

of a controlled item to Iran); *In the Matter of Jabal Damavand General Trading Company*, 67 FR 32009 (May 13, 2002) (affirming the recommendation of the Administrative Law Judge that a ten year denial order was appropriate where knowing violations involved shipments of EAR99 items to Iran); *In the Matter of Abdulmir Mahdi*, 68 FR 57406 (Oct. 3, 2003) (affirming the recommendation of the Administrative Law Judge that a twenty year denial order was appropriate where knowing violations involved shipments of EAR99 items to Iran as a part of a conspiracy to ship such items through Canada to Iran). A ten year denial of Swiss Telecom's export privileges is warranted because Swiss Telecom's violations, like those of the defendants in the above-cited case, were deliberate acts done in violation of U.S. export control laws.

The terms of the denial of export privileges against Swiss Telecom should be consistent with the standard language used by BIS in such orders. The language is:

**Recommended Order—[Redacted]**

This Order, which constitutes the final agency action in this matter, is effective upon publication in the **Federal Register**.

Accordingly, I am referring this Recommended Decision and Order to the Under Secretary of Commerce for Industry and Security for review and final action for the agency, without further notice to the respondent, as provided in § 766.7 of the Regulations.

Within 30 days after receipt of this Recommended Decision and Order, the Under Secretary shall issue a written order affirming, modifying, and vacating the Recommended Decision and Order. *See* 15 CFR 766.22(c).

Dated: May 12, 2006.

The Honorable Joseph N. Ingolia,  
Chief Administrative Law Judge.

[FR Doc. 06-5142 Filed 6-6-06; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-863]

#### Honey from the People's Republic of China: Intent to Rescind and Preliminary Results of Antidumping Duty New Shipper Reviews

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

**SUMMARY:** The U.S. Department of Commerce (the Department) is conducting new shipper reviews of the antidumping duty order on honey from

the People's Republic of China (PRC) in response to requests from Shanghai Taiside Trading Co., Ltd. (Taiside) and Wuhan Shino-Food Trade Co., Ltd. (Shino-Food). The period of review (POR) is December 1, 2004, through May 31, 2005. We have preliminarily determined that the new shipper review for Shino-Food should be rescinded because the sale made by Shino-Food was not *bona fide*, and we have preliminarily determined that the sale made by Taiside is *bona fide* and that the sale has been made below normal value. 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. Interested parties are invited to comment on these preliminary results.

**EFFECTIVE DATE:** June 7, 2006.

**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 June 20 and June 24, 2005, respectively, the Department received properly filed requests for a new shipper review, in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.214(b) and (c), from Taiside and Shino-Food under the antidumping duty order on honey from the PRC. The Department determined that the requests met the requirements stipulated in 19 CFR 351.214, and on August 5, 2005, published its initiation of these new shipper reviews. *Honey from the People's Republic of China: Initiation of New Shipper Antidumping Duty Review*, 70 FR 45367 (August 5, 2005). On August 5, 2005, the Department issued antidumping duty new shipper questionnaires to Taiside and Shino-Food. Between September 2005 and February 2006, the Department received timely filed original and supplemental questionnaire responses from Taiside and Shino-Food.

On October 14, 2005, we invited interested parties to comment on the Department's surrogate country selection and/or significant production in the potential surrogate countries and to submit publicly available information to value the factors of production. On

January 10, 2006, we extended the deadline on which to submit publicly available information to value the factors of production. On February 17, 2006, the American Honey Producers Association and the Sioux Honey Association (collectively, petitioners) submitted comments on surrogate information with which to value the factors of production in this proceeding.

On January 13, 2006, the Department extended the deadline for the preliminary results to March 31, 2006. *Honey from the People's Republic of China: Extension of Time Limit for Preliminary Results of 2004/2005 New Shipper Review*, 71 FR 2182 (January 13, 2006). On March 9, 2006, the Department further extended the deadline for the preliminary results to May 22, 2006. *Honey from the People's Republic of China: Extension of Time Limit for Preliminary Results of 2004/2005 New Shipper Review*, 71 FR 12178 (March 9, 2006). On May 19, 2006, the Department fully extended the deadline for the preliminary results to May 30, 2006. *See Honey from the People's Republic of China: Extension of Time Limit for Preliminary Results of 2004/2005 New Shipper Review*, 71 FR 29123 (May 19, 2006).

