kanghong, and certain sales by Jinfu (*i.e.*, those prior to or on December 31, 2003), we based U.S. 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.

Specifically, for Jiangsu Kanghong we deducted foreign inland freight, foreign brokerage and handling expenses, international freight, U.S. inland freight expenses from warehouse to customer, and U.S. import duties, dock charges, and brokerage and handling from the starting price (gross unit price), in accordance with section 772(c) of the Act. Based on information obtained at verification, we made changes to the U.S. brokerage and handling charges for certain sales. See "Memorandum to the File: Jiangsu Kanghong Natural Healthfoods Co., Ltd. (Jiangsu Kanghong) Analysis Memorandum for the Preliminary Results of Review," dated December 9, 2005, (Jiangsu Kanghong Analysis Memo).

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. For those sales that the Department determined should be considered EP sales for Jinfu, 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.

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, pursuant to 19 CFR 351.408(c)(1).

##### Constructed Export Price

For Anhui Honghui, Esowell, Zhejiang, and certain sales by Jinfu, 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(d)(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 Anhui Honghui we deducted (where applicable) foreign inland freight, foreign brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, U.S. customs duties, U.S. inland freight from the port to warehouse, U.S. warehouse, U.S. dock storage, inventory carrying costs, credit expenses, other direct selling expenses (lab tests), indirect selling expenses, CEP profit, and added (where applicable) freight revenue. In its new shipper review, we found that Anhui Honghui was affiliated with Honghui USA and that

the use of CEP sales was appropriate. See *Notice of Preliminary Results of Antidumping Duty New Shipper Reviews: Honey From the People's Republic of China*, 69 FR 69350, 69353 (November 29, 2004), affirmed without change in *Honey From the People's Republic of China: Notice of Final Results of Antidumping Duty New Shipper Reviews*, 70 FR 9271 (February 25, 2005). For purposes of this review, there is no information on the record that would cause the Department to reconsider its affiliation finding. Therefore, we are continuing to analyze Honghui USA's sales to the first unaffiliated customer.

For Eswell we deducted (where applicable) foreign inland freight, foreign brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, U.S. customs duties, U.S. inland freight from the port to warehouse, U.S. inland freight from the warehouse to the customer, U.S. dock storage, commissions, credit expenses, other direct selling expenses (lab tests), indirect selling expenses, CEP profit, and inventory carrying costs. We recalculated Eswell's reported indirect selling expenses to be consistent with the Department's standard methodology. See "Memorandum to the File: Shanghai Eswell Enterprise Co., Ltd. (Eswell) Analysis Memorandum for the Preliminary Results of Review," dated December 9, 2005 (Eswell Analysis Memo).

For Zhejiang we deducted (where applicable) foreign inland freight, foreign brokerage and handling, international freight, marine insurance, other discounts, U.S. brokerage, U.S. customs duties, commissions, credit expenses, indirect selling expenses, CEP profit, and inventory carrying costs.

For those sales that the Department has determined should be calculated on a CEP basis for Jinfu, we deducted (where applicable) foreign inland freight, foreign brokerage and handling, international freight, U.S. brokerage, U.S. customs duties, U.S. inland freight from the port to warehouse, U.S. warehouse, U.S. inland freight from the warehouse to the customer, credit expenses, inventory carrying costs, indirect selling expenses, and CEP profit. Although Jinfu reported indirect selling expenses, the methodology used resulted in the double counting of certain expenses. Therefore, we recalculated the indirect selling expenses for Jinfu's affiliated company using its affiliate's financial statements to be consistent with the Department's standard methodology. See

"Memorandum to the File: Jinfu Trading

Co., Ltd. (Jinfu) Analysis Memorandum for the Preliminary Results of Review," dated December 9, 2005 (Jinfu Analysis Memo).

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 a 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), as affirmed in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2001-2002 Administrative Review and Partial Rescission of Review*, 68 FR 70488 (December 18, 2003). None of the parties to these reviews have contested such treatment. Accordingly, we calculated normal value (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 "Memorandum from the Office of Policy to Carrie Blozy," dated March 7, 2005.<sup>5</sup> In addition, based on publicly available information placed on the record (e.g., world production data), India is a significant

<sup>5</sup> 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 9, 2005.

producer of honey. 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: Selection of a Surrogate Country," dated December 9, 2005, (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 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, except as indicated. To calculate NV, we multiplied the reported unit factor quantities by publicly available Indian values.

