

Producer/exporter	Subsidy rate
The Mayerton Companies (Dalian Mayerton Refractories Co., Ltd. and Liaoning Mayerton Refractories Co., Ltd.).	<i>de minimis</i> percent <i>ad valorem</i> .
The RHI Companies (RHI Refractories Liaoning Co., Ltd., RHI Refractories (Dalian) Co., Ltd., and Liaoning RHI Jinding Magnesia Co., Ltd.).	<i>de minimis</i> percent <i>ad valorem</i> .
All Others .....	<i>de minimis</i> percent <i>ad valorem</i> .

Because all of the rates are *de minimis*, we preliminarily determine that no countervailable subsidies are being provided to the production or exportation of certain magnesia carbon bricks in the PRC. As such, we will not direct U.S. Customs and Border Protection to suspend liquidation of entries of certain magnesia carbon bricks from the PRC.

### ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

### Disclosure and Public Comment

In accordance with 19 CFR 351.224(b), the Department will disclose to the parties the calculations for this preliminary determination within five days of its announcement. Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. See 19 CFR 351.309(c) (for a further discussion of case briefs). Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the deadline for submission of case briefs. See 19 CFR 351.309(d). A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

In accordance with 19 CFR 351.310(c), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on

this preliminary determination. 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. Parties will be notified of the schedule for the hearing and parties should confirm the time, date, and place of the hearing 48 hours before the scheduled time. Requests for a public hearing should contain: (1) 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.

This determination is issued and published pursuant to sections 703(f) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: December 16, 2009.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-863]

#### Seventh Administrative Review of Honey from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind, In Part

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

**SUMMARY:** The Department of Commerce ("Department") is conducting an administrative review of the antidumping duty order on honey from the People's Republic of China ("PRC"), covering the period of review ("POR") of December 1, 2007, through November 30, 2008. As discussed below, we have preliminarily determined to rescind this administrative review because we have found the sales made by Dongtai Peak Honey Industry Co., Ltd. ("Dongtai Peak") that entered during the POR were not *bona fide*. In addition, we have

preliminarily determined to apply adverse facts available ("AFA") with respect to the PRC-wide entity which includes Anhui Native Produce Import and Export Corp. ("Anhui Native"), as it failed to cooperate to the best of its ability and impeded the proceeding. We are also preliminarily finding that Qinquangdao Municipal Dafeng Industrial Co., Ltd. ("QMD"), Inner Mongolia Youth Trade Development Co., Ltd. ("Inner Mongolia"), and Wuhu Qinshgi Tangye ("Wuhu Qinshgi") did not demonstrate their eligibility for a separate rate and thus are considered to be part of the PRC-wide entity. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on appropriate entries of subject merchandise during the POR for which importer-specific assessment rates are above *de minimis*. Interested parties are invited to comment on these preliminary results.

**EFFECTIVE DATE:** December 23, 2009.

**FOR FURTHER INFORMATION CONTACT:** Blaine Wiltse, 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) 482-6345.

### SUPPLEMENTARY INFORMATION:

#### Background

On December 19, 2008, we received a request from Dongtai Peak, and on December 31, 2008, we received a request from Petitioners<sup>1</sup> to conduct administrative reviews for a total of 38 companies.<sup>2</sup> On February 2, 2009, the

<sup>1</sup> The petitioners are the members of the American Honey Producers Association and the Sioux Honey Association (hereinafter referred to as "Petitioners").

<sup>2</sup> Alfred L. Wolff (Beijing) Co., Ltd., Anhui Honghui Foodstuff (Group) Co., Ltd., Anhui Native Produce Imp & Exp Corp., Cheng Du Wai Yuan Bee Products Co., Ltd., Chengdu Stone Dynasty Art Stone, Dongtai Peak Honey Industry Co., Ltd., Eurasia Bee's Products Co., Ltd., Fresh Honey Co., Ltd. (formerly Mgl. Yun Shen), Golden Tadco Int'l., Hangzhou Golden Harvest Health Industry Co., Ltd., Haoliluck Co., Ltd., Hubei Yusun Co., Ltd., Inner Mongolia Altin Bee-Keeping, Inner Mongolia Youth Trade Development Co., Ltd., Jiangsu Kanghong Natural Healthfoods Co., Ltd., Jiangsu Light Industry Products Imp & Exp (Group) Corp., Jilin

Continued

Department initiated an administrative review of these 38 producers/exporters of subject merchandise from the PRC. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 74 FR 5821 (February 2, 2009) (“*Initiation Notice*”).