From February 27 through March 1, 2006, the Department conducted verification of Taiside's questionnaire responses at the company's facilities in Shanghai, PRC. From March 17 through 19, 2006, the Department conducted verification of Shino-Food's questionnaire responses at the company's facilities in Wuhan, PRC.

#### 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 Act and 19 CFR 351.307(b)(iv), we conducted verification of the

questionnaire responses of Taiside and Shino-Food in February and March 2006, respectively. 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 "Memorandum to the File: Verification of the Sales and Factors Response of Shanghai Taiside Trading Co., Ltd. in the Antidumping Duty New Shipper Review on Honey from the People's Republic of China," dated May 30, 2006 (Taiside Verification Report); see also "Memorandum to the File: Verification of the Sales and Factors Response of Wuhan Shino-Food Trade Co., Ltd. in the Antidumping Duty New Shipper Review on Honey from the People's Republic of China," dated May 30, 2006.

#### New Shipper Status

Consistent with our practice, we investigated whether the sales made by Taiside and Shino-Food for these new shipper reviews were *bona fide*. See, e.g., *Notice of Rescission of Antidumping Duty New Shipper Review: Honey from the People's Republic of China*, 70 FR 59031 (October 11, 2005). For Taiside, we found no evidence that the sale in question is not a *bona fide* sale. Based on our investigation into the *bona fide* nature of the sale, the questionnaire responses submitted by Taiside, and our verification thereof, we preliminarily determine that Taiside has met the requirements to qualify as a new shipper during the POR. See "Memorandum to James C. Doyle, Office Director: Seventh Antidumping Duty New Shipper Review of the Antidumping Duty Order on Honey from the People's Republic of China: *bona fide* Analysis of Shanghai Taiside Trading Co., Ltd.," dated May 30, 2006. We have determined that Taiside made its first sale and/or shipment of subject merchandise to the United States during the POR, and that it was not affiliated with any exporter or producer that had previously shipped subject merchandise to the United States. Therefore, for purposes of these preliminary results of review, we are treating Taiside's sale of honey to the United States as an appropriate transaction for a new shipper review. See "Separate Rates" section below.

However, for Shino-Food, we found evidence that the sale in question is not a *bona fide* sale. Based on our investigation into the *bona fide* nature of the sale, the questionnaire responses

submitted by Shino-Food, and our verification thereof, we preliminarily determine that Shino-Food has not met the requirements to qualify for a new shipper review during the POR. See "Memorandum to James C. Doyle, Office Director: *bona fides* Analysis and Intent to Rescind New Shipper Review of Honey from the People's Republic of China for Wuhan Shino-Food Trade Co., Ltd.," dated May 30, 2006 (Shino-Food *bona fides* Analysis Memorandum), a public version of which is on file in the CRU. See "Preliminary Intent to Rescind" below.

#### Preliminary Intent to Rescind

Concurrent with this notice, we are issuing a memorandum<sup>1</sup> detailing our analysis of the *bona fides* of Shino-Food's U.S. sales and our preliminary decision to rescind the new shipper review with respect to Shino-Food based on the totality of the circumstances of its sale. Although much of the information relied upon by the Department to analyze the issues is business proprietary, the Department based its determination that the new shipper sale made by Shino-Food was not *bona fide* on the following: (1) the difference in the sales price of Shino-Food's single POR sale as compared to the sales price of its subsequent sales; (2) the quantity of its single POR sale as compared to subsequent sales; (3) information regarding the payment of Shino-Food's freight and antidumping cash deposit for its single sale during the POR; and (4) other indicia of a non-*bona fide* transaction.

Because the Department has found Shino-Food's single POR sale to be non-*bona fide*, it is not subject to review. Therefore, the Department intends to rescind this review because Shino-Food has no reviewable sales during the POR. 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*").

#### Separate Rates

In proceedings involving non-market economy (NME) countries (see section 771(18) of the Act), 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. For its new shipper review, Taiside submitted information in support of its claim for a company-specific rate. Moreover, we examined Taiside's claim for a separate rate at verification.

Accordingly, we have considered whether Taiside 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, 61756 (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, 61278 (November 17, 1997).

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), and accompanying Issue and Decision memorandum at Comment 1 (Sparklers), as affirmed 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.

