

consumption on a color-specific basis. Max Fortune stated it does not maintain records for dye and ink consumption in the papermaking and paper printing stages of production on a color specific basis. Thus, Max Fortune could not report ink and dye consumption data in a manner requested by the Department. As a result, we determined that it was necessary to apply facts otherwise available to Max Fortune. Petitioner argues that we should apply an adverse inference, pursuant to section 776(b) of the Act, to Max Fortune's calculation. However, we have concluded that Max Fortune acted to the best of its ability in providing responses to the Department's questionnaires. Thus, consistent with the Department's application in the previous segment of the instant review and in the *Preliminary Results*, we will not apply an adverse inference, but will continue to apply the average Indian import values for three dye types, which are commonly used in the production of tissue paper, to value the aggregate amount of dye consumed in the production of the subject tissue paper. See Issues and Decision Memorandum at Comment 1 for a detailed analysis.

Additionally, in the *Preliminary Results*, the Department invited comments from interested parties regarding whether or not it should alter its requirements for reporting ink and dye consumption in future segments. See *Preliminary Results*, 73 FR at 18501. Upon analyzing the comments received from interested parties with respect to the reporting requirement for ink and dye consumption on a CONNUM-specific basis, we have determined that the record does not contain sufficient evidence necessary to revise the model-match criteria. Therefore, we will not make any changes, at this time, to the model-match criteria and continue to require that companies in future segments report ink and dye consumption on a CONNUM-specific basis. See Issues and Decision Memorandum at Comment 2, for a detailed analysis.

Final Results of Review

We determine that the following antidumping duty margin exists:

CERTAIN TISSUE PAPER FROM THE
PRC INDIVIDUALLY REVIEWED EX-
PORTERS

Max Fortune Industrial Ltd	0.00%
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The Department will disclose calculations performed for these final results to the parties within five days of

the date of publication of this notice in accordance with 19 CFR 351.224(b).

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific (or customer) *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis*.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results of this administrative review 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 Max Fortune, the Department has calculated a zero margin for these final results, and therefore no cash deposit will be required for this company; (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 recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, including those companies for which this review has been rescinded, the cash deposit rate will be the PRC-wide rate of 112.64 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 Interested Parties

This notice also serves as the final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties

prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and in the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This administrative review and this notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: September 29, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

APPENDIX I

General Issues

- Comment 1: Reporting of Ink and Dye Consumption
- Comment 2: Reporting Requirements for Ink and Dye
- Comment 3: Steam Coal Surrogate Value
- Comment 4: Labor Surrogate Value
- Comment 5: Treatment of Negative Dumping Margins ("Zeroing")

[FR Doc. E8-23588 Filed 10-3-08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

(A-570-848)

Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind Review in Part

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

SUMMARY: In response to timely requests from one exporter and the petitioner,¹ the Department of Commerce (Department) is conducting an administrative review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC). The period of review (POR) is September 1, 2006, through August 31, 2007.

¹ The petitioner is the Crawfish Processors Alliance (CPA).

We have preliminarily determined that sales have not been made below normal value by the exporter participating in the administrative review. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to liquidate entries of merchandise exported by Yancheng Hi-King Agriculture Developing Co., Ltd., during the POR without regard to antidumping duties.

We invite interested parties to comment on these preliminary results. Parties who submit comments in this review are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: October 6, 2008.

FOR FURTHER INFORMATION CONTACT:

Dmitry Vladimirov or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0665 and (202) 482-1690, 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 to 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 4, 2007, the Department published a notice of opportunity to request an administrative review of the order. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 50657 (September 4, 2007).