On March 6, 2009, in accordance with section 777A(c)(2) of the Tariff Act of 1930, as amended (“*Act*”), the Department selected Anhui Native and QMD as mandatory respondents in this review, because they were the two largest exporters by volume during the POR, based on CBP data of U.S. imports under Harmonized Tariff Schedule of the United States (“*HTSUS*”) subheadings 0409.00.00, 1702.90.90 and 2106.90.99.<sup>3</sup> On March 9, 2009, the Department issued antidumping duty questionnaires to Anhui Native and QMD.<sup>4</sup> Due to the fact that the questionnaire was undeliverable to QMD, the Department requested parties to submit new address information for QMD. On March 18, 2009, Petitioners provided the Department with five additional addresses. On March 20, 2009, the Department sent its questionnaire to the five addresses Petitioners provided for QMD.<sup>5</sup> However, we were again unable to confirm delivery of these questionnaires.<sup>6</sup>

Province Juhui Import, Maersk Logistics (China) Company Ltd., Nefelon Limited Company, Ningbo Shengye Electric Appliance, Ningbo Shunkang Health Food Co., Ltd., Qingdao Aolan Trade Co., Ltd., QHD Sanhai Honey Co., Ltd., Qinhuangdao Municipal Dafeng Industrial Co., Ltd., Renaissance India Mannite, Shaanxi Youthsun Co., Ltd., Shanghai Bloom International Trading Co., Ltd., Shanghai Foreign Trade Co., Ltd., Shanghai Hui Ai Mal Tose Co., Ltd., Shanghai Taiside Trading Co., Ltd., Sichuan-Dujiangyan Dubao Bee Industrial Co., Ltd., Silverstream International Co., Ltd., Tianjin Eulia Honey Co., Ltd., Wuhan Bee Healthy Co., Ltd., Wuhan Shino-Food Trade Co., Ltd., Wuhu Qinshi Tangye, Wuhu Qinshgi Tangye, and Xinjiang Jinhui Food Co., Ltd.

<sup>3</sup> See Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, from Blaine Wiltse, International Trade Analyst, AD/CVD Operations, Office 9, re: Seventh Administrative Review of Honey from the People’s Republic of China: Respondent Selection Memorandum, dated March 6, 2009.

<sup>4</sup> See Memorandum to the File, from Blaine Wiltse, International Trade Compliance Analyst, Office 9, re: Seventh Administrative Review of Honey from the People’s Republic of China (“*PRC*”): Delivery of Questionnaires, dated March 16, 2009.

<sup>5</sup> See Memorandum to the File, from Blaine Wiltse, International Trade Compliance Analyst, Office 9, re: Seventh Administrative Review of Honey from the People’s Republic of China (“*PRC*”): Additional Addresses for QMD, dated March 20, 2009.

<sup>6</sup> See Memorandum to the File, from Blaine Wiltse, International Trade Compliance Analyst, Office 9, re: Seventh Administrative Review of Honey from the People’s Republic of China (“*PRC*”): Incorrect Addresses for QMD, dated March 27, 2009.

On March 30, 2009, and April 10, 2009, Dongtai Peak submitted voluntary responses to the Department’s questionnaire and requested to be selected as a voluntary respondent, pursuant to section 782(a) of the Act. The Department determined that, because its questionnaire was not deliverable to QMD in this administrative review, it would not be unduly burdensome to select Dongtai Peak as a voluntary respondent pursuant to section 782(a) of the Act. Therefore, Dongtai Peak was selected as a voluntary respondent in the current review on April 13, 2009.<sup>7</sup> On April 15, 2009, Anhui Native submitted a letter informing the Department that it would not participate in the current review.