Taiside provided complete separate-rate information in its responses to our original and supplemental questionnaires. Accordingly, we performed a separate-rates analysis to determine whether this producer/exporter is independent from government control.

<sup>1</sup> See Shino-Food *bona fides* Analysis Memorandum.

### 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 20588, and accompanying Issue and Decision memorandum at Comment 1. As discussed below, our analysis shows that the evidence on the record supports a preliminary finding of *de jure* absence of government control for Taiside based on each of these factors.

#### Taiside:

Taiside 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) and the "Foreign Trade Law of the People's Republic of China" (May 12, 1994). See Exhibit A-2 of Taiside's September 2, 2005, submission (Taiside Section A). Taiside also submitted a copy of its business license in Exhibit A-3 of Taiside Section A. The Shanghai Industry & Commerce Administration Bureau issued this license. Taiside 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. Taiside states that its license is issued solely and directly to Taiside and no other company can use the business license that Taiside uses. Taiside adds that its license defines the business activities that Taiside engages in and entitles it to produce and sell honey and honey products, among others. There are no other limitations or entitlements posed by the business license, according to Taiside. Further, Taiside states that a business entity must obtain a license before it legally operates.

We note that Taiside states that it is governed by the *Company Law*, which it claims 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. Taiside also placed on the record the *Foreign Trade Law*, stating that this law allows them full autonomy from the central authority in governing its 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 Antidumping Duty New Shipper Review*, 63 FR 3085, 3086 (January 21, 1998) and *Preliminary Results of Antidumping Duty 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 Taiside.

### 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 that would preclude the Department from assigning separate rates.

Taiside 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 sign export contracts; (4) the shareholders appointed the general manager, who selected the other managers, and Taiside 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) the

shareholders decide how profits will be used. See Taiside's September 2, 2005, Section A questionnaire response. We have examined the documentation provided and note that it does not demonstrate 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 Taiside's export activities, we preliminarily determine that Taiside has met the criteria for the application of a separate rate.

### Normal Value Comparisons

To determine whether Taiside's sales of honey to the United States were made at prices below normal value (NV), we compared its United States price to NV, as described in the "U.S. Price" and "Normal Value" sections of this notice.

### U.S. Price

#### Export Price

For Taiside, 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. For Taiside 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 and foreign brokerage and handling expenses 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).

### 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 of 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 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 October 14, 2005.<sup>2</sup> In addition, based on publicly available information placed on the record (e.g., world production data), India is a significant 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 May 30, 2006, (Surrogate Country Memo).

#### Application of Adverse Facts Available

The Department's August 5, 2005, questionnaire and its November 15, 2005, and January 13, 2006, supplemental questionnaires requested that Taiside report all packing inputs. At verification, the Department found that Taiside had not reported in its responses that it used staples and paperboard inserts during the POR. See Taiside Verification Report. The company did not give the Department information on these inputs at verification.

Section 776(a)(1) and (2) of the Act state that the Department may use facts otherwise available in the reaching the applicable determination if: 1) the necessary information is not available on the record; or, 2) an interested party or any other person (A) Withholds information that has been requested by

the administering authority under this subtitle, (B) fails to provide such information by the deadlines for submission of the information or in the form and manner requested, (C) significantly impedes a proceeding under this subtitle, or (D) provides such information but the information cannot be verified.

The Department finds that the application of facts otherwise available is warranted under sections 776(a)(2)(A) and (B) of the Act because Taiside withheld certain factors information for the POR from its responses and failed to provide the factors information by the deadlines for submission of the information.

Pursuant to section 776(b) of the Act, the Department may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available when the party fails to cooperate by not acting to best of its ability. *Certain Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review*, 62 FR 53808, 53809–53810 (October 16, 1997) and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (August 30, 2002). Accordingly, 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." *Statement of Administrative Action Accompanying the Uruguay Round Agreements Act*, H.R. Rep. No. 103–316, at 870, (1994). 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).