On September 28, 2007, Xuzhou Jinjiang Foodstuffs Co., Ltd. (Xuzhou), an exporter and producer of crawfish tail meat in the PRC, requested an administrative review. On October 1, 2007, the petitioner requested an administrative review of the following 10 exporters and/or producers: Anhui Tongxin Aquatic Product & Food Co., Ltd. (Anhui); China Kingdom Import & Export Co., Ltd.² (China Kingdom); Jingdezhen Garay Foods Co., Ltd. (Jingdezhen); Qingdao Jinyongxiang Aquatic Foods Co., Ltd. (Aquatic

Foods); Qingdao Zhengri Seafood Co., Ltd. (Qingdao Seafood); Shanghai Now Again International Trading Co., Ltd. (Shanghai Now Again); Xiping Opeck Food Co., Ltd. (Xiping Opeck); Xuzhou; Yancheng Hi-King Agriculture Developing Co., Ltd. (Hi-King); Yancheng Yao Seafood Co., Ltd. (Yancheng Seafood). On October 17, 2007, the CPA withdrew its requests for administrative reviews for China Kingdom, Aquatic Foods, Qingdao Seafood, and Yancheng Seafood.

On October 31, 2007, based on timely requests for an administrative review, the Department published a notice of initiation of an administrative review of the antidumping duty order on freshwater crawfish tail meat from the PRC. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 61621 (October 31, 2007). The review was initiated with respect to Anhui, Jingdezhen, Shanghai Now Again, Xiping Opeck, Xuzhou, and Hi-King.³

The Department extended the deadline for the preliminary results of this review from June 1, 2008, to September 29, 2008. See *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 73 FR 32289 (June 6, 2008), and *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 73 FR 43913 (July 29, 2008).

The POR is September 1, 2006, through August 31, 2007. We are conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

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 HTSUS numbers for prepared foodstuffs, indicating peeled crawfish tail meat and other, as introduced by the 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.

Intent to Rescind Review in Part

Record evidence indicates that Shanghai Now Again and Xiping Opeck did not have any exports of subject merchandise during the POR. See the December 12, 2007, submission of Shanghai Now Again and Xiping Opeck. Moreover, we have reviewed the CBP entry data for the POR and found no evidence of exports from these two entities. See Memorandum to File entitled "Placement of Certain Import Data from the U.S. Customs and Border Protection Automated Commercial System on the Record of the Administrative Review," dated July 9, 2008. Additionally, on February 12, 2008, we made a no-shipments inquiry to CBP, requesting that, if any CBP import office has contrary information, appraising officers should report this information within 10 days of receipt of the message. To date, we have not received any evidence that these two entities had any shipments to the United States of subject merchandise during the POR. Therefore, pursuant to 19 CFR 351.213(d)(3), the Department intends to rescind this review in part with respect to Shanghai Now Again and Xiping Opeck.

Duty Absorption

Section 751(a)(4) of the Act states that, during any administrative review initiated two or four years after the publication of an antidumping duty order under section 736(a) of the Act, if requested, the administering authority shall determine whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter. Additionally, section 351.213(j)(1) of the Department's regulations states that, during any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of a determination under 19 CFR 351.218(d) (sunset review), if requested by a

² This company is also known as China Kingdome Import & Export Co., Ltd., and Zhongda Import and Export Co. Ltd. per the October 1, 2007, submission of the CPA.

³ On July 23, 2008, the Department rescinded this review with respect to Anhui, Jingdezhen, and Xuzhou in accordance with 19 CFR 351.213(d)(1). See *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 42771 (July 23, 2008).

domestic interested party within 30 days of the date of publication of the notice of initiation of the review, the Secretary will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer.

In a letter dated November 29, 2007, the petitioner requested that the Department conduct a duty-absorption review of Jingdezhen, Shanghai Now Again, Xiping Opeck, Anhui, Xuzhou, and Hi-King. As stated above, we have rescinded or are announcing our intent to rescind in part the review with respect to Jingdezhen, Shanghai Now Again, Xiping Opeck, Anhui, and Xuzhou. Thus, we will not make a duty-absorption determination with respect to these companies.

With respect to Hi-King, we find that, although the instant review was not initiated two or four years after the date of publication of the antidumping duty order, part of this administrative review falls between the third and fourth anniversary of the publication of a determination under 19 CFR 351.218(d) (sunset review). See *Final Results of Expedited Sunset Review: Freshwater Crawfish Tail Meat From the People's Republic of China*, 67 FR 72645 (December 6, 2002). There is no record evidence indicating that the sole remaining respondent in this review, Hi-King, sold subject merchandise in the United States through an affiliated importer. Thus, according to section 751(a)(4) of the Act and for the reason stated above, we have not investigated whether Hi-King absorbed duties.

