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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-848]

Notice of Preliminary Results of Antidumping Duty Administrative Review and New Shipper Reviews, Partial Rescission of the Antidumping Duty Administrative Review, and Rescission of a New Shipper Review: Freshwater Crawfish Tail Meat From the People's Republic of China

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC) in response to requests from the Crawfish Processors Alliance (the petitioner); from respondents Qingdao Rirong Foodstuff Co. Ltd. (Qingdao Rirong), Lianyungang Haiwang Aquatic Products Co., Ltd. (Lianyungang Haiwang), Yancheng Haiteng Aquatic Products & Foods, Co., Ltd. (Yancheng Haiteng), Huaiyin Foreign Trade Corporation No. 30 (Huaiyin30), Yancheng Baolong Biochemical Products Co., Ltd. (Baolong Biochemical), and from importers Ocean Harvest Wholesale Inc. (Ocean Harvest), Maritime Trading Company (Maritime Trading), and Boston Seafood Processors (Boston Seafood). The period of review is from September 1, 1998 through August 31, 1999.

The Department is also conducting new shipper reviews in response to requests from Fujian Pelagic Fishery Group Company (Fujian Pelagic), Yangzhou Lakebest Foods Co., Ltd. (Yangzhou Lakebest), Suqian Foreign Trade Co., Ltd. (Suqian FTC), Qingdao Zhengri Seafood Co., Ltd. (Qingdao Zhengri), and Shantou SEZ Yangfeng Marine Products Company (Shantou

SEZ). These reviews cover the period September 1, 1998 through August 31, 1999. See the Background section of this notice, below.

We preliminarily determine that sales have been made below normal value (NV). The preliminary results are listed below in the section titled "Preliminary Results of Review." If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the export price (EP) or constructed export price (CEP), as applicable, and NV. Interested parties are invited to comment on these preliminary results. (See the "Preliminary Results of Review" section of this notice.)

EFFECTIVE DATE: October 11, 2000.

FOR FURTHER INFORMATION CONTACT:

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The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (1999).

Background

The Department published in the **Federal Register** an antidumping duty order on freshwater crawfish tail meat from the PRC on September 15, 1997 (62 FR 48218). On September 30, 1999, in accordance with 19 CFR 351.213(b)(1), the Department received requests for review from respondents Qingdao Rirong, Lianyungang Haiwang, Yancheng Haiteng, Huaiyin30, and Baolong Biochemical. The Department also received a request from Ocean Harvest, which requested a review of Yancheng Foreign Trade Corporation (Yancheng FTC), and from Maritime Trading and Boston Seafood Processors, which each requested a review of Huaiyin30. In addition, the Department

received a request from petitioner to conduct an administrative review of Qingdao Rirong, Lianyungang Haiwang, Yancheng Haiteng, Huaiyin Foreign Trade Corporation (Huaiyin FTC), Huaiyin, Hua Yin, Huaiyin30, Baolong Biochemical, China Everbright Trading Company (China Everbright), Binzhou Prefecture Foodstuffs Import & Export Corp. (Binzhou Foodstuffs), Yancheng FTC, Jiangsu Cereals, Oils & Foodstuff Import & Export Corp. (Jiangsu Cereals), Yancheng Baolong Aquatic Foods Co., Ltd. (Baolong Aquatic), Huaiyin Ningtai Fisheries Co., Ltd. (Huaiyin Ningtai), Nantong Delu Aquatic Food Co., Ltd. (Nantong Delu), Zhenfeng Foodstuff Company (Zhenfeng Foodstuff), Weishan Hongfa Lake Foodstuff Co., Ltd. (Weishan Hongfa), Ever Concord, Hua Yin Foreign Trading (Hua Yin FT), Huaiyin Foreign Trading (Huaiyin FT), Lianyungang Hailong Aquatic Product (Lianyungang Hailong), Qifaco, Seatrade International, Weishan Jinmuan Foodstuff (Weishan Jinmuan), Welly Shipping, aka Kenwa Shipping (Welly Shipping), Yancheng Foreign Trading, Jiangsu Baolong Group (Baolong Group), Asia-Europe, Jiangsu Yancheng Aquatic Products Freezing Plant (Yancheng Aquatic), and Yupeng Fishery. In addition, the petitioner requested an administrative review of Ningbo Nanlian Frozen Foods Co., Ltd. (Ningbo Nanlian) and Huaiyin Foreign Trade Corporation (No. 5) (Huaiyin5).¹ On October 28, 1999, the Department initiated an antidumping administrative review of the following companies: Ningbo Nanlian, Huaiyin5, Qingdao Rirong, Lianyungang Haiwang, Yancheng Haiteng, Huaiyin FTC, Huaiyin, Hua Yin, Huaiyin30, Baolong Biochemical, China Everbright, Binzhou Foodstuffs, Yancheng FTC, Jiangsu

¹ In the 1997/1998 administrative review, the Department determined that the export operations of Ningbo Nanlian and Huaiyin5 (Ningbo Nanlian/Huaiyin5) were intertwined such that the two companies appeared to be under common control and should receive a single antidumping duty rate. See proprietary versions of the Memorandum from Edward C. Yang to Joseph A. Spetrini: "Relationship of Ningbo Nanlian Frozen Foods Company, Ltd. and Huaiyin Foreign Trade Corporation (5)", dated April 7, 2000; "Issues and Decision Memo for the Administrative Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat from the People's Republic of China—March 26, 1997 through August 31, 1998," dated April 19, 2000. In light of this decision, the Department required Ningbo Nanlian and Huaiyin5 to submit consolidated questionnaire responses in the current administrative review.

