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MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

FROM: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results, Partial Rescission of Antidumping Duty Administrative Review: Honey from the People's Republic of China

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SUMMARY

In response to requests from interested parties, the Department of Commerce ("Department") is conducting the administrative review of the antidumping duty order on honey from the People's Republic of China ("PRC") for the period of review ("POR") December 1, 2011, through November 30, 2012. The Department has preliminarily determined that none of the companies that remain under review following the partial rescission have demonstrated their eligibility for separate rate status, and therefore remain part of the PRC-wide Entity.[1]

If we adopt these preliminary results in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries of subject merchandise during the POR. We invite interested parties to comment on these preliminary results. We will issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("Act").

Background
On December 28, 2012, and December 31, 2012, the Department received requests for review from Petitioners[2] and Milky Way International Trading Co. (dba MW Polar Foods) ("Milky Way"),[3] respectively.[4] On January 30, 2013, the Department initiated an administrative review

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[1] The Department is preliminarily rescinding this review with respect to Anhui Honghui Foodstuff (Group) Co., Ltd., Shanghai Taiside Trading Co., Ltd., Tianjin Eulia Honey Co., Ltd., and Wuhan Bee Healthy Co., Ltd. See "Partial Rescission of Review" section below.
[2] American Honey Producers Association and Sioux Honey Association
[3] Milky Way requested this review as an importer of merchandise from the companies listed in its review request.
[4] See Letter to the Department from Petitioners, Re: Request for Administrative Review, dated December 28, 2012; see also Letter to the Department from Milky Way, Re: Request for Administrative Review, dated December 31, 2012 ("Milky Way Review Request").

of honey from the PRC for the period December 1, 2011 through November 30, 2012.[5] The Department initiated the review with respect to 70 exporters of subject merchandise.[6] On April 26, 2013, Petitioners withdrew their request for a review of all companies except Dongtai Peak Honey Industry Co., Ltd. ("Dongtai Peak").[7] Following Petitioners' Request Withdrawal, four companies remain under review (i.e. Dongtai Peak, and the three companies requested by Milky Way; Wuhu Haoyikuai Import & Export Co., Ltd. ("Haoyikuai I&E"), Wuhu Qinshi Tangye Co., Ltd. ("Qinshi Tangye"), and Wuhu Haoyikuai Food Products Co., Ltd. ("Haoyikuai Food")).

Scope of the Order

The products covered by the order are natural honey, artificial honey containing more than 50 percent natural honey by weight, preparations of natural honey containing more than 50 percent natural honey by weight and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form.

The merchandise subject to the order is currently classifiable under subheadings 0409.00.00, 1702.90.90, 2106.90.99, 0409.00.0010, 0409.00.0035, 0409.00.0005, 0409.00.0045, 0409.00.0056, and 0409.00.0065 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise under the order is dispositive.

Also included in the scope are blends of honey and rice syrup, regardless of the percentage of honey contained in the blend.

DISCUSSION OF THE METHODOLOGY

Separate Rates

Pursuant to section 771(18)(C) of the Act, a designation of a country as a non-market economy ("NME") remains in effect until it is revoked by the Department. Accordingly, there is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate.[8] In the Initiation, the Department notified parties of the application process by which exporters may obtain separate rate status in NME proceedings.[9] The Department did not receive separate rate applications or certifications from any companies in this review.

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[5] See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 78 FR 6291 (January 30, 2013) ("Initiation").

[6] See id.

[7] See Letter to the Department, from Petitioners, Re: Petitioners' Partial Withdrawal of Request for 11th Administrative Review, dated April 26, 2013 ("Petitioners' Request Withdrawal").

[8] See Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079, 53082 (September 8, 2006); Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China, 71 FR 29303, 29307 (May 22, 2006).

[9] See Initiation, 76 FR at 67133-34.