Non-Market-Economy Country Status

The Department considers the PRC to be a non-market-economy (NME) country. In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. See *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review*, 71 FR 66304 (November 14, 2006). None of the parties to this proceeding has contested NME treatment for the PRC. Therefore, in these preliminary results of review, we have treated the PRC as an NME country and applied our current NME methodology in accordance with section 773(c) of the Act.

In antidumping proceedings involving NME countries, pursuant to section

773(c)(1) of the Act, the Department generally bases normal value on the value of the NME producer's factors of production (FOP). In accordance with section 773(c)(4) of the Act, in valuing the FOP, the Department uses, to the extent possible, the prices or costs of FOP in one or more market-economy countries that are at a level of economic development comparable to that of the NME country and which are significant producers of merchandise comparable to the subject merchandise.

The Department has determined that India, Indonesia, the Philippines, Colombia, and Thailand are countries that are at a level of economic development comparable to that of the PRC.⁴ While none of these countries is a significant producer of freshwater crawfish tail meat,⁵ India does have a seafood-processing industry that is comparable to the crawfish industry with respect to factory overhead, selling, general, and administrative (SG&A) expenses, and profit. Therefore, we have selected India as the primary surrogate country in which to value all inputs with the exception of live crawfish, the primary input, and the by-product, crawfish scrap shell. Because India does not have a fresh-crawfish industry (although it has a sea crawfish industry) and we have determined that other forms of seafood are not sufficiently comparable to crawfish to serve as surrogates for live crawfish, we have valued live crawfish using the data submitted by the CPA and the Louisiana Department of Agriculture and Forestry, which was obtained from the same source that was used to value live crawfish in several previous segments of this proceeding.⁶ Both parties submitted

data on imports of live crawfish from Portugal into Spain as reported by *Agencia Tributaria*, the Spanish government agency response for trade statistics. Spain is a significant producer of comparable merchandise, *i.e.*, whole processed crawfish, and there are publicly available import statistics for Spain that are contemporaneous with the POR.⁷

We have selected Indonesia as a secondary surrogate country for purposes of valuing the crawfish shell by-product because there are no appropriate Indian surrogate values for crawfish shell by-product on the record of this review. We find that Indonesia is at a level of economic development comparable to the PRC, it has significant production of dried crab and shrimp shells, merchandise comparable to the shell by-product, 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.⁸ No other parties commented on the selection of surrogate values.

Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of merchandise subject to a proceeding involving an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. The Department assigns separate rates in NME proceedings only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities under a test developed by the Department and described in *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), and

Antidumping Duty Administrative Review and Preliminary Intent to Rescind 2005-2006 New Shipper Reviews, 72 FR 57288 (October 9, 2007) (unchanged in *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results and Partial Rescission of the 2005-2006 Antidumping Duty Administrative Review and Rescission of the 2005-2006 New Shipper Reviews*, 73 FR 20249 (April 15, 2008)).

⁷ See Surrogate-Country Memorandum.

⁸ 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.

⁴ See Memorandum to Howard Smith from Carole Showers entitled "Administrative Review of Freshwater Crawfish Tail Meat From the People's Republic of China: Request for a List of Surrogate Countries," dated January 15, 2008.

⁵ See Memorandum to Laurie Parkhill, Office Director, AD/CVD Enforcement 5, entitled "Freshwater Crawfish Tail Meat from the People's Republic of China: Selection of a Surrogate Country," dated September 29, 2008 (Surrogate-Country Memorandum).

⁶ See the March 7, 2008, submission by the CPA regarding Freshwater Crawfish Tail Meat from the PRC: Surrogate Value Data. See *Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results and Partial Rescission of the 2005-2006 Antidumping Duty Administrative Review and Preliminary Intent to Rescind 2005-2006 New Shipper Reviews*, 72 FR 57288 (October 9, 2007) (unchanged in *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results and Partial Rescission of the 2005-2006 Antidumping Duty Administrative Review and Rescission of the 2005-2006 New Shipper Reviews*, 73 FR 20249 (April 15, 2008)). For an example of a previous segment of the proceeding where this source was used, see *Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results and Partial Rescission of the 2005-2006*

Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*).