Cereals, Baolong Aquatic, Huaiyin Ningtai, Nantong Delu, Zhenfeng Foodstuff, Weishan Hongfa, Ever Concord, Hua Yin FT, Huaiyin FT, Lianyungang Hailong, Qifaco, Seatrade International, Weishan Jinmuan, Welly Shipping, Yancheng Foreign Trading, Baolong Group, Asia-Europe, Yancheng Aquatic, and Yupeng Fishery. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 64 FR 60161 (November 4, 1999). This administrative review covers the period September 1, 1998 through August 31, 1999.

On September 19, 1999, the Department received a request from Yixing Ban Chan Foods, and on September 30, 1999, the Department received requests from Fujian Pelagic, Yangzhou Lakebest, Suqian FTC, Qingdao Zhengri, and Shantou SEZ for new shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the PRC. These requests were made pursuant to section 751(a)(2)(B) of the Act and section 351.214(b) of the Department's regulations, which state that, if the Department receives a request for review from an exporter or producer of the subject merchandise stating that it did not export the merchandise to the United States during the period covered by the original investigation (the POI) and that such exporter or producer is not affiliated with any exporter or producer who exported the subject merchandise during that period, the Department shall conduct a new shipper review to establish an individual weighted-average dumping margin for such exporter or producer, if the Department has not previously established such a margin for the exporter or producer.

The regulations require that the exporter or producer shall include in its request, with appropriate certifications: (i) The date on which the merchandise was first entered, or withdrawn from warehouse, for consumption, or, if it cannot certify as to the date of first entry, the date on which it first shipped the merchandise for export to the United States, or if the merchandise has not yet been shipped or entered, the date of sale; (ii) a list of the firms with which it is affiliated; (iii) a statement from such exporter or producer, and from each affiliated firm, that it did not, under its current or a former name, export the merchandise during the POI; and (iv) in an antidumping proceeding involving inputs from a non-market-economy (NME) country, a certification that the export activities of such exporter or producer are not controlled

by the central government. See 19 CFR 351.214(b)(ii) and (iii).

The requests received from Yixing Ban Chang, Fujian Pelagic, Yangzhou Lakebest, Suqian FTC, Qingdao Zhengri, and Shantou SEZ were accompanied by information and certifications establishing the effective date on which each company first shipped and entered freshwater crawfish tail meat for consumption in the United States, the volume of each shipment, and the date of first sale to an unaffiliated customer in the United States. Each of these five companies certified that it was not affiliated with any company which exported freshwater crawfish tail meat from the PRC during the POI. In addition, Yixing Ban Chang, Fujian Pelagic, Yangzhou Lakebest, Suqian FTC, Qingdao Zhengri, and Shantou SEZ each certified that its export activities are not controlled by the central government. On November 1, 1999, the Department initiated these new shipper reviews covering the period September 1, 1998 through August 31, 1999. See *Freshwater Crawfish Tail Meat From the People's Republic of China: Initiation of New Shipper Antidumping Administrative Review*, 64 FR 61833 (November 15, 1999). On February 25, 2000, Yixing Ban Chang withdrew its request for review, in accordance with 19 CFR 351.214 (f)(1). On August 4, 2000, the Department published the rescission of the new shipper review of Yixing Ban Chang. See *Freshwater Crawfish Tail Meat From the People's Republic of China: Notice of Partial Rescission of New Shipper Antidumping Duty Review*, 65 FR 47958 (August 4, 2000).

On May 22, 2000 and May 24, 2000, Fujian Pelagic, Qingdao Zhengri, Shantou SEZ, Suqian FTC, and Yangzhou Lakebest, in accordance with 19 CFR 351.214(j)(3), agreed to waive the new shipper time limits applicable to their reviews so that the Department might conduct their new shipper reviews concurrently with the 1998/99 administrative review of crawfish tail meat from the PRC. On August 2, 2000, we aligned the deadlines for the new shipper reviews of Fujian Pelagic, Qingdao Zhengri, Shantou SEZ, Suqian FTC, and Yangzhou Lakebest with the deadlines of the 1998/99 administrative review. See *Freshwater Crawfish Tail Meat From the People's Republic of China: Postponement of Time Limits for Preliminary Results of New Shipper Antidumping Reviews*, 65 FR 48466 (August 8, 2000).

Due to extraordinarily complicated issues in this case, on May 11, 2000 the Department extended the deadline for completion of the preliminary results of

the administrative review to September 29, 2000. See *Notice of Extension of Time Limits for Preliminary Results of Administrative Antidumping Review: Freshwater Crawfish Tail Meat from the People's Republic of China*, 65 FR 33297 (May 23, 2000).

Scope of Reviews

The product covered by these reviews is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or unpurged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 0306.19.00.10 and 0306.29.00.00. The HTS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this order is dispositive.

