

Dated: October 4, 2006.

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[FR Doc. E6-16815 Filed 10-6-06; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-570-848)

#### **Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results and Partial Rescission of the 2004/2005 Administrative and New Shipper Reviews**

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

**SUMMARY:** The Department of Commerce ("the Department") is currently conducting the 2004/2005 administrative and new shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China ("PRC"). We preliminarily determine that sales have been made below normal value ("NV") with respect to certain exporters who participated fully and are entitled to a separate rate in the administrative and new shipper reviews. If these preliminary results are adopted in our final results of these reviews, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on entries of subject merchandise during the period of review ("POR") for which the importer-specific assessment rates are above *de minimis*.

Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

**EFFECTIVE DATE:** October 10, 2006.

**FOR FURTHER INFORMATION CONTACT:** Scot Fullerton or Erin Begnal, 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) 482-1386 or (202) 482-1442, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On September 15, 1997, the Department published an amended final determination and antidumping duty order on freshwater crawfish tail meat from the PRC. *See Notice of Amendment*

*of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Freshwater Crawfish Tail Meat from the People's Republic of China*, 62 FR 48218 (September 15, 1997).

On September 1, 2005, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on freshwater crawfish tail meat from the PRC. *See Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 70 FR 52072 (September 1, 2005).

Based on timely requests from various interested parties, the Department initiated an administrative review of the antidumping duty order on freshwater crawfish tail meat from the PRC with respect to the following companies: China Kingdom Import & Export Co., Ltd. (aka China Kingdome Import & Export Co., Ltd. and Zhongda Import & Export Co., Ltd.) ("China Kingdom"), Jiangsu Hilong International Trading Company, Ltd. ("Jiangsu Hilong"), Jiangsu Jiushoutang Organisms-Manufactures Co., Ltd. ("Jiangsu JOM"), Shanghai Sunbeauty Trading Co., Ltd. ("Shanghai Sunbeauty"), Ningbo Nanlian Frozen Foods Company, Ltd. ("Ningbo Nanlian"), Qingdao Jinyongxiang Aquatic Foods Co., Ltd. ("Qingdao JYX"), Qingdao Wentai Trading Co., Ltd. ("Qingdao Wentai"), Qingdao Zhengri Seafood Co., Ltd. ("Qingdao Zhengri"), Weishan Zhenyu Foodstuff Co., Ltd. ("Weishan Zhenyu"), Xuzhou Jinjiang Foodstuffs Co., Ltd. ("Xuzhou Jinjiang"), Yancheng Haiteng Aquatic Products & Foods Co., Ltd. ("Yancheng Haiteng"), Yancheng Hi-King Agriculture Developing Co., Ltd. ("Yancheng Hi-King"), and Yancheng Yaou Seafood Co., Ltd. ("Yancheng Yaou"). *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 70 FR 61601 (October 25, 2005) ("Initiation Notice"). The period of review ("POR") for all respondents subject to this administrative review is September 1, 2004, through August 31, 2005.<sup>1</sup>

<sup>1</sup> On July 3, 2006, the Department issued its notice of rescission of antidumping duty new shipper reviews of Jiangsu JOM, Shanghai Sunbeauty and Qingdao Wentai, for the period September 1, 2004, and February 28, 2005. *See Notice of Rescission of Antidumping Duty New Shipper Reviews: Freshwater Crawfish Tail Meat from the People's Republic of China*, 71 FR 37902 (July 3, 2006) ("Rescission of New Shipper Review"). Accordingly, this administrative review only covers these companies' entries not already covered by the above-referenced new shipper reviews. Therefore, this administrative review, for Jiangsu JOM, Shanghai Sunbeauty and Qingdao

Additionally, on September 21, 2005, and September 30, 2005, Xiping Opeck Food Co., Ltd. ("Xiping Opeck") and Xuzhou Jinjiang, respectively, requested new shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the PRC, in accordance with 19 CFR 351.214(c). On November 4, 2005, the Department initiated new shipper reviews of Xuzhou Jinjiang and Xiping Opeck covering the period September 1, 2004, through August 31, 2005. *See Freshwater Crawfish Tail Meat From the People's Republic of China: Initiation of Antidumping Duty New Shipper Reviews*, 70 FR 67138 (November 4, 2005). The POR for the new shipper review of Xiping Opeck is September 1, 2004, through August 31, 2005. The POR for Xuzhou Jinjiang's new shipper review is September 1, 2004, through October 5, 2005. *See Memorandum to the File*, though Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, from Scot T. Fullerton, International Trade Analyst, AD/CVD Operations, Office 9, regarding *Expansion of the Period of Review in the New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China: Xuzhou Jinjiang Foodstuffs Co. Ltd.* (September 22, 2006) expanding the POR to include an entry related to Xuzhou Jinjiang's sale(s) to the United States made during the normal POR.

On February 15, 2006, the administrative review was rescinded for China Kingdom, Jiangsu Hilong, Qingdao Zhengri, Weishan Zhenyu, Yancheng Haiteng, Yancheng Yaou, and Ningbo Nanlian, because the requesting parties, the Crawfish Processors Alliance ("Petitioners"), the Louisiana Department of Agriculture and Forestry, and Bob Odom, Commissioner (collectively, the Domestic Interested Parties) and Ningbo Nanlian withdrew their requests for administrative review pursuant to section 351.213(d)(1) of the Department's regulations. *See Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 7915 (February 15, 2006) ("Partial Rescission of Administrative Review"). Jiangsu JOM, Shanghai Sunbeauty, Qingdao JYX, Qingdao Wentai, Xuzhou Jinjiang, and Yancheng Hi-King remain subject to the administrative review.