The Department's separate-rate test is used to determine whether an exporter and/or producer is independent from government control and does not consider, in general, macroeconomic/border-type controls, e.g., export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72256 (December 31, 1998) (*Mushrooms*). The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. See *Mushrooms*, 63 FR at 72256 (citing *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From Ukraine*, 62 FR 61754, 61758 (November 19, 1997), and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Administrative Review*, 62 FR 61276, 61279 (November 17, 1997)).

Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; (3) other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR at 20589. Hi-King stated that it is an independent legal entity and provided copies of its business license, which allows the company to engage in the exportation of freshwater crawfish tail meat. See the December 21, 2007, submission by Hi-King at 7. Hi-King also reported that no export quotas apply to crawfish. See the December 21, 2007, submission by Hi-King at 2-3, 5, and Exhibit A-6. 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. See *Freshwater Crawfish Tail Meat From The People's Republic of China: Preliminary Results of New Shipper Review*, 64 FR 8543 (February 22, 1999) (unchanged in *Freshwater Crawfish Tail*

Meat From the People's Republic of China: Final Results of New Shipper Review, 64 FR 27961 (May 24, 1999)).

In addition, we have confirmed previously 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, 8544 (February 22, 1999) (unchanged in *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results of New Shipper Review*, 64 FR 27961 (May 24, 1999)). We found no evidence of *de jure* governmental control over Hi-King's exportation of freshwater crawfish tail meat.

Moreover, the Department has found previously that 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. See *Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results and Partial Rescission of the 2005-2006 Antidumping Duty Administrative Review and Preliminary Intent to Rescind 2005-2006 New Shipper Reviews*, 72 FR 57288 (October 9, 2007) (unchanged in *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results and Partial Rescission of the 2005-2006 Antidumping Duty Administrative Review and Rescission of the 2005-2006 New Shipper Reviews*, 73 FR 20249 (April 15, 2008)). Additionally, certain laws which were placed on the record of this review also indicate a lack of *de jure* government control. Hi-King provided copies of the *PRC's Enterprise Legal Person Registration Administrative Regulations*, which allows companies with a business license to make deals, enter into contracts, open bank accounts, and conduct business activities. See the December 21, 2007, submission by Hi-King at 3, 5-6, and Exhibit A-3. Hi-King also submitted copies of the *Foreign Trade Law of the PRC*, 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. See the December 21, 2007, submission by Hi-King at 4 and Exhibit A-5. Based on the foregoing, the Department has preliminarily determined that there is an absence of *de jure* governmental control over the export activities of Hi-King.

Absence of De Facto Control

Typically the Department considers the following four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by, or are subject to the approval of, a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See *Silicon Carbide*, 59 FR at 22586-87; see also *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). The Department considers an analysis of *de facto* control to be critical in determining whether a respondent is, in fact, subject to a degree of governmental control that would preclude the Department from assigning the respondent a separate rate.

Hi-King has asserted the following: (1) it establishes its own export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; (4) it 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. Based upon the record information, the Department has preliminarily determined that there is an absence of *de facto* governmental control over the export activities of Hi-King. Given that the Department has found that Hi-King operates free of *de jure* and *de facto* governmental control, it has preliminarily determined that Hi-King has satisfied the criteria for a separate rate.

U.S. Price

In accordance with section 772(a) of the Act, we based Hi-King's U.S. price on export price because the first sales to unaffiliated purchasers were made prior to importation and constructed export price was not otherwise warranted by the facts on the record. In accordance with section 772(c) of the Act, we

calculated export price by deducting, where applicable, foreign inland freight expenses and foreign brokerage and handling expenses from the starting price (gross unit price) charged to the first unaffiliated customer in the United States. We based all movement expenses on surrogate values because a PRC company provided the movement services (see the "Normal Value" section of this notice for further details).