Partial Rescission of Administrative Review

On February 1, 2000, petitioner withdrew its request for review for Everbright, Binzhou Foodstuffs, Jiangsu Cereals, Baolong Aquatic, Huaiyin Ningtai, Nantong Delu, Ever Concord, Lianyungang Hailong, Qifaco, Seatrade International, Weishan Jinmuan, Welly Shipping, and Yancheng Foreign Trading. The Department's regulations at 19 CFR 351.213(d)(1) provide that a party may withdraw its request for review within 90 days of the date of publication of the notice of initiation of the requested review. The petitioner withdrew its request for review of these companies within the 90-day period. Therefore, because there were no other requests for review of these companies, we are rescinding our review of China Everbright, Binzhou Foodstuffs, Jiangsu Cereals, Baolong Aquatic, Huaiyin Ningtai, Nantong Delu, Ever Concord, Lianyungang Hailong, Qifaco, Seatrade International, Weishan Jinmuan, Welly Shipping, and Yancheng Foreign Trading. We note that although petitioner withdrew its request for "Yancheng Foreign Trading," it did not withdraw its request for review of "Yancheng FTC." Both petitioner and Ocean Harvest requested a review of Yancheng FTC, and we are continuing that review.

On March 14, 2000, Qingdao Rirong informed the Department that it had no shipments of the subject merchandise to

the United States during the period of review (POR). On June 1, 2000, Zhenfeng Foodstuff informed the Department that it had no shipments of the subject merchandise to the United States during the period of review (POR). We also determined that Weishan Hongfa and Yancheng Aquatic made no exports of subject merchandise during the POR. We also received section D responses from Weishan Hongfa submitted by Baolong Biochemical for its review, and from Yancheng Aquatic, submitted by Yancheng Haiteng for its review. These responses stated, respectively, that Weishan Hongfa and Yancheng Aquatic did not export to the United States during the POR. We independently confirmed that Qingdao Rirong, Zhenfeng Foodstuff, Weishan Hongfa and Yancheng Aquatic had no shipments during the POR. The Department's regulations at 19 CFR 351.213(d)(3) provide that the Department may rescind a review with respect to a company if that company made no exports of subject merchandise during the POR. Therefore, in accordance with section 351.213(d)(3) of the Department's regulations, we are finally rescinding our review of Qingdao Rirong, Zhenfeng Foodstuff, Weishan Hongfa, and Yancheng Aquatic.

Based on information obtained at verification, we determine that Baolong Biochemical did not make any sales to the United States during the POR. (See Verification section below and memorandum from Joseph A. Spetrini to Troy H. Cribb "Yancheng Baolong Biochemical Products (Baolong Biochemical): Intent to Rescind Administrative Review" dated September 29, 2000 (Baolong Biochemical Rescission Memo).) The Department's regulations at 19 CFR 351.213(d)(3) provide that the Department may rescind a review with respect to a company if that company made no exports of subject merchandise during the POR. Therefore, in accordance with section 351.213(d)(3) of the Department's regulations, we are preliminarily rescinding our review of Baolong Biochemical.

The petitioner requested a review for Huaiyin, Hua Yin, Hua Yin FT, and Huaiyin FT. The Department had no addresses or other identifying information regarding these four companies. We contacted petitioner and requested addresses, but petitioner was unable to furnish addresses for these names. These names appear to be variant or erroneous spellings of exporters whose names include the word "Huaiyin." The Department's regulations at 19 CFR 351.213(d)(3)

provide that the Department may rescind a review with respect to a company if that company made no exports of subject merchandise during the POR. Therefore, in accordance with section 351.213(d)(3) of the Department's regulations, we are preliminarily rescinding our review of Huaiyin, Hua Yin, Hua Yin FT, and Huaiyin FT. We preliminarily determine that subject merchandise entering the United States under one of these names is covered by this review only to the extent that the exporter is in fact Huaiyin FTC, Huaiyin5, or Huaiyin30, which are separately covered by this review.

Application of Facts Available

Section 776(a)(2) of the Act provides that if any 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; (C) significantly impedes an antidumping investigation; or (D) provides such information but the information cannot be verified, the Department shall use the facts otherwise available in reaching the applicable determination under this title. See *Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Order in Part*, 64 FR 30481 (June 8, 1999); *Silicon Metal From The People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 63 FR 37850 (July 14, 1998); *Silicon Metal From The People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review*, 63 FR 11654 (March 10, 1998).

Huaiyin FTC, Yupeng Fishery, Baolong Aquatic, and Asia Europe failed to respond to the Department's antidumping questionnaire. In addition, Lianyungang Haiwang failed to respond to the Department's supplemental questionnaire. As a result, we were unable to obtain the information necessary to conduct a review. Therefore, in accordance with section 776(a)(2)(A) of the Act, we are applying facts available to Huaiyin FTC, Yupeng Fishery, Lianyungang Haiwang, Baolong Aquatic, and Asia Europe. Since we have also determined that Baolong Group was the same company as Baolong Aquatic and Asia Europe during the POR (see Verification section below and the *Baolong Biochemical Rescission Memo*), we are applying adverse facts available to the Baolong Group.

It is the Department's policy that a respondent's eligibility for separate rates must be evaluated in each administrative review and must be based on respondent's claim for a separate rate in each administrative review, regardless of any separate rate the respondent received in the past. See *Manganese Metal from the People's Republic of China, Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12441 (March 13, 1998). However, for companies for which no questionnaire response is on the record, we are unable to evaluate whether a separate rate would be appropriate. In the instant administrative review, Huaiyin FTC, Asia-Europe, Baolong Aquatic (aka Baolong Group), Yupeng Fishery, and Lianyungang Haiwang failed to provide complete and accurate responses which could be used in the determination of separate rates. Therefore, consistent with Department practice, we are treating these companies, together with all other PRC companies that have not established that they are entitled to separate rates, as a single enterprise subject to government control. Furthermore, we have determined the rate to be applied to this single enterprise, a PRC-wide rate based on adverse facts available, in accordance with section 776(b) of the Act.