Between May 2009 and December 2009, the Department received timely filed supplemental questionnaire responses from Dongtai Peak and comments from Petitioners. On August 7, 2009, the Department requested the entry document packages from CBP for Dongtai Peak’s sales that entered the United States during the POR, which the Department received on September 14, 2009, and September 15, 2009, and placed on the record of the current review on December 16, 2009.

#### Rescission of Reviews

On February 23, 2009, Petitioners withdrew their request for review of 33 companies<sup>8</sup> for which they were the only party to request a review. On March 16, 2009, in accordance with section 351.213(d)(1) of the Department’s regulations, we rescinded the administrative review with respect

<sup>7</sup> See Memorandum to James Doyle, Director, AD/CVD Operations, Office 9, from Catherine Bertrand, Program Manager, AD/CVD Operations, Office 9, re: Antidumping Duty Administrative Review of Honey from the People’s Republic of China: Selection of Voluntary Respondent, dated April 13, 2009.

<sup>8</sup> Alfred L. Wolff (Beijing) Co., Ltd., Anhui Honghui Foodstuff (Group) Co., Ltd., Cheng Du Wai Yuan Bee Products Co., Ltd., Chengdu Stone Dynasty Art Stone, Eurasia Bee’s Products Co., Ltd., Fresh Honey Co., Ltd. (formerly Mgl. Yun Shen), Golden Tadco Int’l, Hangzhou Golden Harvest Health Industry Co., Ltd., Haoliluck Co., Ltd., Hubei Yusun Co., Ltd., Inner Mongolia Altin Bee-Keeping, Jiangsu Kanghong Natural Healthfoods Co., Ltd., Jiangsu Light Industry Products Imp & Exp (Group) Corp., Jilin Province Juhui Import, Maersk Logistics (China) Company Ltd., Nefelon Limited Company, Ningbo Shengye Electric Appliance, Ningbo Shunkang Health Food Co., Ltd., Qingdao Aolan Trade Co., Ltd., QHD Sanhai Honey Co., Ltd., Renaissance India Mannite, Shaanxi Youthsun Co. Ltd., Shanghai Bloom International Trading Co., Ltd., Shanghai Foreign Trade Co., Ltd., Shanghai Hui Ai Mal Tose Co., Ltd., Shanghai Taiside Trading Co., Ltd., Sichuan-Dujiangyan Dubao Bee Industrial Co., Ltd., Silverstream International Co., Ltd., Tianjin Eulia Honey Co., Ltd., Wuhan Bee Healthy Co., Ltd., Wuhan Shino-Food Trade Co., Ltd., Wuhu Qinshi Tangye, and Xinjiang Jinhui Food Co., Ltd.

to these 33 companies.<sup>9</sup> Therefore, five producers/exporters<sup>10</sup> of the subject merchandise and the PRC-wide entity, remain under review.

#### Separate Rates

In the *Initiation Notice*, the Department instructed parties that the Separate Rate Certification and the Separate Rate Application were available on its website at: <http://ia.ita.doc.gov/nme/nme-sep-rate.html>. No company submitted a separate rate application or certification. For further discussion, see the “*PRC-wide Entity*” section of this notice.

#### Preliminary Extension

On August 18, 2009, in accordance with section 751(a)(3)(A) of the Act, we extended the time period for issuing the preliminary results by 60 days, until November 2, 2009.<sup>11</sup> On October 7, 2009, the Department further extended the deadline for the preliminary results to December 16, 2009.<sup>12</sup>

#### Scope of the 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 HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department’s written description of the merchandise under order is dispositive.

#### Bona Fide Analysis

In evaluating whether or not a sale subject to review is commercially reasonable, and therefore *bona fide*, the

<sup>9</sup> See *Honey from the People’s Republic of China: Partial Rescission of the Seventh Antidumping Administrative Review*, 74 FR 11087 (March 16, 2009).