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine normal value using an FOP methodology if the merchandise is exported from an NME country and the available information does not permit the calculation of normal value using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department uses an FOP methodology because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under its normal methodologies. See *Tapered Roller Bearings and Parts Thereof, Finished and 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 39744, 39754 (July 11, 2005) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2003–2004 Administrative Review and Partial Rescission of Review*, 71 FR 2517 (January 17, 2006)). Thus, we calculated normal value by adding together the value of the FOP, general expenses, profit, and packing costs.⁹ Specifically, we valued material, labor, energy, and packing by multiplying the amount of the factor consumed in producing the subject merchandise by the average unit surrogate value of the factor. In addition, we added freight costs to the surrogate costs that we calculated for material inputs. We calculated freight costs by multiplying surrogate freight rates by the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest seaport to the factory that produced the subject merchandise, as appropriate. This adjustment is in accordance with the decision by the United States Court of Appeals for the Federal Circuit in *Sigma Corp. v. United*

States, 117 F.3d 1401, 1407–1408 (Fed. Cir. 1997). We increased the calculated costs of the FOP for surrogate general expenses and profit. See Memorandum to the File, entitled "2006–2007 Administrative Review of Freshwater Crawfish Tail Meat from the People's Republic of China: Factor Valuation," dated September 29, 2008 (Factor-Value Memorandum).

Surrogate Values

In selecting surrogate values, we followed, to the extent practicable, our practice of choosing publicly available values which are non-export averages, representative of a range of prices in effect during the POR, or over a period as close as possible in time to the POR, product-specific, and tax-exclusive. See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004) (unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004)). We also considered the quality of the source of surrogate information in selecting surrogate values. See *Manganese Metal From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12440 (March 13, 1998). Where we could only obtain surrogate values that were not contemporaneous with the POR, we inflated the surrogate values using, where appropriate, the Indian Wholesale Price Index (Indian WPI) and the Indonesian Wholesale Price Index (Indonesian WPI) as published in the *International Financial Statistics* of the International Monetary Fund. See Memorandum to the File entitled "Fresh Crawfish Tail Meat from the People's Republic of China: Surrogate-Value Memorandum," dated September 29, 2008 (Surrogate-Value Memo).

In calculating surrogate values from import statistics and in accordance with our practice, we disregarded statistics for imports from 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). 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 *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004)). Additionally, we excluded from our calculations imports that were labeled as originating from an unspecified country because we could not determine whether they were from an NME country.

We used the following surrogate values in our margin calculations for these preliminary results of review. We valued coal and packing materials using September 2006–August 2007 weighted-average Indian import values derived from the *World Trade Atlas* online (WTA). The Indian import statistics that we obtained from the WTA were published by the Directorate General of Commercial Intelligence & Statistics, Ministry of Commerce of India, and are contemporaneous with the POR. We valued whole live crawfish using the publicly available data for Spanish imports of whole live crawfish from Portugal submitted by the CPA and the Louisiana Department of Agriculture and Forestry. We valued the crawfish shell by-product using a 2001 price quote from Indonesia for wet crab and shrimp shells and inflated this value using the Indonesian WPI to make it contemporaneous with the POR.

We valued water using data from the Maharashtra Industrial Development Corporation (www.midcindia.org) because this source includes a wide range of industrial water tariffs. Specifically, this source provides 386 industrial water rates within the Maharashtra province from June 2003 (193 for the "inside industrial areas" usage category and 193 for the "outside industrial areas" usage category). We inflated the surrogate value for water using the Indian WPI to make it contemporaneous with the POR. We valued electricity using price data for small, medium, and large industries, as published by the Central Electricity Authority of the Government of India in its publication entitled *Electricity Tariff & Duty and Average Rates of Electricity Supply in India*, dated July 2006. These

⁹ We based the values of the FOPs on surrogate values (see "Selected Surrogate Values" section below).

electricity rates represent actual country-wide, publicly available information on tax-exclusive electricity rates charged to industries in India. Because the electricity rates are not contemporaneous with the POR, we inflated the values using Indian WPI to make it contemporaneous with the POR.