Section 776(b) of the Act provides that the Department may apply adverse facts available to a respondent when that respondent fails to cooperate to the best of its ability. Section 776(b) of the Act states that adverse facts available may include information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. As adverse facts available, we are using the rate for Huaiyin 30, 240.34 percent, the highest rate in this segment of the proceeding, which is also the highest rate in any segment of the proceeding.

Section 776(c) of the Act provides that when the Department relies on secondary information, the Department shall, to the extent practicable, corroborate that information with independent sources reasonably at the Department's disposal. The Statement of Administrative Action (SAA) accompanying the URAA clarifies that the petition is secondary information. See SAA, H.R. Doc. 103-316 at 870 (1994). The SAA also clarifies that "corroborate" means to determine whether the information used has probative value. Id. In this instance, we are using an actual calculated rate from a company covered in this review. Thus, we consider this rate to have probative value. Accordingly, pursuant to section

776(b) of the Act, we are applying the rate of 240.34 percent to Huaiyin FTC, Baolong Aquatic, Asia-Europe, the Baolong Group, Yupeng Fishery, and Lianyungang Haiwang, as well as for the PRC entity. *See Determination of Adverse Facts Available in the Administrative Review of Freshwater Crawfish Tail Meat from the People's Republic of China (Adverse Facts Available Memorandum)*, dated September 29, 2000.

We were unable to verify a significant portion of Huaiyin30's questionnaire responses. Specifically, we found that (1) Huaiyin30 failed to report a factory which supplied it subject merchandise sold during the POR; and (2) we could not verify the significant parts of Huaiyin30's reported factors of production for another factory. Therefore, consistent with sections 776 (a) of the Act, we have determined to assign an antidumping margin based on partial facts available to Huaiyin30. *See the proprietary memorandum, "Determination of Partial Facts Available for Huaiyin Foreign Trade Corporation (30) in the Administrative Review of Freshwater Crawfish Tail Meat from the People's Republic of China,"* dated September 29, 2000.

Duty Absorption

On December 15, 1999, the petitioners requested that the Department determine whether antidumping duties had been absorbed during the POR for freshwater crawfish tail meat from Fujian Pelagic, Yangzhou Lakebest, Suqian FTC, Qingdao Zhengri, and Shantou SEZ in the new shipper reviews, and for Ningbo Nanlian/Huaiyin5, Huaiyin30, Lianyungang Haiwang, Nantong Delu, Yancheng Haiteng, Yancheng FTC, and Baolong Biochemical in the administrative review.² Section 751(a)(4) of the Act provides for the Department, if requested, to determine during an administrative review initiated two or four years after publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. In this case, Ningbo Nanlian/Huaiyin5 and Yancheng Haiteng sold to the United States through an affiliated importer. In addition, Yancheng FTC's reported sales included sales in which Yancheng FTC acted as the exporter of record for sales

made by Nantong Delu to Ocean Harvest, its affiliated U.S. importer. Because the order underlying this review was issued in 1997, and this review was initiated in 1999, we are making a duty absorption determination in this segment of the proceeding.

Prior to these preliminary results, we requested that Ningbo Nanlian/Huaiyin5, and Yancheng Haiteng place on the record evidence that unaffiliated purchasers will ultimately pay the antidumping duties to be assessed on entries during the review period for the respective class or kind of merchandise, and that Yancheng FTC and Ocean Harvest place such evidence on the record with respect to Nantong Delu. Nantong Delu and Ocean Harvest stated that we can ascertain that Ocean Harvest passed the cost of the estimated duties on to its customers by comparing Ocean Harvest's price to its customers with the entered value of the subject merchandise. None of these companies provided any evidence, nor is there any evidence on the record, that the unaffiliated purchasers of subject merchandise sold by Ningbo Nanlian/Huaiyin5, Yancheng Haiteng, or Nantong Delu will ultimately pay the antidumping duties to be assessed on entries during the review period. Accordingly, based on the record, we cannot conclude that the unaffiliated purchasers in the United States will pay the ultimately assessed duties. Therefore, we preliminarily find that for Ningbo Nanlian/Huaiyin5 and Yancheng Haiteng, antidumping duties have been absorbed by the affiliated importer during the POR. In addition, we preliminarily find that antidumping duties have been absorbed by the Ocean Harvest for sales in which Yancheng FTC acted as the exporter for Nantong Delu during the POR. (*See "Memorandum to the File from Thomas Gilgunn; Analysis for the Preliminary Results of Administrative Review of Freshwater Crawfish Tail Meat from the People's Republic of China: Ningbo Nanlian Frozen Foods Co., Ltd./Huaiyin Foreign Trade Corp. (5),"* dated September 29, 2000, "*Memorandum to the File from Sarah Ellerman; Analysis for the Preliminary Results of Administrative Review of Freshwater Crawfish Tail Meat from the People's Republic of China: Yancheng Aquatic Products and Foods Co., Ltd.,"* dated September 29, 2000), and "*Memorandum to the File from Elfi Blum-Page; Analysis for the Preliminary Results of Administrative Review of Freshwater Crawfish Tail Meat from the People's Republic of China: Yancheng*

Foreign Trade Corporation," dated September 29, 2000.)