For Anhui Honghui, based on information obtained at verification, for these preliminary results the Department will adjust the labor input and recalculate energy, labor, and packing inputs so that they are reported on the correct per-unit measurement. See "Memorandum to the File: Anhui Honghui Foodstuff (Group) Co., Ltd. (Anhui Honghui) Analysis Memorandum for the Preliminary Results of Review," dated December 9, 2005.

For Eswell, the Department has adjusted two of Eswell's reported factors of production for these preliminary results, including recalculating one of Eswell's packing inputs, but not including one of Eswell's reported by-products, for which it could not substantiate that said by-product was sold during the POR, in the normal value calculation. See Eswell Analysis Memo.

In the instant review, Jiangsu Kanghong reported factors of production beginning at the beehive stage because it maintains lease agreements with and pays salaries, rental fees, and bonuses to its raw honey suppliers. All other respondents in this proceeding have reported factors from the raw honey input stage of production. Although Jiangsu Kanghong initially only reported bee medicine and mileage and labor factors for the beehives, we asked Jiangsu Kanghong to report other factors used in the bee-keeping process, including beehives and all their parts, bees, and bee farmer tools. We asked them to report a factor for raw honey consumption as well. We note that Jiangsu Kanghong did not place any

surrogate value information on the record to value any of the inputs from the beehive stage of production, though it did provide surrogate value information on the record to value inputs from the raw honey stage of the production process.

The Department has preliminarily determined, as discussed below, that it should value Jiangsu Kanghong's intermediate product of raw honey because we do not find the factor data for the production of raw honey to be reliable. To calculate a factor of production for the number of bees per kilogram of processed honey (which the Department requested), Jiangsu Kanghong used the number of bee farmers, raw honey produced during the POR, and consumption of raw honey per kilogram of processed honey, but relied on estimates for the number of bee hives, bees per hive, days in the POR bee season, and average bee life expectancy. Jiangsu Kanghong was unable to provide either verifiable direct evidence or even authoritative secondary sources to substantiate the accuracy of the estimated number of beehives, bees per hive, and average bee life expectancy that it reported. Furthermore, queen bees play an important role in the honey making process, yet Jiangsu Kanghong did not address this element at all in its reported bee factor of production. See "Memorandum to the File: Bee Research," dated December 9, 2005. In addition, our research has indicated that bee species matter in terms of production output and value, yet there is no authoritative source on the record supporting Jiangsu Kanghong's claim of the type of bees that its beekeepers use. See *Id.* In summary, the respondent failed to provide authoritative sources to indicate the resulting quantity of bees to value and the appropriate information with which to value a major material input at this stage of production. Lastly, the limited data placed on the record by Jiangsu Kanghong suggest, contrary to Jiangsu Kanghong's argument, that bees should be considered a factor of production rather than treated as overhead because they are "consumed," similar to other inputs. For instance, information on the record suggests that worker bees during the production season live only from one to three months. See Jiangsu Kanghong Verification Report.

At verification, the Department also found numerous errors with the factors of production data regarding other beekeeping inputs. These problems included three unreported inputs sugar, royal jelly scraper, and warming cloth. When beekeeping inputs were

examined, we found that the reported measurements or quantities did not consistently match the measurements reported by Jiangsu Kanghong. For instance, the majority of the beekeeping-related inputs did not weigh what Jiangsu Kanghong reported or contain the exact number of pieces that Jiangsu Kanghong reported. The company also did not provide any supporting documentation demonstrating the useful asset lives of the beehives or beekeeping equipment to substantiate the numbers reported in its responses. Further, at verification, we could not reconcile the bee medicine input nor verify the packing input used for three of its reported by-products. We found that the majority of supplier distances and beekeeping labor hours were reported incorrectly. In addition, of the two beekeepers interviewed, one claimed that he had not repaired his hives in "many" years, yet we saw beehive covers obviously made of fresh wood. Both of these beekeepers said they did not use bee medicine, though Jiangsu Kanghong reported this input as its only raw material in its original Section C response. See Jiangsu Kanghong Verification Report.

Because of the many errors in the factors of production data for raw honey submitted by Jiangsu Kanghong, the Department finds that it is not necessary to reach a determination on whether Jiangsu Kanghong is sufficiently vertically integrated to value the raw honey using a factors of production approach. Because we do not find the factor data for raw honey to be reliable due to the lack of reliable information regarding bee consumption during the POR and the many errors found in the reported data at verification, for these preliminary results the Department will value the raw honey consumed by Jiangsu Kanghong using a surrogate value for the raw honey itself rather than a factor of production approach.