We valued non-refrigerated truck freight expenses using a per-unit average rate calculated from data on the following website: <http://www.infobanc.com/logistics/logtruck.htm>. The logistics section of this website contains inland freight truck rates between many large Indian cities. We valued refrigerated-truck freight expenses based on price quotations for April 2004 from CTC Freight Carriers of Delhi, India, placed on the record of the antidumping investigation of certain frozen warm-water shrimp from the PRC. As the values for both non-refrigerated and refrigerated truck freight expenses are not contemporaneous with the POR, we inflated/deflated, as appropriate, these surrogate values using the Indian WPI. To value brokerage and handling, we used publicly summarized versions of the average values for brokerage and handling expenses reported in the following sources: Agro Dutch Industries Ltd.'s (Agro Dutch's) May 25, 2005, Section C submission (taken from the 2004–2005 administrative review of the antidumping duty order on preserved mushrooms from India); Kejriwal Paper Ltd.'s (Kejriwal's) January 9, 2006, Section C submission (taken from the antidumping investigation of certain lined paper from India); Essar Steel Ltd.'s (Essar's) February 28, 2005, Section C submission (taken from the 2003–2004 administrative review of the antidumping duty order on carbon steel flat products from India). See *Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 71 FR 10646 (March 2, 2006); see also *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances in Part: Certain Lined Paper Products From India*, 71 FR 19706 (April 17, 2006), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006), and *Certain hot-Rolled Carbon Steel Flat Products From India: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR

2018, 2021 (January 12, 2006) (unchanged in *Certain Hot-Rolled Carbon Steel Flat Products From India: Final Results of Antidumping Administrative Review*, 71 FR 40694 (July 18, 2006)). Because data reported by Agro Dutch, Kejriwal, and Essar were not contemporaneous with the POR, we inflated the surrogate value for domestic brokerage and handling expenses using the Indian WPI. See Surrogate-Value Memo for further details on the surrogate values we used for these preliminary results.

Consistent with 19 CFR 351.408(c)(3), we valued direct, indirect, and packing labor using the most recently calculated regression-based wage rate which relies on 2004 data. This wage rate can currently be found on the Department's website on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in January 2007, available at <http://ia.ita.doc.gov/wages/index.html>. The source of these wage-rate data on the Import Administration's website is the Yearbook of Labour Statistics, ILO, Chapter 5B: Wages in Manufacturing. We applied the same wage rate to all skill levels and types of labor reported by Hi-King because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor.

We valued SG&A expenses, factory overhead costs, and profit using the 2002–2003 financial statements of Nekkanti Sea Foods Ltd., an Indian seafood processor. See Factor-Value Memorandum.

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. These exchange rates are available on the Import Administration web site at <http://ia.ita.doc.gov/exchange/index.html>.

Treatment of Affiliated Parties as a Single Entity

Our analysis of Hi-King's responses to our questionnaires and the factual information on the record led us to determine that Hi-King and its affiliated producers Yancheng Seastar Seafood Co., Ltd., Yancheng Hi-King Frozen Food Co., Ltd., and Jiangxi Hi-King Poyang Lake Seafood Co., Ltd., should be treated as a single entity for the purpose of calculating an antidumping duty margin. See Memorandum to Laurie Parkhill, entitled "Freshwater Crawfish Tail Meat from the People's Republic of China - Collapsing of

Yancheng Hi-King Agriculture Developing Co., Ltd., and its Affiliated Suppliers," dated June 17, 2008 (Collapsing Memo).

As we have found before, "[i]t is the Department's long-standing practice to calculate a separate dumping margin for each manufacturer or exporter investigated." See *Final Determinations of Sales at Less Than Fair Value; Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Corrosion-Resistant Carbon Steel Flat Products from Japan*, 58 FR 37154, 37159 (July 9, 1993). Because we calculate margins on a company-specific basis, we must ensure that we review the entire producer or reseller, not merely a part of it. We review the entire entity due to our concerns regarding price and cost manipulation. See, e.g., *Dongkuk Steel Mill Co. v. United States*, Court No. 04–00190, slip op. 2005–75 at 15 (CIT 2005) ("Commerce considers both actual manipulation in the past and the possibility of future manipulation, which does not require evidence of actual manipulation during the period of review."); see also *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR at 27296, 27346 (May 19, 1997) ("The standard based on the potential for manipulation focuses on what may transpire in the future."). Because of this concern, we consider whether affiliated parties, including exporters and producers, should be treated as a single entity for purposes of calculating antidumping margins. When affiliated producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and there is evidence indicating a significant potential for the manipulation of price and production, we "collapse" related companies; that is, we treat the affiliated entities as a single entity for purposes of calculating the dumping margin. See 19 CFR 351.401(f). See also *Nihon Cement Co., Ltd. v. United States*, Slip Op. 93–80 (CIT May 25, 1993). As detailed in our Collapsing Memo, we find that Hi-King is affiliated with its producers in accordance with sections 771(33)(B) and (E) of the Act. We also find that these affiliated producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities. As detailed in our Collapsing Memo, we find that a potential for the manipulation of price and production exists with respect to Hi-King and its