Verification

As provided in section 782(i) of the Act, we conducted a verification of the responses of the following companies: Huaiyin30, Ningbo Nanlian/Huaiyin5, Yancheng Haiteng, Yancheng FTC, Baolong Biochemical, Fujian Pelagic, Suqian FTC, Yangzhou Lakebest, Shantou SEZ, and Qingdao Zhengri. These include all companies for which we are conducting a new shipper review. We used standard verification procedures, including on-site inspection of the manufacturers' facilities and the examination of relevant sales and financial records. Our verification results are outlined in the public versions of the verification reports.

New Shippers

Based on the questionnaire responses received from Fujian Pelagic, Suqian FTC, Yangzhou Lakebest, Shantou SEZ, and Qingdao Zhengri, and our verification thereof, we preliminarily determine that these companies have met the requirements to qualify as new shippers during the POR. We have determined that they made their first sale or shipment of subject merchandise to the United States during the POR, that these sales were *bona fide* sales made in normal commercial quantities, and that these companies were not affiliated with any exporter or producer that previously shipped to the United States.

Separate Rates

Ningbo Nanlian/Huaiyin5, Huaiyin30, Yancheng Haiteng, Yancheng FTC, Fujian Pelagic, Yangzhou Lakebest, Suqian FTC, Qingdao Zhengri, and Shantou SEZ have requested separate, company-specific rates. In their questionnaire responses, the above companies state that they are independent legal entities. Ningbo Nanlian/Huaiyin5, Qingdao Zhengri, Yangzhou Lakebest, Shantou SEZ, and Yancheng Haiteng have furthermore reported they are PRC-foreign joint ventures.

To establish whether a company operating in an NME country is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585

²The Petitioner also requested duty absorption reviews for a number of companies for which we are rescinding the administrative review. As such, the petitioner's request for duty absorption reviews with regard to these companies is moot and we do not address them here.

(May 2, 1994). Under this policy, exporters in NMEs are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to export activities. Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control over exports is based on four factors: (1) Whether each exporter sets its own export prices independently of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and (4) whether each exporter has autonomy from the government regarding the selection of management.

De Jure Control

With respect to the absence of *de jure* government control over the export activities of all the companies reviewed, evidence on the record indicates that Ningbo Nanlian/Huaiyin5, Yancheng Haiteng, Huaiyin30, Yancheng FTC, Fujian Pelagic, Yangzhou Lakebest, Suqian FTC, Qingdao Zhengri, and Shantou SEZ are not controlled by the government. All of the above companies submitted evidence of their legal right to set prices independent of all government oversight. The business licenses of every company indicates that each is permitted to engage in the exportation of crawfish. We find no evidence of *de jure* government control restricting any of the reviewed companies from the exportation of crawfish. See "Separate Rate Analysis in the Administrative Review and New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China," dated September 29, 2000 (*Separate Rates Memorandum*), which is on file in the Central Records Unit (room B099 of the Main Commerce Building).

No export quotas apply to crawfish. Prior verifications have confirmed that there are no commodity specific export licenses required and no quotas for the seafood category "Other," which includes crawfish, in *China's Tariff and*

Non-Tariff Handbook for 1996. In addition, we have previously confirmed that crawfish is not on the list of commodities with planned quotas in the 1992 PRC Ministry of Foreign Trade and Economic Cooperation document entitled *Temporary Provisions for Administration of Export Commodities*. (See *Freshwater Crawfish Tail Meat From The People's Republic of China; Preliminary Results of New Shipper Review*, 64 FR 8543 (February 22, 1999) and *Freshwater Crawfish Tail Meat From The People's Republic of China; Final Results of New Shipper Review*, 64 FR 27961 (May 24, 1999) (*Ningbo New Shipper Review*)).

The following laws, which have been placed on the record of this review, indicate a lack of *de jure* government control over companies owned by "all the people" and that control over these enterprises has been transferred from the government to the enterprises themselves. *The Administrative Regulations of the People's Republic of China for Controlling the Registration of Enterprises as Legal Persons (Legal Persons Law)*, issued on July 13, 1988 by the State Administration for Industry and Commerce of the PRC and placed on the record of these reviews, provide that, to qualify as legal persons, companies must have the "ability to bear civil liability independently" and the right to control and manage their businesses. These regulations also state that as an independent legal entity, a company is responsible for its own profits and losses. (See *Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People's Republic of China*, 60 FR 56046 (November 6, 1995) (*Manganese Metal*). *The People's Republic of China All People's Ownership Business Law (Company Law)*, also on the record of these reviews, states that a foreign company shall bear civil responsibility for the operational activities of its branch organization in China. At verification, we saw that business licenses for Ningbo Nanlian/Huaiyin5, Yancheng Haiteng, Huaiyin5, Huaiyin30, Yancheng FTC, Fujian Pelagic, Yangzhou Lakebest, Suqian FTC, Qingdao Zhengri, and Shantou SEZ were established in accordance with these laws.

Yancheng Haiteng, Yangzhou Lakebest, Yancheng FTC, and Shantou SEZ provided copies of the *Foreign Trade Law*, which identifies the rights and responsibilities of business enterprises with foreign investment, grants autonomy to foreign trade operators in management decisions, and establishes the foreign trade operator's accountability for profits and losses.