The Department preliminarily finds that an adverse inference is warranted due to Taiside's failure to put forth its maximum efforts to fully and accurately report consumption of inputs related to the manufacturing of honey during the POR. The information with respect to these packing inputs was in the sole possession of Taiside. The Department asked questions on the reporting of Taiside's packing inputs in its November 15, 2005, and January 13, 2006, supplemental questionnaires. These two inputs are critical to the calculation of an accurate dumping margin because they relate directly to the normal value of the subject honey sold during the POR, as section 773(c)(1)(B) of the Act requires the Department to include "the cost of

containers, coverings, and other expenses." However, Taiside did not provide the information, even though Taiside had this information in its sole possession. Therefore, the Department finds that Taiside failed to act to the best of its ability in reporting its factors data. Consistent with the Department's practice in other cases where a respondent fails to cooperate to the best of its ability, and in keeping with section 776(b) of the Act, the Department finds that the use of partial AFA is warranted for Taiside's two unreported packing inputs, discovered during verification. See Taiside Verification Report at 11.

Therefore, for these preliminary results, as partial AFA and based on the approximate additional consumption of staples and paperboard, the Department will double the reported usage rates of carton and tape--those inputs on the record that mimic the functions of the unreported packing inputs of staples and paperboard inserts--to account for the additional unreported packing materials. See "Factors of Production" section below.

#### Factors of Production

In accordance with section 773(c)(3) 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 Taiside, based on information obtained at verification, for these preliminary results the Department will apply partial adverse facts available to the calculation of the usage rates for two unreported packing inputs. See "Application of Adverse Facts Available," section above.

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 *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

<sup>2</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 October 14, 2005.

accompanying Issues and Decision Memorandum at Comment 5. When we used publicly available import data reported in the *Monthly Statistics of the Foreign Trade of India* (Indian Import Statistics), as published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India, and available from *World Trade Atlas* (see <http://www.gtis.com/wta.htm>) 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., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 1999–2000 Administrative Review, Partial Rescission of Review, and Determination Not to Revoke Order in Part*, 66 FR 57420 (November 15, 2001) 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 determination, *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004). See "Memorandum to the File: Factors of Production Valuation Memorandum for the Preliminary Results of New Shipper Administrative Reviews of Honey from the People's Republic of

China," dated May 30, 2006 (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://trade.gov/ia/>). See Factor Valuation Memo.

We valued the factors of production as follows:

To value raw honey, we first calculated 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.'s Web site, <http://www.litchihoney.com> (EDA data), and as submitted by petitioners in their February 17, 2006, submission at exhibit 2. Next we inflated the EDA data to 2004 using the WPI. Then, to ensure that the EDA data reflects a POR contemporaneous price, the Department adjusted the WPI-inflated EDA value for significant price decreases in the Indian honey market in 2005 as evidenced in the article titled "Nosedive as supply exceeds demand" (Nosedive article), which was published in the *India Financial Express* in January 2006.

Because the above-referenced article did not specify monthly decreases in 2005, the Department took the average 2005 annual decrease and divided by twelve to approximate monthly decreases for all of 2005. Because there is no available information regarding the decline in 2005 prices attributed to any one month, we preliminarily find that it is most reasonable to assume a steady, monthly price decline in 2005. This monthly price decline was then applied, successively, to each of the five months of the POR in 2005, using the 2004 inflated EDA data as the base value. No adjustment was made to the December 2004 value, which is based solely on the inflated EDA data. Finally, we calculated an average of monthly prices, resulting in the POR raw honey surrogate value.

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 conducted extensive research on potential raw honey surrogate values for this new shipper review. The relevant research is included as Attachment 18 of the Factor Valuation Memo. In analyzing these data, the Department found substantial evidence that the raw honey values in India for the year 2005 declined significantly from previous years and that such decline was not reflected in the WPI adjustment. As outlined in the Factor Valuation Memo, though, the Department does not find the news articles to be as reliable or as veracious as the EDA data. The Department has determined that the comprehensiveness of the Nosedive article, which details three years of prices in three large honey-producing states in India, including prices for some of the same flower types represented in the EDA data, is a reliable source to adjust the EDA data to reflect raw honey prices in India and contemporaneous to the instant POR. For a detailed discussion of this issue, see Factor Valuation Memo.