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data, in accordance with our practice. See, e.g., *Fresh Garlic from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 67 FR 72139 (December 4, 2002), and accompanying Issues and Decision Memorandum at Comment 6; and *Certain Preserved Mushrooms from China Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 31204 (June 11, 2001), and accompanying Issues and Decision Memorandum at Comment 5. When we used publicly available import data

from the Ministry of Commerce of India (Indian Import Statistics) for December 2003 through November 2004 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 CAFC'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 Decision 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 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). See "Memorandum to the File: Factors of Production Valuation Memorandum for the Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review of Honey from the People's Republic of China," dated December 9, 2005 (Factor Valuation Memo), for a complete discussion of the import data that we excluded from our calculation of surrogate values. This memorandum is on file in the CRU.

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* of the International Monetary Fund, for those surrogate values in Indian rupees. We made currency

conversions, where necessary, pursuant to 19 CFR 351.415, to U.S. dollars using the daily exchange rate corresponding to the reported date of each sale. We relied on the daily exchanges rates posted on the Import Administration Web site (<http://ia.ita.doc.gov>). See Factor Valuation Memo.

We valued the factors of production as follows:

To value raw honey, we took a weighted average of the raw honey prices for each month from December 2002 through June 2003, based on the percentage of each type of honey produced and sold, as derived from EDA Rural Systems Pvt Ltd. website, <http://www.litchihoney.com> (EDA data), and as submitted by petitioners in their October 11, 2005, submission. We inflated the value for raw honey using the POR average WPI rate.

The respondents in this review submitted 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 January 2004 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 EDA data 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, including data collected from [www.banajata.org](http://www.banajata.org), published by the Regional Centre for Development Cooperation. The relevant research is included as Attachment 18 of the Factor Valuation Memo. However, the Department cannot confirm the quality or reliability of the Banajata values because it was unable to ascertain how the information published by the website was collected.

The use of EDA data is also consistent with the Department's recent decision in the second administrative review of this order. See *AR2 Final Results* and accompanying Issues and Decision Memorandum at Comment 1. For a further discussion of this issue, see Factor Valuation Memo.

To value coal, the Department used data from the Teri Energy Data Directory & Yearbook, 2003 - 2004, as consistent with the findings affirmed in *Wuhan Bee Healthy Co., Ltd. v. United States*, Slip Op. 05-142 (CIT 2005). The Department calculated a simple average of all types of grade C coal produced by Coal India Ltd. and its subsidiaries from

September 29, 2003, through June 15, 2004. See Factor Valuation Memo.

To value water, we calculated the average price of inside and outside industrial water rate from various regions as reported by the Maharashtra Industrial Development Corporation, <http://midcindia.org>, dated June 1, 2003. We inflated the value for water using the POR average WPI rate. See Factor Valuation Memo.

We valued electricity using the 2000 electricity price in India reported by the International Energy Agency statistics for *Energy Prices & Taxes, Second Quarter 2003*. We inflated the value for electricity using the POR average WPI rate. See Factor Valuation Memo.

While Anhui Honghui, Eswell, Jiangsu Kanghong, Jinfu, and Zhejiang also identified diesel fuel and gasoline as inputs consumed in the production of the subject merchandise, the Department considers these materials as overhead rather than direct material inputs. The Department therefore has excluded diesel fuel and gasoline from the normal value calculation.

To value beeswax, scrap honey, 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 closest 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.

To value drums, we relied upon a price quote from an Indian steel drum manufacturer from September 2000, as provided by petitioners in their October 11, 2005, submission at Exhibit 8. 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 2003-2004 annual report of Mahabaleshwar Honey Production Cooperative Society Ltd. (MHPC), a producer of the subject merchandise in India, upon which petitioners and Eswell have argued that the Department should rely. Petitioners maintain in their October 11, 2005, submission that the Department should continue to rely on the methodology as used in *AR2 Final Results* for calculation of the SG&A ratios. Eswell argued in its October 11, 2005, submission that the Department should adjust its SG&A

methodology for the MHPC data so that the cost calculations reflect the additional expenses incurred in selling honey from inventory. Anhui Honghui, Jiangsu Kanghong, and Zhejiang argue in their October 11, 2005, submission that the Department should rely on information available in an alternate Indian producer's financial statements, that of Apis India Natural Products Ltd. (Apis), 2003 2004. However, we preliminarily find that the Department's calculation in *AR2 Final Results* was appropriate, including relying on MHPC data as opposed to Apis data, because the Apis data are not as reliable or detailed as that of MHPC, and because the publicly available MHPC information meets the Department's criteria for data on which to base surrogate financial ratios. Therefore, for these preliminary results we are continuing to calculate SG&A based on the MHPC data as consistent with the *AR2 Final 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 a 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, <http://www.ia.ita.doc.gov>. See Factor Valuation Memo.