Therefore, with respect to the absence of *de jure* control over export activity, we determine that these firms are independent legal entities. Yancheng Haiteng placed on the record of this review *The Sino-Foreign Equity Joint Venture Law of the PRC*, which grants export rights to Sino-foreign equity joint venture companies without additional approval from a government entity. Qingdao Zhengri, Yancheng Haiteng, Ningbo Nanlian/Huaiyin5, Yangzhou Lakebest and Shantou SEZ also cited this law in their responses.

De Facto Control

With respect to the absence of *de facto* control over export activities, the information presented indicates that the management of Ningbo Nanlian/Huaiyin5, Yancheng Haiteng, Huaiyin30, Yancheng FTC, Fujian Pelagic, Yangzhou Lakebest, Suqian FTC, Qingdao Zhengri, and Shantou SEZ are responsible for all decisions such as the determination of export prices, profit distribution, marketing strategy, and contract negotiations. Our analysis indicates that there is no government involvement in the daily operations or the selection of management for any of these companies. In addition, we have found that these respondents' pricing and export strategy decisions are not subject to any outside entity's review or approval, and that there are no governmental policy directives that affect these decisions.

There are no restrictions on the use of respondent's revenues of profits, including export earnings. Each company's general manager has the right to negotiate and enter into contracts, and may delegate this authority to employees within the company. There is no evidence that this authority is subject any level of governmental approval. Each company has stated that its management is selected by its board of directors and/or its employees and that there is no government involvement in the selection process. Lastly, decisions made by respondents concerning purchases of subject merchandise from other suppliers are not subject to government approval. For more information, see *Separate Rates Memorandum*. Consequently, because evidence on the record indicates an absence of government control, both in law and in fact, over their export activities, we preliminarily determine that these exporters are entitled to separate rates. For further discussion of the Department's preliminary determination that these exporters are entitled to separate rates, see *Separate Rate Memorandum*.

Normal Value Comparisons

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

United States Price

For Ningbo Nanlian/Huaiyin5 and Yancheng Haiteng, in part, and for Yancheng FTC's sales made on behalf of Nantong Delu, we based United States price on CEP in accordance with section 772(b) of the Act, because the first sales to unaffiliated purchasers were made after importation. We calculated CEP based on packed prices from the U.S. affiliate's warehouse to the first unaffiliated purchaser in the United States. We made the following deductions from the starting price (gross unit price), where applicable: foreign inland freight, international (ocean) freight, U.S. customs duty, brokerage and handling expenses, the affiliated purchaser's U.S. credit expenses, and the affiliated purchaser's indirect selling expenses. See sections 772(c) and (d) of the Act. Because U.S. customs duty, brokerage and handling expenses, credit expenses, and indirect selling expenses, are market-economy costs incurred in U.S. dollars, we used actual costs rather than surrogate values for these deductions to gross unit price.

For Huaiyin30, Yancheng FTC, Fujian Pelagic, Yangzhou Lakebest, Suqian FTC, Qingdao Zhengri, Shantou SEZ, and, in part, for Ningbo Nalian/Huaiyin5 and Yancheng Haiteng, we based United States price on EP in accordance with section 772(a) of the Act, because the first sales to unaffiliated purchasers were made prior to importation, and CEP was not otherwise warranted by the facts on the record. We calculated EP based on packed prices from the exporter to the first unaffiliated purchaser in the United States. We deducted foreign inland freight and brokerage and handling expenses in the home market from the starting price (gross unit price) in accordance with Section 772(c) of the Act.

The Department has also preliminarily determined that Fujian Pelagic's sales to Pacific Coast Fishery Corporation (Pacific Coast) should be treated as EP sales. For more information, see the business proprietary version of the memorandum entitled "New-Shipper Review of Freshwater Crawfish Tail meat from the People's Republic of China (PRC) (A-570-848): Sales Verification Report for

Fujian Pelagic Fishery Group Company (Fujian Pelagic Group)," dated September 29, 2000.

Normal Value

For companies located in NME countries, section 773(c)(1) of the Act provides that the Department shall determine NV using a factors-of-production methodology if (1) the merchandise is exported from an NME country, and (2) available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the companies contested such treatment in these reviews. Accordingly, we have applied surrogate values to the factors of production to determine NV.

We calculated NV based on factors of production in accordance with section 773(c)(4) of the Act and section 351.408(c) of our regulations. Consistent with the original investigation and the first administrative review of this order, we determined that India (1) is comparable to the PRC in level of economic development, and (2) is a significant producer of comparable merchandise. With the exception of the crawfish input, we valued the factors of production using publicly available information from India. For the crawfish input, we used Spanish import statistics for crawfish imported from Portugal. For further discussion, see Memorandum from The Crawfish Team, *Freshwater Crawfish Tail Meat from the People's Republic of China: Factor Values Memorandum*, dated September 29, 2000 (*Factor Values Memo*). We used import prices to value many factors. As appropriate, we adjusted import prices by adding freight expenses to make them delivered prices.

We valued the factors of production as follows:

- To value whole crawfish, we used the average Spanish import price for fresh (not frozen) crawfish imported from Portugal. In order to factor out seasonal fluctuations in the price of the Spanish import data, we valued whole crawfish using monthly data from the POR.