<sup>10</sup> Anhui Native, Dongtai Peak, Inner Mongolia Youth Trade Development Co., Ltd., QMD, and Wuhu Qinshgi Tangye. Of these 5 producer/exporters, Anhui Native and QMD were selected as mandatory respondents, and Dongtai Peak was selected as a voluntary respondent, as discussed above.

<sup>11</sup> See *Seventh Administrative Review of Honey From the People’s Republic of China: Extension of Time Limit for the Preliminary Results*, 74 FR 41679 (August 18, 2009).

<sup>12</sup> See *Seventh Administrative Review of Honey From the People’s Republic of China: Second Extension of Time Limit for the Preliminary Results*, 74 FR 51566 (October 7, 2009).

Department considers, *inter alia*, such factors as (1) the timing of the sale; (2) the price and quantity; (3) the expenses arising from the transaction; (4) whether the goods were resold at a profit; and (5) whether the transaction was made on an arms-length basis.<sup>13</sup> Therefore, the Department considers a number of factors in its *bona fides* analysis, “all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise.”<sup>14</sup>

Although some *bona fides* issues may share commonalities across various Department cases, the Department examines the *bona fide* nature of a sale on a case-by-case basis, and the analysis may vary with the facts surrounding each sale.<sup>15</sup> In *TTPC*, Slip Op. 05–29, at 9, the court affirmed the Department’s practice of considering that “any factor which indicates that the sale under consideration is not likely to be typical of those which the producer will make in the future is relevant,” (see *TTPC*, citing *Windmill Int’l Pte., Ltd. v. United States*, F. Supp. 2d 1303, 1307 (CIT 2002)), and that “the weight given to each factor investigated will depend on the circumstances surrounding the sale.” See *TTPC*, Slip Op. 05–29, at 39. The Court stated that the Department’s practice makes clear that the Department is highly likely to examine objective, verifiable factors to ensure that a sale is not being made to circumvent an antidumping duty order. See *New Donghua*, Slip Op. 05–70, at 11.

As the Department’s antidumping duty questionnaire instructs respondents to “report each U.S. sale of merchandise entered for consumption during the POR” when performing its *bona fide* analysis, the Department reviews the circumstances surrounding a respondent’s sales of subject merchandise that entered the United States during the POR.<sup>16</sup> Concurrent with this notice, we are issuing a

memorandum<sup>17</sup> detailing our analysis of the *bona fides* of Dongtai Peak’s U.S. entries and our preliminary decision to rescind the administrative review of Dongtai Peak based on the totality of the circumstances of its sales. Although much of the information relied upon by the Department to analyze the issues is business proprietary, the Department based its determination that the sales made by Dongtai Peak were not *bona fide* on the following: 1) the difference in the sales prices and subsequent entered values of Dongtai Peak’s entries to the United States during the POR as compared to the entered values of other U.S. entries of honey during the POR; 2) the quantities of Dongtai Peak’s POR sales as compared to the quantities of other U.S. entries of honey during the POR; 3) information regarding Dongtai Peak’s U.S. customer during the POR; and 4) other indicia of a non-*bona fide* commercial transaction.

Based on our review of the *bona fides* nature of these sales, our analysis of the totality of the circumstances, and taking into consideration the information provided by parties, information obtained from CBP and other publicly available information resources, we preliminarily find that Dongtai Peak’s sales that entered the United States during the POR are not *bona fide* commercial transactions. Therefore, Dongtai Peak’s sales entering the United States during the POR do not provide a reasonable or reliable basis for calculating a dumping margin.