To value steam, the Department followed the methodology used in the investigation of certain tissue paper products and certain crepe paper products from the PRC. See *Notice of Preliminary Determinations of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination for Certain Tissue Paper Products*, 69 FR 56407 (September 21, 2004), as affirmed in the final determination, *Notice of Final Determination of Sales at Less Than Fair Value: Certain Tissue Paper Products from the People's Republic of China*, 70 FR 7475 (February 14, 2005). Using publicly available sources, the Department calculated a value for steam by: 1) Finding an Indian natural gas price; 2) calculating the ratio of steam volume to natural gas volume; 3) applying this ratio to the surrogate value of Indian natural gas to obtain a value for steam in USD in thousands of cubic feet; 4) converting the USD in thousands of cubic feet value of steam into USD/kg using a publicly available conversion factor; and 5) adjusting the calculated value for inflation by applying the appropriate WPI inflator. See Factor Valuation Memo.

To value water, we calculated the average price of all industrial water rates 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.

To value beeswax, plastic bottles, plastic caps, printed labels, cartons, plastic tape, man-made pallets, and plastic film, 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 factory overhead, selling, general, and administrative expenses (SG&A), and profit, we relied upon publicly available information in the 2004–2005 annual report of Mahabaleshwar Honey Production Cooperative Society Ltd. (MHPC), a producer of the subject merchandise in India, upon which petitioners argued that the Department should rely. We are continuing to calculate SG&A based on the MHPC data as consistent with *Honey from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review*, 70 FR 38873, 38875 (July 6, 2005). In addition, we have reclassified employee benefit expenses as overhead expenses in the financial ratios calculation, consistent with the recent determination in *Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 2905 (January 18, 2006), and accompanying Issues and Decision memorandum at Comment 1B. See Factor Valuation Memo.

Because of the variability of wage rates in countries with similar levels of per capita gross domestic product, 19 CFR 351.408(c)(3) 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://ia.ita.doc.gov/wages/>. See Factor Valuation Memo.

To value truck freight, we calculated a weighted-average freight cost based on publicly available data from <http://www.infreight.com>, an Indian inland

freight logistics resource website. See Factor Valuation Memo.

To value brokerage and handling, we used a simple average of the publicly summarized version of the average value for brokerage and handling expenses reported in the U.S. sales listings in Essar Steel Ltd.'s (Essar) February 28, 2005, Section C submission in the antidumping duty review of certain hot-rolled carbon steel flat products from India, and information from Agro Dutch Industries Ltd.'s (Agro Dutch) May 25, 2005, Section C submission, taken from the administrative review of preserved mushrooms from India, for which the POR was February 1, 2004, through January 31, 2005. See *Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review and Final Results of New Shipper Reviews*, 71 FR 26329 (May 4, 2006), and accompanying Issues and Decision memo at Comment 6; and *Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 71 FR 10646 (March 2, 2006).

Since the reported rate in Agro Dutch is contemporaneous with the POR, no adjustments to the value were necessary. However, as the Essar rate covers the period December 1, 2003, through November 30, 2004, we adjusted this rate for inflation using the POR wholesale WPI for India. See Factor Valuation Memo.

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results of this new shipper 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 margin exists:

Exporter	Margin (percent)
Shanghai Taiside Trading Co., Ltd. ....	39.69%

For details on the calculation of the antidumping duty weighted-average margin for Taiside, see Taiside's analysis memorandum for the preliminary results of the seventh new shipper review of the antidumping duty order on honey from the PRC, dated May 30, 2006. A public version of this memorandum is 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 an importer-specific assessment rate 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 requirement 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. For subject merchandise exported by Taiside, we will establish a per-kilogram cash deposit rate that will be equivalent to the company-specific cash deposit established in this review. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

#### Schedule for Final Results of Review

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. See 19 CFR 351.309(d).

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. If a hearing is held, an interested party must limit its presentation only to arguments raised in its briefs. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

The Department will issue the final results or final rescissions of these new shipper reviews, which will include the results of its analysis of issues raised in the briefs, within 90 days from the date of the preliminary results, unless the time limit is extended.

#### Notification

At the completion of the new shipper review of Shino-Food, either with a final rescission or a notice of final results, the Department will notify the CBP that bonding is no longer permitted to fulfill security requirements for shipments by the exporter/producer combination of Shino-Food for honey from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication of the final rescission or results notice in the **Federal Register**. If a final rescission notice is published, a cash deposit of 183.80 percent *ad valorem* shall be collected for any entries exported/produced by Shino-Food. Should the Department reach a final result other than a rescission, an appropriate antidumping duty rate will be calculated for both assessment and cash deposit purposes.