We used the monthly Spanish import price data for whole crawfish imported from Portugal during the POR submitted by the petitioner on September 18, 2000. Petitioner stated that this information

was "updated data from the Spanish Ministry of Customs" obtained through Global Trade Information Services, Inc. On September 19, 2000, Ningbo Nanlian/Huaiyin5 stated that the Department should not use the petitioner's data since that information was obtained from a fee-based internet service, and thus is not publicly available. In addition, Ningbo Nanlian/Huaiyin5 cited discrepancies between the petitioner's data and official Spanish import data which Ningbo Nanlian/Huaiyin5 submitted for one month. On September 20, 2000, the Department requested that Ningbo Nanlian/Huaiyin5 submit Spanish import data for all POR months to the record. (See Memorandum to the File, *Freshwater Crawfish Tail Meat from the PRC: Request for Monthly Spanish Import Data for Whole Crawfish*, dated September 21, 2000.) Ningbo Nanlian/Huaiyin5 did not submit the requested information. Thus, we are using the only monthly data on the value of the whole crawfish that is available to us, that petitioners submitted. Since the factors of production were reported for a period concurrent with our valuation of the crawfish input, we did not adjust these factor values for inflation. See the *Factor Values Memorandum* for further discussion.

To value the by-product of shells, we used a free-on-board (FOB) factory price quote for crab and shrimp shells from a Canadian seller of crustacean shells. (See *Notice of Preliminary Results of Antidumping Duty Administrative Review and New Shipper Reviews, Partial Rescission of the Antidumping Administrative Review, and Rescission of the New Shipper Review for Yancheng Baolung Biochemical Products, Co., Ltd.: Freshwater Crawfish Tail Meat from the People's Republic of China*, 64 FR 55236, October 12, 1999.) We adjusted this price to reflect deflation to the crawfish processing season.

To value coal and electricity, we used data reported as the average Indian domestic prices within the categories of "Steam Coal for Industry" and "Electricity for Industry," published in the International Energy Agency's publication, *Energy Prices and Taxes, First Quarter, 2000*. We adjusted the cost of coal to include an amount for transportation. For water, we relied upon public information from the October 1997 *Second Water Utilities Data Book: Asian and Pacific Region*, published by the Asian Development Bank.

To achieve comparability of the energy and water prices to the factors reported for the crawfish processing

periods applicable for the companies under review, we adjusted these factor values using the Wholesale Price Index (WPI) for India, as published in the *International Financial Statistics (IFS)* published by the International Monetary Fund (IMF), to reflect inflation through the applicable periods.

- To value plastic bags, cardboard boxes and adhesive tape, we relied upon Indian import data from the April 1998 through August 1998 issues of *Monthly Statistics of the Foreign Trade of India (Monthly Statistics)*. We adjusted these prices to reflect inflation to the crawfish processing season. We adjusted the values of packing materials to include freight costs incurred between the supplier and the factory, and we deflated to the period of production. For transportation distances used for the calculation of freight expenses on raw materials, we added to surrogate values from India a surrogate freight cost using the shorter of (a) the distances between the closest PRC port and the factory, or (b) the distance between the domestic supplier and the factory. See *Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails From the People's Republic of China*, 62 FR 51410 (October 1, 1997) (*Roofing Nails*).

- To value factory overhead, selling, general, and administrative expenses (SG&A), and profit, we calculated simple average rates using publicly available financial statements of three Indian seafood processing companies submitted in the original investigation for which more current data is now available, and applied these rates to the calculated cost of manufacture. See *Factor Values Memorandum*.

- For labor, we used the PRC regression-based wage rate at Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in May 2000. See <http://ia.ita.doc.gov/wages/>. Because of the variability of wage rates in countries with similar per capita gross domestic products, section 351.408(c)(3) of the Department's regulations requires the use of a regression-based wage rate. The source of these wage rate data on the Import Administration's Web site is found in the *1998 Year Book of Labour Statistics*, International Labour Office (Geneva: 1998), Chapter 5: Wages in Manufacturing.

- We valued movement expenses as follows:

To value truck freight expenses we used the seventeen price quotes from six different Indian trucking companies which were used in the antidumping investigation of *Bulk Aspirin from the*

People's Republic of China, 65 FR 33805 (May 25, 2000). We adjusted the rates to reflect inflation through the POR using WPI for India in the IFS.

To value brokerage and handling in the home market, we used information reported in the antidumping administrative review of *Certain Stainless Steel Wire Rod From India; Preliminary Results of Antidumping Duty Administrative and New Shipper Reviews*, 63 FR 48184 (September 9, 1998) (*Stainless Steel Wire Rod from India*), and also used in the *Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results of Administrative Antidumping Duty and New Shipper Reviews, and Final Rescission of New Shipper Review*, 65 FR 20948 (April 19, 2000). We adjusted the rates to reflect inflation through the POR using WPI for India in the IFS.

We used the average of the foreign brokerage and handling expenses reported in the U.S. sales listing portion of the public questionnaire response submitted in the antidumping review of Viraj Group, Ltd. in *Stainless Steel Wire Rod from India*. Charges were reported on a per metric ton basis. We adjusted these values to reflect inflation to the POR. For further discussion, see *Factor Values Memorandum*.