#### Preliminary Intent To Rescind

During the course of this review, we found evidence<sup>18</sup> that Dongtai Peak’s U.S. sales were not *bona fide* commercial transactions; accordingly, Dongtai Peak has not met the requirements to qualify for an administrative review during the POR. Therefore, the Department is preliminarily rescinding this review with respect to Dongtai Peak because Dongtai Peak has no reviewable entries during the POR.<sup>19</sup>

<sup>17</sup> See Memorandum from Blaine Wiltse, International Trade Compliance Analyst, through Catherine Bertrand, Program Manager, Office 9, to James C. Doyle, Office Director, Office 9, re: Antidumping Duty Administrative Review of Honey from the People’s Republic of China: *Bona Fide* Nature of the Sale Under Review for Dongtai Peak Honey Industry Co., Ltd., dated December 16, 2009 (“Dongtai Bona Fides Memo”).

<sup>18</sup> See Dongtai Bona Fides Memo.

<sup>19</sup> See *Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1249 (CIT 2005) (“{P}ursuant to the rulings of the Court, Commerce may exclude sales from the export price calculation where it finds that they are not bona fide”).

#### PRC-Wide Entity

The *Initiation Notice* specifically initiated by name the reviews of Anhui Native, Inner Mongolia, QMD and Wuhu Qinshgi, and notified all parties that they must file either the application or certification for separate rate status, as appropriate. As none of these companies submitted a separate rate application or certification,<sup>20</sup> the Department finds that these companies failed to demonstrate their eligibility for separate-rate status. Accordingly, we consider these companies part of the PRC-wide entity.<sup>21</sup>

#### Facts Available

Section 776(a)(2) of the Act, provides that, if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Furthermore, section 776(b) of the Act states that if the Department “finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission . . . , in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.” See also Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103–316 at 870 (1994). 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.” *Id.* An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. See section 776(b) of the Act.

<sup>20</sup> As noted above, Anhui Native was selected as a mandatory respondent and did not submit full questionnaire responses as it was required to do, QMD was also selected as a mandatory respondent and did not submit any information with regard to separate rates.

<sup>21</sup> See Import Administration Policy Bulletin 05.1, available on the Department’s website at: <http://ia.ita.doc.gov/policy/index.html>.

<sup>13</sup> See *Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States*, Slip Op. 05–29, at 9 (“*TTPC*”) (CIT March 9, 2005), citing *Am. Silicon Techs. v. United States*, F. Supp. 2d 992, 995 (CIT 2000).

<sup>14</sup> See *Hebei New Donghua Amino Acid Co., Ltd. v. United States*, Slip Op. 05–70, at 16, (“*New Donghua*”) citing *Fresh Garlic from the PRC: Final Results of Administrative Review and Rescission of New Shipper Review*, 67 FR 11283 (March 13, 2002), and accompanying Issues and Decision Memorandum.

<sup>15</sup> See *New Donghua*, Slip Op. 05–70 at 12, citing *Certain Preserved Mushrooms From the People’s Republic of China: Final Results and Partial Rescission of the New Shipper Review and Final Results and Partial Rescission of the Third Antidumping Duty Administrative Review*, 68 FR 41304 (July 11, 2003), and accompanying Issues and Decision Memorandum.

<sup>16</sup> See Dongtai Peak’s Sections C and D Questionnaire, submitted April 14, 2009, at C-1.

For these preliminary results, in accordance with section 776(a)(2)(B) of the Act and 782(c)(1) of the Act, we have determined that the use of facts available is appropriate for the PRC-wide entity which includes Anhui Native. As discussed in the "Supplementary Information" section above, Anhui Native was selected as a mandatory respondent in the current review but did not submit a response to the initial antidumping duty questionnaires issued by the Department on March 9, 2009. On March 30, 2009, Anhui Native filed a request for an extension of time to submit its responses to the Department's initial antidumping duty questionnaires, which the Department granted, in part. However, on April 15, 2009, Anhui Native submitted a letter informing the Department that it would not participate in the current review. As Anhui Native was selected as a mandatory respondent but did not submit its response to the questionnaire, Anhui Native is considered part of the PRC-wide entity for purposes of this review. Because Anhui Native, as part of the PRC-wide entity, failed to respond to the Department's requests for information, the Department finds that the PRC-wide entity did not cooperate to the best of its ability, and its non-responsiveness necessitates the use of facts available, pursuant to sections 776(a)(2)(A), (B) and (C) of the Act.