To value truck freight, we calculated a weighted-average freight cost based on publicly available data from [www.infreight.com](http://www.infreight.com), an Indian inland freight logistics resource website. To value train freight, we used an average of rail freight prices based on the publicly available freight rates reported by the Official Website of the Ministry of Railways: [http://www.indianrailways.gov.in/railway/freightrates/freight\\_charges.htm](http://www.indianrailways.gov.in/railway/freightrates/freight_charges.htm). Consistent with the calculation of inland truck freight, the Department used the same freight distances used in the calculation of inland truck freight, as reported by [www.infreight.com](http://www.infreight.com) to derive the surrogate value. 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 valued international freight expenses, where necessary, using contemporaneous freight quotes that the Department obtained from Maersk Sealand, a market-economy shipper. See Factor Valuation Memo.

To value brokerage and handling, we used a simple average of the publicly summarized versions of the average value for brokerage and handling expenses reported in the U.S. sales listings in Essar Steel Ltd.'s (Essar Steel) February 28, 2005, submission in the antidumping duty review of Certain Hot-Rolled Carbon Steel Flat Products from India, and the March 9, 2004, submission from Pidilite Industries Ltd. (Pidilite) in the antidumping duty

investigation of Carbazole Violet Pigment 23 from India. Since the reported rate in Essar Steel is contemporaneous with the POR, no adjustments to the value were necessary. However, as the Pidilite rate was dated from October 2002 through September 2003, we adjusted this rate for inflation using the POR wholesale WPI for India. 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)
Anhui Honghui Foodstuffs (Group) Co., Ltd. ....	151.80%
Shanghai Eswell Enterprise Co., Ltd. ....	117.53%
Jiangsu Kanghong Natural Healthfoods Co., Ltd. ....	151.13%
Jinfu Trading Co., Ltd. ....	115.59%
Zhejiang Native Produce and Animal By-Products Import & Export Group Corp. ....	116.22%
PRC-Wide Rate (including Sichuan-Duijiangyan Dubao Bee Industrial Co., Ltd. and Eurasia's Bee Products Co., Ltd.) .....	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 third administrative review of the antidumping duty order on honey from the PRC, dated December 9, 2005. Public Versions of these memoranda are on file in the CRU.

**Assessment Rates**

Pursuant to 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of this review. For assessment purposes, where possible, we calculated importer-specific assessment rates for honey from the PRC on a per-unit basis. Specifically, we divided the total dumping margins (calculated as the difference between normal value and export price or constructed export price) for each importer by the total quantity of subject merchandise sold to that importer during the POR to calculate a per-unit assessment amount. If these preliminary results are adopted in our final results of review, we will direct CBP to levy importer-specific assessment rates based on the resulting per-unit (i.e., per-kilogram) rates by the weight in kilograms of each entry of the subject merchandise during the POR.

**Cash Deposits**

The following cash-deposit requirements will be effective upon publication of the final results for shipments of the subject merchandise

entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise exported by Anhui Honghui, Eswell, Jiangsu Kanghong, Jinfu, and Zhejiang, we will establish a per-kilogram cash deposit rate which will be equivalent to the company-specific cash deposit established in this review; (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding (except for Eurasia, whose cash-deposit rate has changed in this review to the PRC-wide entity rate, as noted below); (3) for all other PRC exporters of subject merchandise which have not been found to be entitled to a separate rate (including Dubao and Eurasia), the cash-deposit rate will be the PRC-wide rate of 183.80 percent; (4) for all non-PRC exporters of subject merchandise, the cash-deposit rate will be the rate applicable to the PRC supplier of that exporter.

These deposit requirements 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 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). 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 19 CFR 351.309(c)(ii). 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 19 CFR 351.402(f) 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)(1) and 777(i)(1) of the Act.