To value ocean freight, we obtained publicly available price quotes from Sea Land Services for shipping frozen crawfish tail meat from the PRC to Long Beach, California in the United States. See *Factor Values Memorandum*. To adjust this rate to the POR, we used the closest corresponding monthly WPI and the WPI average for the POR.

Currency Conversion

We made currency conversions pursuant to section 351.415 of the Department's regulations at the rates certified by the Federal Reserve Bank. (See <http://ia.ita.doc.gov/exchange/index.html>.)

Preliminary Results of Review

We preliminarily determine that the following dumping margins exist:

Manufacturer/Exporter	Time period	Margin (per-cent)
Ningbo Nanlian/ Huaiyin5	9/1/98-8/31/99	62.69
Yancheng Haiteng Huaiyin30	9/1/98-8/31/99	79.86
Yancheng FTC	9/1/98-8/31/99	240.34
Fujian Pelagic	9/1/98-8/31/99	166.93
Yangzhou Lakebest	9/1/98-8/31/99	174.50
Suqian FTC	9/1/98-8/31/99	24.55
Qingdao Zhengri ...	9/1/98-8/31/99	19.97
Shantou SEZ	9/1/98-8/31/99	16.09
		18.96

Manufacturer/Exporter	Time period	Margin (per-cent)
PRC-Wide Rate	9/1/98-8/31/99	240.34

Parties to the proceeding may request disclosure within 5 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 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; (3) the reason for attending; and (4) a list of the issues to be discussed. 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)(2). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication. Parties who submit arguments are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. 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 48 hours before the scheduled time.

The Department intends to issue the final results of these administrative and new shipper reviews, which will include the results of its analysis of issues raised in the briefs, within 120 days from the date of publication of these preliminary results.

Upon completion of these administrative and new shipper reviews, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between export price and NV may vary from the percentages stated above. The Department will issue appraisal instructions directly to

the U.S. Customs Service upon completion of this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties. For assessment purposes, we intend to calculate importer-specific assessment rates for freshwater crawfish tail meat from the PRC. For both EP and CEP sales, we will divide the total dumping margins (calculated as the difference between NV and EP (or CEP)) for each importer by the entered value of the merchandise. Upon the completion of this review, we will direct Customs to assess the resulting *ad valorem* rates against the entered value of each entry of the subject merchandise by the importer during the POR.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of freshwater crawfish tail meat from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the reviewed firms will be the rates indicated above; (2) for previously-reviewed PRC and non-PRC exporters with separate rates, the cash deposit rate will be the company-specific rate established for the most recent period; (3) for all other PRC exporters, the rate will be the PRC-wide rate, which is 240.34 percent; and (4) for all other non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter.

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

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during 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, these new shipper reviews, and this notice are published in accordance with section 751(a)(1) of the Act and sections 351.213, 351.214 and 351.221 of the Department's regulations.

Dated: September 29, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00-26073 Filed 10-10-00; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-605]

Frozen Concentrated Orange Juice From Brazil; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On June 6, 2000, the Department of Commerce published the preliminary results of administrative review of the antidumping duty order on frozen concentrated orange juice from Brazil. The merchandise covered by this order is frozen concentrated orange juice from Brazil. This review covers the U.S. sales of three manufacturers/exporters, Citrovita Agro Industrial Ltda., Cambuhy MC Industrial Ltda., and Cambuhy Citrus Comercial e Exportadora. We have collapsed these entities for purposes of this proceeding and have calculated a single margin for them. The period of review is May 1, 1998, through April 30, 1999.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: October 11, 2000.

FOR FURTHER INFORMATION CONTACT: Irina Itkin or Shawn Thompson, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482-0656 or (202) 482-1776, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made

to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR Part 351 (1999).

Background

This review covers three manufacturers/exporters, Citrovita Agro Industrial Ltda. (Citrovita), Cambuhy MC Industrial Ltda. (Cambuhy), and Cambuhy Citrus Comercial e Exportadora (Cambuhy Exportadora). Because these companies met the requirements of 19 CFR 351.401(f), we have collapsed these entities for purposes of this proceeding and have calculated a single margin for them. For further discussion, see the "Affiliated Producers" section of this notice, below.

On June 6, 2000, the Department published in the **Federal Register** the preliminary results of administrative review of the antidumping duty order on frozen concentrated orange juice (FCOJ) from Brazil. See *Frozen Concentrated Orange Juice from Brazil; Preliminary Results of Antidumping Duty Administrative Review*, 65 FR 35892 (June 6, 2000).

We invited parties to comment on our preliminary results of review. At the request of Citrovita, we held a public hearing on August 9, 2000. The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of Review

The merchandise covered by this review is frozen concentrated orange juice from Brazil. The merchandise is currently classifiable under item 2009.11.00 of the *Harmonized Tariff Schedule* of the United States (HTSUS). The HTSUS item number is provided for convenience and for U.S. Customs purposes. The Department's written description remains dispositive.

Period of Review

The period of review (POR) is May 1, 1998, through April 30, 1999.

Affiliated Producers

During the POR, a sister company to Citrovita's parent company purchased another Brazilian producer of FCOJ and that producer's affiliated trading company (*i.e.*, Cambuhy and Cambuhy Exportadora, respectively). We determine that it is appropriate to treat Citrovita and these affiliated parties as a single entity. In accordance with 19 CFR 351.401(f), we have collapsed Citrovita, Cambuhy, and Cambuhy Exportadora for purposes of the final results. However, because there is no