On February 16, 2006, and February 21, 2006, Xuzhou Jinjiang and Xiping Opeck, respectively, in accordance with section 351.214(j)(3) of the Department's regulations, agreed to waive the

Wentai, covers entries from March 1, 2005, through August 31, 2005.

applicable time limits for their new shipper reviews so that the Department could conduct the new shipper reviews concurrently with the 2004/2005 administrative review of freshwater crawfish tail meat from the PRC. *See Freshwater Crawfish Tail Meat From the People's Republic of China: Notice of Postponement of Time Limits for New Shipper Antidumping Duty Reviews in Conjunction With Administrative Review*, 71 FR 13963 (March 20, 2006).

On May 19, 2006, the Department extended the deadline for the preliminary results of the administrative and new shipper reviews until October 2, 2006. *See Freshwater Crawfish Tail Meat from the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review*, 71 FR 29121 (May 19, 2006).

### Scope of Order

The product covered by this antidumping duty order 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 ("HTSUS") under item numbers 1605.40.10.10 and 1605.40.10.90, which are the new HTSUS numbers for prepared foodstuffs, indicating peeled crawfish tail meat and other, as introduced by U.S. Customs and Border Protection ("CBP") in 2000, and HTSUS numbers 0306.19.00.10 and 0306.29.00.00, which are reserved for fish and crustaceans in general. The HTSUS subheadings are provided for convenience and customs purposes only. The written description of the scope of this order is dispositive.

### Respondents

On November 10, 2005, the Department issued a quantity and value questionnaire to all respondents for which an administrative review was initiated. The Department received timely responses from: Yancheng Hi-King (November 16, 2005), Yancheng Haiteng (November 22, 2005), Qingdao JYX (November 25, 2005), Xuzhou Jinjiang (November 25, 2005), Weishan Zhenyu (November 25, 2005), Qingdao Wentai (November 25, 2006), Jiangsu

JOM (November 26, 2005), Shanghai Sunbeauty (November 26, 2005), and Ningbo Nanlian (November 29, 2005). Both Yancheng Hi-King and Yancheng Haiteng responded to the Department's request for sales quantity and value information indicating they had no sales, entries or exports of subject merchandise during the POR. Qingdao Wentai indicated that it did not export freshwater crawfish tail meat to the United States between March 1, 2005, and August 31, 2005 (*i.e.*, the period not covered by its semi-annual new shipper review).

On November 28, 2005, we issued antidumping duty questionnaires to the two new shippers: Xuzhou Jinjiang and Xiping Opeck. *See* letters to Xuzhou Jinjiang and Xiping Opeck from Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, regarding *Freshwater Crawfish Tail Meat from the People's Republic of China, New Shipper Review (9/1/04 - 8/31/05)*, (November 28, 2005).

On December 5, 2005, we issued antidumping duty questionnaires to Jiangsu JOM, Ningbo Nanlian, Qingdao JYX, Shanghai Sunbeauty, and Weishan Zhenyu. *See* letters to Jiangsu JOM, Ningbo Nanlian, Qingdao JYX, Shanghai Sunbeauty, and Weishan Zhenyu from Christopher D. Riker, Program Manager, China/NME Group, Office 9, Import Administration, regarding *Freshwater Crawfish Tail Meat from the People's Republic of China, Administrative Review (9/1/04-8/31/05)*, (December 5, 2005).

On December 27, 2005, Weishan Zhenyu responded to section A of the Department's questionnaire. On December 29, 2005, Xuzhou Jinjiang and Xiping Opeck submitted their responses to section A of the Department's questionnaire. Additionally, on January 4, 2006, Jiangsu JOM, Shanghai Sunbeauty, Ningbo Nanlian responded to section A of the Department's questionnaire. On January 4, 2006, Qingdao JYX submitted its response to section A of the questionnaire.

The Department received responses to sections C & D of its questionnaire from Weishan Zhenyu (January 10, 2006); Xiping Opeck (January 17, 2006); Xuzhou Jinjiang (January 18, 2006); Qingdao JYX (January 19, 2006); Jiangsu JOM (January 20, 2006); and Shanghai Sunbeauty (January 24, 2006). On January 12, 2006, the Department issued a supplemental section A questionnaire to Jiangsu JOM.

On January 23, 2006, the petitioners filed a letter timely withdrawing their request for review of China Kingdom, Jiangsu Hilong, Qingdao Zhengri, Weishan Zhenyu, Yancheng Haiteng,

Yancheng Yaou, and Ningbo Nanlian. In addition, Ningbo Nanlian filed a letter, on January 23, 2006, withdrawing its own request for an administrative review. Therefore, the Department rescinded the administrative review for these companies. *See Partial Rescission of Administrative Review*.

On January 25, 2006, Jiangsu JOM submitted its supplemental section A response. On February 2, 2006, the Department issued supplemental questionnaires to Xiping Opeck and Shanghai Sunbeauty, who replied on February 16, 2006.

On February 17, 2006, the Department issued a supplemental questionnaire to Shanghai Sunbeauty and Xiping Opeck. On March 2, 2006, the Department issued a supplemental questionnaire to Xuzhou Jinjiang, and on March 3, 2006, the Department issued a supplemental questionnaire to Jiangsu JOM.