Dated: December 9, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5-7448 Filed 12-15-05; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### The Industry Trade Advisory Committee on Chemicals, Pharmaceuticals, Health/Science Products and Services and the Industry Trade Advisory Committee on Intellectual Property Rights; Request for Nominations of Public Health and Health Care Community Representatives

**AGENCY:** International Trade Administration, Manufacturing and Services, Commerce.

**ACTION:** Request for nominations.

**SUMMARY:** The Secretary of Commerce (Commerce) and the United States Trade Representative (USTR) seek nominations for the appointment of public health or health care community representatives to the Industry Trade Advisory Committee on Chemicals, Pharmaceuticals, Health/Science Products and Services (ITAC 3); and the Industry Trade Advisory Committee on Intellectual Property Rights (ITAC 15).

In order to be considered for such an appointment, a nominee must be a U.S. citizen, must represent a U.S. entity in the public health or health care community, and may not be a registered foreign agent under the Foreign Agents Registration Act. A nominee's interest and expertise in public health or health care, international trade, and sectoral

issues will be considered. Recruitment information is available on the International Trade Administration Web site at <http://www.ita.doc.gov/itac>.

#### FOR FURTHER INFORMATION CONTACT:

Further inquiries may be directed to Ingrid V. Mitchem, Director, Industry Trade Advisory Center, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Room 4043, Washington, DC 20230 or Justin J. McCarthy, Assistant USTR for Intergovernmental Affairs, Winder Building, Room 100, 600 17th Street, NW., Washington, DC 20580.

#### SUPPLEMENTARY INFORMATION:

##### Background

In section 135 of the 1974 Trade Act, as amended (19 U.S.C. 2155), Congress established a private-sector trade advisory committee system to ensure that U.S. trade policy and trade negotiation objectives adequately reflect U.S. commercial and economic interests. Section 135(a)(1) of the 1974 Trade Act directs the President to "seek information and advice from representative elements of the private sector and the non-Federal governmental sector with respect to:

(A) Negotiating objectives and bargaining positions before entering into a trade agreement under [title I of the 1974 Trade Act and section 2103 of the Bipartisan Trade Promotion Authority Act of 2002];

(B) the operation of any trade agreement once entered into, including preparation for dispute settlement panel proceedings to which the United States is a party; and

(C) other matters arising in connection with the development, implementation, and administration of the trade policy of the United States \* \* \*."

Section 135(c)(2) of the 1974 Trade Act provides—

"(2) The President shall establish such sectoral or functional advisory committees as may be appropriate. Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, or service interests (including small business interests) in the sector or functional areas concerned. In organizing such committees, the United States Trade Representative and the Secretaries of Commerce, Labor, Agriculture, the Treasury, or other executive departments, as appropriate, shall—

(A) consult with interested private organizations; and

(B) take into account such factors as—

(i) patterns of actual and potential competition between United States industry and agriculture and foreign enterprise in international trade,

(ii) the character of the non-tariff barriers and other distortions affecting such competition,

(iii) the necessity for reasonable limits on the number of such advisory committees,

(iv) the necessity that each committee be reasonably limited in size, and

(v) in the case of each sectoral committee, that the product lines covered by each committee be reasonably related."

Pursuant to this provision, Commerce and USTR have established and co-chair sixteen Industry Trade Advisory Committees (ITACs), plus an ITAC Committee of Chairs. ITACs provide information and advice that assists the USTR to develop U.S. trade policy and negotiating positions for specific industry sectors. ITAC members serve without compensation and are responsible for all expenses incurred in attending ITAC meetings. For additional information regarding ITAC functions and members, and general qualifications for membership, visit the ITAC Web site at <http://www.ita.doc.gov/itac>.

Commerce and USTR are now soliciting nominations of representatives of the public health and health care community to serve on ITAC 3 and ITAC 15. Nominations will be considered in light of the eligibility requirements and selection criteria set forth below.

#### Eligibility

Eligibility to serve as a public health or health care community representative is limited to U.S. citizens who are not full-time employees of a governmental entity, who represent a U.S. entity that is an organization in the public health and health care community and who are not registered with the Department of Justice under the Foreign Agents Registration Act. For purposes of the preceding sentence, a "U.S. entity" is an organization incorporated in the United States (or, if unincorporated, having its headquarters in the United States):

(1) That is controlled by U.S. citizens or by another U.S. entity. An entity is not a U.S. entity if more than 50 percent of its Board of Directors or membership is made up of non-U.S. citizens. If the nominee is to represent an organization more than 10 percent of whose Board of Directors or membership is made up of non-U.S. citizens, or non-U.S. entities, the nominee must demonstrate at the time of nomination that this non-U.S. interest does not constitute control and will not adversely affect his or her ability to serve as a trade advisor to the United States; and