In summary, based upon Anhui Native's failure to submit responses to the Department's questionnaires, the Department finds that the PRC-wide entity, which includes Anhui Native, withheld requested information, failed to provide the information in a timely manner and in the form requested, and significantly impeded this proceeding, pursuant to sections 776(a)(2)(A), (B) and (C) of the Act. Therefore, the Department must rely on the facts otherwise available in order to determine a margin for the PRC-wide entity, pursuant to section 776(a)(2)(A), (B) and (C) of the Act.<sup>22</sup>

Because Anhui Native, as part of the PRC-wide entity, failed to cooperate to the best of its ability in providing the requested information, as discussed above, we find it appropriate, in accordance with sections 776(a)(2)(A), (B) and (C), as well as section 776(b), of the Act, to assign total AFA to the PRC-wide entity.<sup>23</sup> 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 and Corroboration of Information Used as Facts Available

Section 776(b) of the Act authorized the Department to use, as AFA, information derived from the petition, the final determination in the less-than-fair-value ("LTFV") investigation, any previous review, or any other information placed on the record. In selecting an AFA rate, the Department's practice has been to assign non-cooperative respondents the highest margin determined for any party in the LTFV investigation or in any administrative review.<sup>24</sup> When selecting an AFA rate from among the possible sources of information, the Department's practice has been to ensure that the margin is sufficiently adverse to induce respondents to provide the Department with complete and accurate information in a timely manner.<sup>25</sup>

As total AFA, we have assigned to exports of subject merchandise produced and/or exported by the PRC-wide entity, which includes Anhui Native, the rate of \$2.63 per kilogram, which is the highest transaction-specific rate we calculated in the most recently completed administrative review, *Sixth AR Final Results*.<sup>26</sup> We

*Results of the First Administrative Review and New Shipper Review*, 72 FR 10689, 10692 (March 9, 2007) (decision to apply total AFA to the NME-wide entity unchanged in *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of the First Antidumping Duty Administrative Review and First New Shipper Review*, 72 FR 52052 (September 12, 2007)).

<sup>24</sup> See *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 33977 (June 16, 2008); see also *Certain Cased Pencils from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 48612 (July 25, 2002), and accompanying Issue and Decision Memorandum at Comment 9, citing *Sigma Corp. v. U.S.*, 117 F. 3d 1401, 1411 (July 7, 1997) (noting Commerce has a "long-standing practice of assigning to respondents who fail to cooperate with Commerce's investigation the highest margin calculated for any party in the less-than-fair-value investigation or in any administrative review"); see also *Sparklers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 65 FR 43293, 43294 (July 13, 2000) (where the Department assigned the PRC-wide entity "the highest rate from this or any previous segment of the proceeding.").

<sup>25</sup> See, e.g., *Certain Steel Concrete Reinforcing Bars From Turkey: Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 71 FR 65082, 65084 (November 7, 2006).

<sup>26</sup> See *Honey From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 74 FR

further note, that his rate was calculated with respect to Anhui Native. We find that this rate is sufficiently adverse to serve the purposes of facts available and is appropriate. In choosing the appropriate balance between providing a respondent 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 transaction-specific 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."<sup>27</sup>

Section 776(c) of the Act provides that, to the extent practicable, the Department shall corroborate secondary information used for facts available by reviewing independent sources reasonably at its disposal. Information from a prior segment of the proceeding constitutes secondary information.<sup>28</sup> The word "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value.<sup>29</sup> To corroborate secondary information, the Department will examine, to the extent practicable, the reliability and relevance of the information used.

In selecting the AFA rate for PRC-wide entity, we assigned the rate of \$2.63 per kilogram, which is based on information Anhui Native, who we have found to be part of the PRC-wide entity in this administrative review, submitted in the most recent administrative review of the Order on Honey from the PRC. Thus, we find that the AFA rate of \$2.63 per kilogram is reliable and relevant because the AFA rate of \$2.63 per kilogram is based on Anhui Native's own questionnaire responses and accompanying data from the immediately preceding administrative

796, 797 (January 8, 2009) ("Sixth AR Final Results").