On March 16, 2006, Shanghai Sunbeauty withdrew from the administrative review and indicated it would not respond to the Department's February 17, 2006, sections C & D supplemental questionnaire. On March 20, 2006, and March 21, 2006, Xiping Opeck responded to the Department's February 17, 2006, questionnaire. On March 30, 2006, Qingdao JYX submitted its reply to the importer-specific portion of the Department's questionnaire. On April 3, 2006, Jiangsu JOM submitted its response to the Department's March 3, 2006, supplemental questionnaire. On April 5, 2006, Xuzhou Jinjiang submitted its response to the Department's March 2, 2006, supplemental questionnaire.

On May 9, 2006, the Department issues a supplemental questionnaire to Jiangsu JOM, and on May 22, 2006, Jiangsu JOM submitted its response. On May 25, 2006, Xiping Opeck responded to the Department's May 11, 2006, questionnaire. On June 15, 2006, Qingdao JYX submitted its reply to the Department's June 1, 2006, supplemental questionnaire. Finally, on July 21, 2006, Xuzhou Jinjiang submitted its response to the Department's July 7, 2006, supplemental questionnaire.

On August 7, 2006, and August 14, 2006, the Department issued verification outlines to Xuzhou Jinjiang and Xiping Opeck, respectively. The Department conducted verification of the responses of Xuzhou Jinjiang from August 14 through August 17, 2006, and Xiping Opeck from August 21 through 24, 2006. Jiangsu JOM did not allow the Department to conduct verification during production season. *See Verification* section below. On August 21, 2006, Xiping Opeck submitted

minor corrections presented at verification.

On September 27, 2006, the Department released the verification reports for Xuzhou Jinjiang and Xiping Opeck. See *Verification of the Sales and Factors Response of Xuzhou Jinjiang Foodstuffs Co., Ltd. in the Antidumping New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China* (September 27, 2006) ("Xuzhou Jinjiang Verification Report"); *Verification of the Sales and Factors Response of Xiping Opeck Food Co., Ltd. in the Antidumping New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China* (September 27, 2006) ("Xiping Opeck Verification Report");

#### Surrogate Country and Factors

On December 16, 2005, the Department provided parties with an opportunity to submit publicly available information ("PAI") on surrogate countries and values for consideration in these preliminary results. The Department received surrogate value proposals from Xuzhou Jinjiang and Qingdao Wentai on February 16, 2006.

#### Verification

On November 22, 2005, and November 29, 2005, domestic interested parties requested that the Department conduct verification of the data submitted by all of the firms for which the Department initiated an administrative or new shipper review, respectively. However, due to the Department's resource constraints in conducting these reviews, we only selected Xuzhou Jinjiang, Xiping Opeck and Jiangsu JOM for verification pursuant to section 782(i)(2) of the Tariff Act of 1930, as amended ("the Act") and 19 CFR 351.307. As noted above, Jiangsu JOM did not allow the Department to conduct verification of the information it placed on the record of the administrative review during production season. See Memorandum to James Doyle, Director, AD/CVD Operations, Office 9, from Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, regarding *Freshwater Crawfish Tail Meat from the People's Republic of China: Preliminary Application of Adverse Facts Available to Jiangsu Jiushoutang Organisms-Manufacturers Co., Ltd.* (October 2, 2006) ("Jiangsu JOM AFA Memo").

For the companies we did verify, we used standard verification procedures, including on-site inspection of the manufacturers' and exporters' facilities, and examination of relevant sales and financial records. Our verification results are outlined in the verification

report for each company. For a further discussion, see Xuzhou Jinjiang Verification Report and Xiping Opeck Verification Report.

#### Preliminary Partial Rescission of 2004/2005 Administrative Review

With respect to Yancheng Hi-King, the firm informed the Department that it did not export the subject merchandise to the United States during the POR. In order to corroborate its submissions, we reviewed PRC freshwater crawfish tail meat shipment data maintained by CBP, and noted no discrepancies with the statements made by this firm.

Qingdao Wentai indicated that its semi-annual new shipper review covered all of its exports of freshwater crawfish tail meat which would be subject to the administrative review. Moreover, the Department has determined that Qingdao Wentai's single sale was not *bona fide* and could not serve as the basis for the calculation of a dumping margin. See *Rescission of Antidumping Duty New Shipper Review*.

Therefore, for the reasons mentioned above, we are preliminarily rescinding the administrative review with respect to Yancheng Hi-King and Qingdao Wentai. See 19 CFR 351.213(d)(3).

#### Bona Fide Sale Analysis – Xiping Opeck & Xuzhou Jinjiang

For the reasons stated below, we preliminarily find that Xiping Opeck's and Xuzhou Jinjiang's reported U.S. sales during the POR appear to be *bona fide* based on the totality of the facts on the record. Specifically, we find that: (1) The prices of Xiping Opeck's and Xuzhou Jinjiang's sales were within the range of the prices of other entries of subject merchandise from the PRC into the United States during the POR; (2) Xiping Opeck's and Xuzhou Jinjiang's sales were made to unaffiliated parties at arm's length; and (3) there is no record evidence that indicates that Xiping Opeck's and Xuzhou Jinjiang's sales were not made based on commercial principles. While the quantity of Xiping Opeck's and Xuzhou Jinjiang's sales were low compared to other entries of subject merchandise from the PRC into the United States during the POR, absent other factors, single sales of low quantities are not inherently commercially unreasonable. See Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, Import Administration, through Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, from P. Lee Smith, International Trade Analyst, AD/CVD Operations, Office 9, regarding *2004/2005 Antidumping Duty New*

*Shipper Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat from the People's Republic of China: Bona Fide Analysis of the Sale(s) Reported by Xuzhou Jinjiang Foodstuffs Co., Ltd.* (October 2, 2006); see also Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, through Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, from P. Lee Smith, International Trade Analyst, AD/CVD Operations, Office 9, regarding *2004/2005 Antidumping Duty New Shipper Review of the Antidumping Duty Order on Freshwater Crawfish Tail Meat from the People's Republic of China: Bona Fide Analysis of the Sale(s) Reported by Xiping Opeck Food Co., Ltd.* (October 2, 2006).