This new shipper review and this notice are published in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: May 30, 2006.

**David M. Spooner,**  
Assistant Secretary for Import  
Administration.

[FR Doc. E6-8858 Filed 6-6-06; 8:45 am]

BILLING CODE 3510-DS-S

## CONSUMER PRODUCT SAFETY COMMISSION

### Commission Agenda, Priorities and Strategic Plan; Public Hearing

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice of public hearing.

**SUMMARY:** The Commission will conduct a public hearing to receive views from all interested parties about its agenda and priorities for Commission attention during fiscal year 2008, which begins October 1, 2007, and about its current strategic plan, to be revised for submission to Congress September 30, 2006, pursuant to the Government Performance and Results Act (GPRA). Because of resource limitations, staff is proposing to delete the "Keeping Children Safe from Drowning" goal in the current 2003 Strategic Plan, but will continue activities at the project level. Participation by members of the public is invited. Written comments and oral presentations concerning the Commission's agenda and priorities for fiscal year 2008 and the strategic plan will become part of the public record.

**DATES:** The hearing will begin at 10 a.m. on July 11, 2006. Written comments, requests from members of the public desiring to make oral presentations, and the written text of any oral presentations must be received by the Office of the Secretary not later than June 27, 2006.

**ADDRESSES:** The hearing will be in room 420 of the Bethesda Towers Building, 4330 East West Highway, Bethesda, Maryland 20814. Written comments, requests to make oral presentations, and texts of oral presentations should be captioned "Agenda, Priorities and Strategic Plan" and e-mailed to [cpsec@cpsec.gov](mailto:cpsec@cpsec.gov), or mailed or delivered to the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814, no later than June 27, 2006.

**FOR FURTHER INFORMATION CONTACT:** For information about the hearing, a copy of the current strategic plan or to request an opportunity to make an oral presentation, e-mail, call or write Todd A. Stevenson, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814; e-mail [cpsec@cpsec.gov](mailto:cpsec@cpsec.gov); telephone (301) 504-7923; facsimile (301) 504-0127. An electronic copy of the annotated 2003 Strategic Plan can be found at <http://www.cpsc.gov/cpscpub/pubs/reports/2003strategicAnnotated.pdf>.

**SUPPLEMENTARY INFORMATION:** Section 4(j) of the Consumer Product Safety Act

(CPSA) (15 U.S.C. 2053(j)) requires the Commission to establish an agenda for action under the laws it administers, and, to the extent feasible, to select priorities for action at least 30 days before the beginning of each fiscal year. Section 4(j) of the CPSA provides further that before establishing its agenda and priorities, the Commission conduct a public hearing and provide an opportunity for the submission of comments. In addition section 306(d) of the Government Performance and Results Act (GPRA) (5 U.S.C. 306(d)) requires the Commission to seek comments from interested parties as part of the process of revising the current CPSC strategic plan. The strategic plan is a GPRA requirement. The revised plan will provide an overall guide to the formulation of future agency actions and budget requests. Because of resource limitations, staff is proposing to delete the "Keeping Children Safe from Drowning" goal in the current, 2003 Strategic Plan. Work in this area would continue at the project level with expanded public information efforts, such as partnerships with child safety organizations, to reduce child drownings. The Commission may also consider other changes as it updates the current plan.

The Office of Management and Budget requires all Federal agencies to submit their budget requests 13 months before the beginning of each fiscal year. The Commission is formulating its budget request for fiscal year 2008, which begins on October 1, 2007. This budget request must reflect the contents of the agency's strategic plan developed under GPRA.

The Commission will conduct a public hearing on July 11, 2006 to receive comments from the public concerning its strategic plan, and agenda and priorities for fiscal year 2008. The Commissioners desire to obtain the views of a wide range of interested persons including consumers; manufacturers, importers, distributors, and retailers of consumer products; members of the academic community; consumer advocates; and health and safety officers of state and local governments.

The Commission is charged by Congress with protecting the public from unreasonable risks of injury associated with consumer products. The Commission administers and enforces the Consumer Product Safety Act (15 U.S.C. 2051 *et seq.*); the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*); the Flammable Fabrics Act (15 U.S.C. 1191 *et seq.*); the Poison Prevention Packaging Act (15 U.S.C. 1471 *et seq.*); and the Refrigerator Safety