<sup>27</sup> See *Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990).

<sup>28</sup> See *Statement of Administrative Action accompanying the Uruguay Round Agreements Act*, H.R. Doc. No. 103-316, vol. 1 (1994) at 870; see also *Antifriction Bearings and Parts Thereof From France, et al.: Final Results of Antidumping Duty Administrative Reviews, Rescission of Administrative Reviews in Part, and Determination To Revoke Order in Part*, 69 FR 55574, 55577 (September 15, 2004).

<sup>29</sup> *Id.*; see also *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996).

<sup>22</sup> See *Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 69546 (December 1, 2006) and accompanying Issues and Decision Memorandum at Comment 1.

<sup>23</sup> See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary*

review. Therefore, we find that the rate is relevant for use in this administrative review and, therefore, it has probative value for use as AFA. As such, the Department finds this rate to be corroborated to the extent practicable consistent with section 776(c) of Act.

Therefore, as AFA, we have selected the rate of \$2.63 per kilogram for PRC-wide entity, the highest margin we calculated for a respondent in the immediately preceding administrative review. We consider the \$2.63 per kilogram rate to be sufficiently high so as to encourage participation in future segments of this proceeding.

#### Preliminary Results of the Review

The Department has determined that the following preliminary dumping margins exist for the period December 1, 2007 through November 30, 2008:

#### HONEY FROM THE PRC

Manufacturer/Exporter	Margin (per kilogram)
PRC-wide Entity <sup>30</sup> .....	\$2.63

<sup>30</sup> The PRC-wide entity includes: Anhui Native Produce Import and Export Corp., Inner Mongolia Youth Trade Development Co., Ltd., Qinhuangdao Municipal Dafeng Industrial Co., Ltd., and Wuhu Qinshgi Tangye.

#### Schedule for Final Results of Review

Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(d). The Department urges interested parties to provide an executive summary of each argument contained within the case briefs and rebuttal briefs.

Any interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If we receive a request for a hearing, we intend to hold the hearing seven days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Department will issue the final results of this administrative review, which will include the results of its

analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment Rates

Consistent with the *Sixth AR Final Results*, we will direct CBP to assess importer-specific assessment rates based on the resulting per-unit (*i.e.*, per kilogram) amount on each entry of the subject merchandise during the POR.<sup>31</sup> The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. If these preliminary results are adopted in our final results of review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. For assessment purposes, we calculated importer-specific assessment rates for honey from the PRC. Specifically, we divided the total duties for each importer by the total quantity of subject merchandise sold to that importer during the POR to calculate a per-unit assessment amount. We will direct CBP to assess importer-specific assessment rates based on the resulting per-unit (*i.e.*, per kilogram) amount on each entry of the subject merchandise during the POR if any importer-specific assessment rate calculated in the final results of this review is above *de minimis*.

Due to the fact that this review of Dongtai Peak is preliminarily rescinded, if this preliminary rescission is adopted in our final results of review, Dongtai Peak's antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(2).

#### Cash Deposit Requirements

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 Dongtai Peak the cash deposit rate will be \$0.98 per kilogram; (2) for Anhui Native, QMD, Inner Mongolia, Wuhu Qinshgi and all other PRC exporters of subject merchandise which have not been found to be entitled to a separate rate and, thus, are a part of the PRC-wide entity, the cash-

deposit rate will be the PRC-wide rate of \$2.63 per-kilogram; (3) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have a separate rate, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; and, (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification of Interested Parties

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 this review period. 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 in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213 and 351.221(b)(4).

Dated: December 16, 2009.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-886]

#### Polyethylene Retail Carrier Bags From the People's Republic of China: 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) initiated an administrative review of the antidumping duty order on polyethylene retail carrier bags from the People's Republic of China. The period of review is August 1, 2008, through

<sup>31</sup> See Sixth AR Final Results.