#### Non-Market Economy Country

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy ("NME") country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is a NME country shall remain in effect until revoked by the administering authority. See, e.g., *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 7013 (February 10, 2006). None of the parties to this proceeding has 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 (A) are at a level of economic development comparable to that of the NME country, and (B) are significant producers of comparable merchandise. Of the five countries identified by the Office of Policy as economically comparable to the PRC, none are significant producers of crawfish tail meat. See Letter to "All Interested Parties" from Christopher D. Riker, Program Manager, AD/CVD Operations 9, regarding *Administrative and New Shipper Reviews of Freshwater Crawfish Tail Meat from the People's Republic of China* ("PRC") at Attachment I (December 16, 2005).

However, India does have a seafood processing industry that is a comparable industry with respect to factory overhead, SG&A and profit. Therefore, we used India as the primary surrogate country to value all inputs with the exception of the raw material (whole live crawfish) and the by-product

(crawfish scrap shell). Because we have determined that other forms of seafood are not sufficiently comparable to serve as surrogate values for the primary input and India does not have a crawfish industry, we have considered other countries in which to value the crawfish input. As done in prior segments of this proceeding, we have decided to use Spain as the surrogate country for the valuation of whole live crawfish because we have found that Spain is a significant producer of comparable merchandise, *i.e.*, whole crawfish, and has publicly available import statistics that are contemporaneous to the POR. See Memorandum to the File, through Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, from Michael Quigley, International Trade Analyst, AD/CVD Operations, Office 9, regarding Administrative and New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China: Factor Valuation (October 2, 2006) ("Factor Valuation Memo"); and *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 19546 (April 22, 2002) ("1999–2000 Final Results").

In addition, we have decided to use Indonesia as the surrogate country for the valuation of the crawfish by-product scrap because Indonesia is at a level of economic development comparable to the PRC, has significant production of merchandise comparable to the by-product scrap, and has publicly available data (*i.e.*, a public price quote from an Indonesian company) that has been used in prior segments of this proceeding. See Memorandum to Barbara E. Tillman from Christian Hughes and Adina Teodorescu through Maureen Flannery re: *Surrogate Valuation of Shell Scrap: Freshwater Crawfish Tail Meat from the People's Republic of China, Administrative Review 9/1/00–8/31/01 and New Shipper Reviews 9/1/00–8/31/01 and 9/1/00–10/15/01* (August 5, 2002), which was placed on the record of this review in the *Factor Valuation Memo*, Attachment 3. We have not received comments from interested parties suggesting other possible surrogate values for these factors and have found no other data. We note that Xuzhou Jinjiang and Qingdao Wentai also suggested the use of Spanish import data to value whole live crawfish. For further discussion of our surrogate country selection, see Memorandum to the File, through James C. Doyle,

Director, AD/CVD Operations, Office 9 and Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, from Michael Quigley, International Trade Analyst, AD/CVD Operations, Office 9, regarding *2004/2005 Administrative and New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China: Selection of a Surrogate Country* (October 2, 2006) ("Surrogate Country Memorandum").

#### **Facts Available – Jiangsu JOM & Shanghai Sunbeauty**

For the reasons outlined below, we have applied total adverse facts available to Jiangsu JOM and Shanghai Sunbeauty. Section 776(a)(2) of the Act provides that, if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to section 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

The Department expressed a need to conduct verification during production season in order to witness first-hand the production process and the consumption of the reported factors of production during production operations. However, despite several attempts by the Department to find a date which would be acceptable for Jiangsu JOM, the company would not permit the Department to conduct verification during the production season. See *Jiangsu JOM AFA Memo*.

Because Jiangsu JOM would not permit the Department to verify the information it placed on the record of the administrative review, we find that Jiangsu JOM did not provide the Department with verifiable information. Therefore, pursuant to section 776(a)(2)(D) of the Act, the use of facts otherwise available is appropriate in reaching the applicable determination for Jiangsu JOM.

Additionally, as noted above, Shanghai Sunbeauty submitted a letter to the Department withdrawing from the administrative review on March 16, 2005, in lieu of responding to a request for information. By not responding to the Department's request for information, Shanghai Sunbeauty failed to provide critical information to be used for the Department's margin calculation, significantly impeded the review, and provided unverifiable

information. See Memorandum to James Doyle, Director, AD/CVD Operations, Office 9, Import Administration, from Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, Import Administration, regarding *Freshwater Crawfish Tail Meat from the People's Republic of China: Preliminary Application of Adverse Facts Available to Shanghai Sunbeauty Trading Co., Ltd.* (October 2, 2006) ("Shanghai Sunbeauty AFA Memo"). Therefore, pursuant to sections 776(a)(2)(A), (C), and (D) of the Act, the Department must apply facts available.

By failing to respond to the Department's requests for information and by not allowing the Department to conduct verification, Shanghai Sunbeauty and Jiangsu JOM, respectively, have not proven they are free of government control and are therefore not eligible to receive a separate rate. In the *Initiation Notice*, the Department stated that if one of the companies on which we initiated a review does not qualify for a separate rate, all other exporters of freshwater crawfish tail meat from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC-wide entity of which the named exporter is a part. See *Initiation Notice* at n.1. For these preliminary results, both Shanghai Sunbeauty and Jiangsu JOM will be part of the PRC-wide entity, subject to the PRC-wide rate.