affiliated producers pursuant to 19 CFR 351.401(f)(2). Therefore, we have treated Hi-King and the affiliated entities in question as a single entity for purposes of this review.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following percentage weighted-average dumping margin exists for the period September 1, 2006, through August 31, 2007:

Manufacturer/Exporter	Percent Margin
Yancheng Hi-King Agriculture Developing Co., Ltd.	0.00

Comments

We will disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit publicly available information to value factors no later than 20 days after the date of publication of these preliminary results of review. See 19 CFR 351.301(c)(3)(ii). Any interested party may request a hearing within 30 days of the date of publication of this notice. See 19 CFR 351.310. Interested parties who wish to request a hearing or to participate in a hearing 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 the following: (1) the party's name, address, and telephone number; (2) the number of participants; (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 case and rebuttal briefs. See 19 CFR 351.310(c). Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice of preliminary results of review. See 19 CFR 351.309(c)(1)(ii). Rebuttal briefs from interested parties, limited to the issues raised in the case briefs, may be submitted not later than five days after the time limit for filing the case briefs or comments. See 19 CFR 351.309(d)(1). If requested, any hearing will be held two days after the scheduled date for submission of rebuttal briefs. See 19 CFR 351.310(d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a summary of the arguments not exceeding five pages, and a table of

statutes, regulations, and cases cited. See 19 CFR 351.309(c)(2).

The Department will issue the final results of this administrative review, 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. See section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. If these preliminary results are adopted in our final results of review, because we calculated a margin of zero percent for Hi-King, we will instruct CBP to liquidate the entries of merchandise exported by Hi-King without regard to antidumping duties.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise exported by Hi-King, the cash-deposit rate will be that established in the final results of review; (2) for previously reviewed or investigated companies not listed above that have separate rates, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) for all other PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash-deposit rate will be PRC-wide rate of 223.01 percent; (4) for all non-PRC exporters of subject merchandise the cash-deposit rate will be the rate applicable to the PRC entity that supplied that exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also 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.

This administrative review and this notice are in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: September 29, 2008.

David M. Spooner,
Assistant Secretary for Import
Administration.

[FR Doc. E8-23572 Filed 10-3-08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-844]

Certain Lined Paper Products From India: Notice of Preliminary Results of Countervailing Duty Administrative Review

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on certain lined paper products from India for the period February 15, 2006, through December 31, 2006, the period of review (POR).¹ For information on the net subsidy rate for the reviewed company, Navneet Publications (India) Limited (Navneet), see the "Preliminary Results of Review" section of this notice. Interested parties are invited to comment on these preliminary results. See the "Public Comment" section of this notice.

DATES: *Effective Date:* October 6, 2008.

FOR FURTHER INFORMATION CONTACT: Jolanta Lawska or John Conniff, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue, NW., Washington,

¹ Pursuant to 19 CFR 351.213(e)(2)(ii), because the Department received Navneet's request during the first anniversary month after publication of the order, this administrative review covers entries from February 15, 2006, the date of suspension of liquidation through December 31, 2006, the end of the most recently completed calendar year. (The date of suspension of liquidation corresponds to the publication in the *Federal Register* of the *Notice of Preliminary Affirmative Countervailing Duty Determination and Preliminary Negative Critical Circumstances Determination: Certain Lined Paper Products from India*, 71 FR 7916 (February 15, 2006) (*Preliminary Determination of Lined Paper Investigation*). However, for purposes of this administrative review, we will analyze data corresponding to calendar year 2006 (January 1, 2006, through December 31, 2006) to determine the subsidy rate for exports of subject merchandise made during the period in which liquidation of entries was suspended.