According to section 776(b) of the Act, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of the party as facts otherwise available. Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See Statement of Administrative Action ("SAA") accompanying the Uruguay Round Agreements Act ("URAA"), H.R. Rep. No. 103–316 at 870 (1994).

As explained above, the PRC-wide entity (including Shanghai Sunbeauty and Jiangsu JOM) would either not permit the Department to verify information placed on the record or informed the Department that it would not participate further in this review and did not respond to the Department's requests for information. Therefore, the PRC-wide entity did not cooperate to the best of its ability. Because the PRC-wide entity did not cooperate to the best of its ability in the proceeding, the Department finds it necessary, pursuant

to sections 776(a)(2)(D) and 776(b) of the Act, to use adverse facts available (“AFA”) as the basis for these preliminary results of review for the PRC-wide entity.

#### Selection of AFA Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. In reviews, the Department normally selects, as AFA, the highest rate determined for any respondent in any segment of the proceeding. *See, e.g., Freshwater Crawfish Tail Meat from the People’s Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 68 FR 19504 (April 21, 2003). The Court of International Trade (“CIT”) and the Federal Circuit have consistently upheld the Department’s practice. *See Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990) (“*Rhone Poulenc*”); *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1335 (Ct. Int’l Trade 2004) (upholding a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in a LTFV investigation); *see also Kompass Food Trading Int’l v. United States*, 24 CIT 678, 689 (2000) (upholding a 51.16% total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and *Shanghai Taoen International Trading Co., Ltd. v. United States*, Slip Op. 05–22, at 16 (CIT February 17, 2005) (upholding a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review). The Department’s practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse “as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner.” *See Static Random Access Memory Semiconductors from Taiwan: Final Determination of Sales at Less than Fair Value*, 63 FR 8909, 8932 (February 23, 1998). The Department’s practice also ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.” *See SAA at 870; see also Final Determination of Sales at Less than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 76910 (December 23,

2004); *D&L Supply Co. v. United States*, 113 F. 3d 1220, 1223 (Fed. Cir. 1997). In choosing the appropriate balance between providing respondents with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent’s prior commercial activity, selecting the highest prior margin “reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.” *See Rhone Poulenc*, 899 F.2d at 1190. Consistent with the statute, court precedent, and its normal practice, the Department has assigned the rate of 223.01 percent, the highest rate calculated in any segment of the proceeding, to the PRC-wide entity (including Shanghai Sunbeauty and Jiangsu JOM) as AFA. *See, e.g., Freshwater Crawfish Tail Meat From the People’s Republic of China: Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 19546 (April 22, 2002). As discussed further below, this rate has been corroborated.

#### Corroboration of Secondary Information

Section 776(c) of the Act provides that when the Department relies on the facts otherwise available and on “secondary information,” the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department’s disposal. The SAA states that “corroborate” means to determine that the information used has probative value. *See SAA at 870*. The Department has determined that to have probative value, information must be reliable and relevant. *See SAA at 870; see also Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from Japan*, 61 FR 57391, 57392 (November 6, 1996). The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See Preliminary Determination of Sales at Less Than Fair Value: High and Ultra-High Voltage Ceramic Station Post Insulators from Japan*, 68 FR 35627 (June 16, 2003); and *Final Determination of Sales at Less Than Fair Value: Live Swine from Canada*, 70 FR 12181 (March 11, 2005).

The reliability of the AFA rate was determined by the calculation of the margin based on sales and production data of a respondent in a prior review, and on the most appropriate surrogate value information available to the Department, chosen from submissions by the parties in that review, as well as information gathered by the Department itself. Furthermore, the calculation of this margin was subject to comment from interested parties in the proceeding. *See 1999–2000 Final Results*. The Department has received no information to date that warrants revisiting the issue of the reliability of the rate calculation itself. This rate has been used as AFA in every subsequent segment of this proceeding and the Department has received no comments challenging the reliability of the margin. No information has been presented in the current review. Thus, the Department finds that the margin calculated in the 1999–2000 review is reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company’s uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited. *See D & L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). None of these unusual circumstances are present here. As there is no information on the record of this review that indicates that this rate is not relevant as AFA for the PRC-wide entity, we determine that this rate is relevant. Because the rate is both reliable and relevant it has probative value. Accordingly, we determine that the highest rate determined in any segment of this administrative proceeding (*i.e.*, 223.01 percent) is corroborated (*i.e.*, it has probative value).

#### Separate Rates

To establish whether a company operating in an NME 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) (“*Sparklers*”), 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 (May 2, 1994). Under the separate-rates criteria, the Department assigns separate rates in NME cases only if the respondent can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

As discussed above, Jiangsu JOM would not permit verification, and Shanghai Sunbeauty refused to respond to the Department's requests for information and withdrew from the administrative review. See *Jiangsu JOM AFA Memo*, and *Shanghai Sunbeauty AFA Memo*. Therefore, the Department was unable to verify Jiangsu JOM's and Shanghai Sunbeauty's questionnaire responses concerning their eligibility for a separate rate. The Department therefore determines that both Shanghai Sunbeauty and Jiangsu JOM have not established that they are eligible for a separate rate. See “*Facts Available – Jiangsu JOM & Shanghai Sunbeauty*” section above.

#### *De Jure Control*

The Department considers the following criteria in determining whether an individual company is free of *de jure* absence of government control over export activities: (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. See *Sparklers*, 56 FR at 20588.

In their questionnaire responses, Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX stated that they are independent legal entities, and evidence placed on the record indicates that the government does not have *de jure* control over their export activities. Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX submitted evidence of their legal right to set prices independent of all governmental oversight. Furthermore, the business licenses of Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX indicate that they are permitted to engage in the exportation of freshwater crawfish tail meat. We also found no evidence of *de jure* governmental control restricting

Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX's exportation of freshwater crawfish tail meat.

In their responses, Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX stated that 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 freshwater crawfish tail meat 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. The *Company Law of the People's Republic of China*, made effective on July 1, 1994, with the amended version promulgated on August 28, 2004, states that a company is an enterprise legal person, that shareholders shall assume liability towards the company to the extent of their shareholdings and that the company shall be liable for its debts to the extent of all its assets. Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX also provided copies of the *Foreign Trade Law of the PRC*, promulgated on May 12, 1994, which identifies the rights and responsibilities of organizations engaged in foreign trade, grants autonomy to foreign-trade operators in management decisions and establishes the foreign trade operator's accountability for profits and losses. Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX also provided copies of their business licenses stating their right to conduct business within the scope of their licenses. The Department, therefore, preliminarily determines that there is an absence of *de jure* control over the export activities of Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX.

#### *De Facto Control*

The Department typically considers four factors in evaluating whether a respondent is subject to *de facto* government control over its exports: (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. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX have each asserted the following: (1) Each establishes its own export prices; (2) each negotiates contracts without guidance from any governmental entities or organizations; (3) each makes its own personnel decisions; and (4) each retains the proceeds of its export sales, uses profits according to its business needs, and has the authority to sell its assets and to obtain loans. Moreover, the Department verified that Xiping Opeck and Xuzhou Jinjiang are free of *de facto* government control. Based upon information on the record, there is a sufficient basis to preliminarily determine that Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX have all demonstrated absence of *de facto* governmental control of their export functions. Therefore, because Xiping Opeck, Xuzhou Jinjiang and Qingdao JYX operate free of *de jure* and *de facto* government control, the Department has preliminarily determined that Xiping Opeck, Xuzhou Jinjiang, and Qingdao JYX have satisfied the criteria for separate rates based on the documentation each has submitted on the record.

#### **Normal-Value Comparisons**

To determine whether Xiping Opeck's, Xuzhou Jinjiang's and Qingdao JYX's sales of the subject merchandise to the United States were made at prices below NV, their United States prices were compared to NV, as described in the “United States Price” and “Normal Value” sections of this notice.

#### *United States Price*

For Xiping Opeck, Xuzhou Jinjiang and Qingdao JYX, the Department based U.S. price on export price (“EP”) in accordance with section 772(a) of the Act, because the first sales to unaffiliated purchasers were made prior to importation, and constructed export price (“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. Where applicable, foreign inland freight, foreign brokerage and handling expenses, and ocean freight were deducted from the starting price (gross unit price) in accordance with section 772(c) of the Act.

#### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using a factors of production (“FOP”) methodology if the merchandise is exported from an NME country and the 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 and 19 CFR 351.408. The Department will base NV on the factors of production because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under its normal methodologies. *See Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 70 FR 29744, 39754 (July 11, 2005) (unchanged in final results).

For purposes of calculating NV, we selected surrogate values for the PRC factors of production in accordance with section 773(c)(1) of the Act. Factors of production include, but are not limited to, hours of labor required, quantities of raw materials employed, amounts of energy and other utilities consumed, and representative capital costs, including depreciation. *See* section 773(c)(3) of the Act. In choosing surrogate values, we selected, where possible, a publicly available value which was an average country-wide, non-export value, representative of a range of prices within the POR or most contemporaneous with the POR, product-specific, and tax-exclusive. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates from the People’s Republic of China*, 69 FR 75294, 75300 (December 16, 2004) (“*Chlorinated Isocyanurates*”). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. *See Manganese Metal from the People’s Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12442 (March 13, 1998).

#### Factor Valuations

In accordance with section 773(c) of the Act, the Department calculated NV based on the FOPs reported by Xiping Opeck, Xuzhou Jinjiang and Qingdao JYX for the POR. To calculate NV, the reported per-unit factor quantities was multiplied by publicly available surrogate values. As appropriate, we adjusted input prices by including freight costs to reflect delivered prices. For a detailed explanation of all surrogate values used for respondents, *see Factor Valuation Memo*.

Except where discussed below, we valued raw material inputs using September 2004–August 2005 weighted-average Indian import values derived from the *World Trade Atlas* online (“WTA”) (*see Factor Valuation Memo*). The Indian import statistics we obtained from the WTA were published by the DGCI&S, Ministry of Commerce of India and are contemporaneous with the POR. As the Indian surrogate values were denominated in rupees, they were converted to U.S. dollars using the exchange rate for India on the date of the applicable sale. The daily exchange rate was the exchange rate data from the Department’s website, which are taken from publicly available data from the Federal Reserve and Dow Jones. *See* <http://www.ia.ita.doc.gov/exchange/index.html>. Where we could not obtain publicly available information contemporaneous with the POR with which to value factors, we adjusted the publicly available information for inflation using Indian wholesale price indices (“WPIs”) as published in the International Monetary Fund’s *International Financial Statistics* (“IFS”). *See Factor Valuation Memo*.

In instances where we relied on Indian import data to value inputs, in accordance with the Department’s practice, we excluded imports from both NME countries and countries deemed to maintain broadly available, non-industry-specific subsidies which may benefit all exporters to all export markets (*i.e.*, Indonesia, South Korea, and Thailand) from our surrogate value calculations. *See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields from the People’s Republic of China*, 67 FR 6482 (February 12, 2002) and accompanying Issues and Decision Memorandum at Comment 1. *See, also, Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Color Television*

*Receivers From the People’s Republic of China*, 68 FR 66800, 66808 (November 28, 2003), unchanged in the Department’s final determination at 69 FR 20594 (April 16, 2004). Additionally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, because the Department could not be certain that they were not from either an NME or a country with generally available export subsidies.

#### Surrogate Valuations

To value the input of whole live crawfish we used publicly available data for Spanish imports of whole live crawfish from Portugal. The Department obtained the data from “aduanas e I.especiales,” the Spanish Customs database for foreign trade statistics (Estadísticas Comercio Exterior). *See Factor Valuation Memo, Attachment 2*.

The Department derived a price for polyethylene bags during the POR from Indian import statistics for HTS subheading 3923.21 from the WTA. *See Factor Valuation Memo, at Attachment 4*.

To value a by-product, crawfish shell scrap, the Department used a price quote from Indonesia for wet crab and shrimp shells. *See Factor Valuation Memo, at Attachment 3; see also Surrogate Country Memorandum*.

Section 351.408(c)(3) of the Department’s regulations requires the use of a regression-based wage rate. Therefore, to value the labor input, the Department used the regression-based wage rate for China published by Import Administration on its website. *See* <http://www.ia.ita.doc.gov/wages/index.html>.

To calculate the cost of coal, the Department used Indian import data for steam coal (HTS subheading 2710.19.04) for calendar year 2005 obtained from the WTA. *See Factor Valuation Memo, at Attachment 7*.

We valued diesel using the rates provided by the OECD’s International Energy Agency’s publication: Key World Energy Statistics from the first quarter of 2005. *See Factor Valuation Memo, at Attachment 9*.

To value water, the Department used the industrial water rates within the Maharashtra Province of India from June 2003. To achieve comparability of water prices to the factors reported for the POR, we adjusted this factor value to reflect inflation to the POR using the WPI for India, as published in the 2005 IFS. *See Factor Valuation Memo, at Attachment 8*.

To value SG&A, factory overhead and profit, the Department used the 2002–2003 financial statements from Nekkanti

Sea Foods Ltd. (“Nekkanti”), an Indian seafood processor. *See Factor Valuation Memo*, at Attachment 11.

For foreign inland freight, respondents reported that all raw materials were delivered by truck. Respondents reported the distance of the material inputs in kilometers, from the supplier of the material input to the factory. In calculating the freight rate, the Department used the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory, in accordance with the Court of Appeals for the Federal Circuit’s decision in *Sigma Corp. v. United States*, 117 F. 3d 1401 (Fed. Cir. 1997). To value the cost of truck freight, we used an average truck freight cost based on Indian market truck freight rates obtained from the web site <http://www.infreight.com>, and inflated the value to be contemporaneous to the POR. To derive the freight cost for each material input, the Department multiplied the surrogate freight value by the freight distance and subsequently multiplied this value by the reported quantity of the input consumed in the production of one unit of the subject merchandise during the POR. The Department added the freight expense to the cost of the material input to determine gross material costs (*see Factor Valuation Memo*, at Attachment 12).

To value the inland freight expense for packaged crawfish tail meat from the producer to the port of export, the Department used an Indian refrigerated truck freight rate based on price quotations from CTC Freight Carriers of Delhi, India, placed on the record of the antidumping investigation of Certain Frozen Warmwater Shrimp from the PRC and inflated the value to be contemporaneous with the POR. The Department has placed this information on the record of this proceeding (*see Factor Valuation Memo*, at Attachment 13).

To value brokerage and handling, the Department used a simple average of the publicly summarized versions of the average value for brokerage and handling expenses reported in the: (1) U.S. sales listings of the February 28, 2005, submission from Essar Steel Ltd. (“Essar Steel”) taken from the administrative review of Certain Hot-Rolled Carbon Steel Flat Products from India, for which the POR was December 1, 2003, through November 30, 2004, and (2) U.S. sales listings of the March 2, 2006, submission from Agro Dutch Industries Ltd. (“Agro Dutch”), taken from the administrative review of certain preserved mushrooms from India, for which the POR was February

1, 2004 through January 31, 2005. *See Certain Hot-Rolled Carbon Steel Flat Products From India: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 2018 (January 12, 2006); *Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 71 FR 10646 (March 2, 2006); *see also* Public version of section C questionnaire response from Essar Steel Limited; and public version of section C questionnaire response from Agro Dutch. The reported rates of Essar Steel and Agro Dutch were contemporaneous with the POR. The Department has placed this information on the record of this proceeding (*see Factor Valuation Memo*, Attachment 15).

Where respondent used an NME shipper, we valued international freight expenses using freight quotes from Maersk Sealand, a market-economy shipper. These quotes have been used in prior reviews of this case. *See Freshwater Crawfish Tail Meat from the People’s Republic of China: Notice of Final Results of Antidumping Duty Administrative Review and New Shipper Reviews, and Final Partial Rescission of Administrative Review*, 66 FR 20634 (April 24, 2001). We obtained quotes for each month from September 2003 through August 2004, from the PRC to the West Coast of the United States, took a simple average, and inflated the value as necessary. *See Factor Valuation Memo*, Attachment 14.

Finally, we note that Xiping Opeck erred in reporting its electrical consumption and the distance from the factory to port of export. For a more detailed explanation, *see* Xiping Opeck Verification Report. Therefore, for purposes of these preliminary results, we are amending the reported consumption of electricity, and the reported distance from factory to port of export. *See Memorandum to the File*, through Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, from Erin Begnal, Senior International Trade Analyst, AD/CVD Operations, Office 9, regarding *Freshwater Crawfish Tail Meat from the People’s Republic of China— Analysis Memorandum for the Preliminary Results of New Shipper Review of Xiping Opeck Food Co., Ltd.* (October 2, 2006).

#### Currency Conversions

We made currency conversions using exchange rates obtained from the website of Import Administration at <http://ia.ita.doc.gov/exchange/index.html>.

#### Preliminary Results of Reviews

We preliminarily determine that the following margins exist for Xiping Opeck and Qingdao JYX during the period September 1, 2004, through August 31, 2005; and for Xuzhou Jinjiang during the period September 1, 2004, through October 5, 2005:

Company	Weighted-Average Margin (Percent)
Xiping Opeck Food Co., Ltd. ....	35.66
Xuzhou Jinjiang Food-stuffs Co., Ltd. ....	0.00
Qingdao Jinyongxiang Aquatic Foods Co., Ltd. ....	51.60
PRC-Wide Rate	Margin (Percent)
PRC-Wide Rate <sup>2</sup> .....	223.01

<sup>2</sup>The PRC-wide entity includes Shanghai Sunbeauty and Jiangsu JOM.

We will disclose the calculations used in our analysis to parties to these proceedings within five days of the date of publication of this notice.

Case briefs from interested parties may be submitted not later than 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

Any interested party may request a hearing within 30 days of publication of this notice. Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain: (1) The party’s name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *See* 19 CFR 351.310(c). Issues raised in the hearing will be limited to those raised in the briefs.

The Department will issue the final results of these reviews, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

#### Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on

all appropriate entries. The Department will issue appropriate appraisal instructions for the companies subject to these reviews directly to CBP within 15 days of publication of the final results of these reviews. For assessment purposes for companies with a calculated rate, where possible, the Department calculated importer-specific assessment rates for freshwater crawfish tail meat from the PRC on a per-unit basis. Specifically, the Department divided the total dumping margins (calculated as the difference between normal value and 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. The Department will direct CBP to assess 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. However, 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 these reviews and for future deposits of estimated duties, where applicable.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of these reviews for all shipments of the subject merchandise 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) For the exporters listed above, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or de minimis, no cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed review; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 223.01 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

#### Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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.

These administrative, new shipper reviews, and notice are in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i) of the Act and 19 CFR 351.213 and 351.214.

Dated: October 2, 2006.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E6-16677 Filed 10-6-06; 8:45 am]

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#### DEPARTMENT OF COMMERCE

##### International Trade Administration

[A-580-844]

#### Steel Concrete Reinforcing Bar From The Republic of Korea: Notice of Preliminary Results and Preliminary Rescission, in Part, of Antidumping Duty Administrative Review

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

**SUMMARY:** In response to requests by Dongkuk Steel Mill Co. Ltd. (DSM), a producer/exporter of the subject merchandise, and petitioners,<sup>1</sup> the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on steel concrete reinforcing bar (rebar) from the Republic of Korea (Korea). This review covers seven producers/exporters of the subject merchandise. The period of review (POR) is September 1, 2004, through August 31, 2005.

As discussed below, the Department has preliminarily determined to collapse DSM, Korea Iron and Steel Co., Ltd. (KISCO), and Hwanyoung Steel Industries Co. (HSI), into a single entity for purposes of this administrative review. We preliminarily determine that DSM/KISCO/HSI made sales at less than normal value (NV) during the POR.

<sup>1</sup> The petitioners are the Rebar Trade Action Coalition and its individual members—Gerdau Ameristeel, CMC Steel Group, Nucor Corporation, and TAMCO.

Further, as a result of our review, we preliminarily determine that three respondents had no sales or shipments of subject merchandise to the United States during the POR. Therefore, we are preliminarily rescinding the review with respect to these respondents. One remaining respondent, Dongil Industries Co. Ltd. (Dongil), failed to respond to our questionnaire. As a result, we are basing our preliminary results for Dongil on total adverse facts available (AFA). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on these preliminary results of review. Unless we extend the deadline, we will issue the final results of review no later than 120 days from the date of publication of this notice.

**DATES:** *Effective Date:* October 10, 2006.

**FOR FURTHER INFORMATION CONTACT:**

Mark Manning or Drew Jackson, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-5253, or (202) 482-4406, respectively.

#### Background

On September 7, 2001, the Department published an antidumping duty order on rebar from Korea. *See Antidumping Duty Orders: Steel Concrete Reinforcing Bars From Belarus, Indonesia, Latvia, Moldova, People's Republic of China, Poland, Republic of Korea and Ukraine*, 66 FR 46777 (September 7, 2001). On September 1, 2005, the Department published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" of the antidumping duty order on rebar from Korea. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 52072 (September 1, 2005). On September 21, 2005, in accordance with 19 CFR 351.213(b)(2), DSM requested that the Department conduct an administrative review of its sales and entries of subject merchandise into the United States during the POR. Additionally, in accordance with 19 CFR 351.213(b)(1), on September 30, 2005, petitioners requested that the Department conduct a review of DSM, Dongil, Hanbo Iron & Steel Co., Ltd. (Hanbo), INI Steel (INI), Kosteel Co., Ltd (Kosteel), and KISCO. On October 25, 2005, the Department initiated an