Partial Rescission of Review

On April 26, 2013, Petitioners timely withdrew their request for a review of all companies for which they requested a review, except Dongtai Peak. In addition to the companies requested by Petitioners, Milky Way requested a review of three companies (i.e., Haoyikuai I&E, Qinshi Tangye, and Haoyikuai Food). Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. Petitioners submitted their request within the 90-day period and, thus, it is timely. Because Petitioners' withdrawal of certain of their request for review is timely, because no other party requested a review of the following companies, and because they were previously assigned a separate rate, in accordance with 19 CFR 351.213(d)(1), we partially rescind this review with respect to the following four companies: (1) Anhui Honghui Foodstuff (Group) Co., Ltd. ("Honghui Foodstuff"), (2) Shanghai Taiside Trading Co., Ltd. ("Taiside Trading"), (3) Tianjin Eulia Honey Co., Ltd. ("Eulia Honey"), and (4) Wuhan Bee Healthy Co., Ltd ("Bee Healthy"). Petitioners also withdrew their request for a review of Qinshi Tangye; however, as Milky Way also requested a review of this company, it remains under review. The additional 62 companies[10] for which Petitioners withdrew their requests for review did not have separate rates from prior segments. Consequently, the Department is not rescinding the review as to these companies.[11] We further address this issue below in the "PRC-Wide Entity" section of this memorandum.

With regard to this partial rescission of the review, the Department will instruct CBP to assess antidumping duties on all appropriate entries. Since Honghui Foodstuff, Taiside Trading, Eulia Honey, and Bee Healthy all have separate rates from prior segments of this proceeding, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(2). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the accompanying Federal Register notice.

PRC-Wide Entity

During the review, Dongtai Peak did not file a separate rate application or certification, nor did it file a no shipments certification. Accordingly, because Dongtai Peak did not demonstrate its eligibility for a separate rate, the Department will preliminarily treat Dongtai Peak as part of the PRC-wide Entity. Additionally, as noted above, the 62 companies listed in Appendix 1 of the accompanying Federal Register notice did not file applications demonstrating their eligibility for a separate rate. The deadline to file a separate rate application, separate rate certification, or a notification of no sales, exports or entries, is 60 days after the initiation of the administrative review,[12] which in this case was March 31, 2013. Therefore, the Department preliminarily determined that, as of April 1, 2013, the remaining 62 companies under review did not demonstrate eligibility for a separate rate and are part of the PRC-wide Entity. Accordingly, while Petitioners withdrew the requests for review for 62 additional companies on April 26, 2013, those withdrawn companies remain under review as part of the PRC-wide Entity and the

[10] See Appendix 1 of the accompanying Federal Register Notice.
[11] See id.
[12] See Initiation.

Department will make a determination with respect to the PRC-wide Entity in these preliminary results and the final results.

In its review request, Milky Way stated that Haoyikuai I&E, Qinshi Tangye, and Haoyikuai Food, the companies for which Milky Way requested a review, did not make any Type 3 entries, i.e., entering merchandise subject to an antidumping duty order, during the POR.[13] Specifically, Milky Way stated that it imported honey rice syrup from Haoyikuai I&E, Qinshi Tangye, and Haoyikuai Food, and the product were entered as Type 1. Milky Way stated that these entries entered the United States during May 2012. Further, because the Department determined, as a result of an anti-circumvention inquiry, that any blends of honey and rice syrup entered from the PRC on or after December 7, 2011, is subject merchandise,[14] Milky Way argues that its entries should be subject to review.

On February 4, 2013, the Department sent a letter to Milky Way stating that it is the Department's practice to only conduct administrative reviews on suspended entries, and asking that it submit evidence of Type 3 entries for each of the companies for which it had requested a review (i.e., Haoyikuai I&E, Qinshi Tangye, and Haoyikuai Food). Milky Way did not submit evidence as requested. Further, these companies did not file separate rate applications and do not have separate rates from prior segments of this proceeding. Therefore, these companies will preliminarily retain their status as part of the PRC-wide Entity. However, because Milky Way stated in its review request that these companies entered product classified as subject merchandise during the POR, the Department intends to refer this issue to CBP upon issuance of the final results of this review, if our preliminary decision is unchanged.

Upon initiation of the administrative review, we provided all companies for which the review was initiated an opportunity to complete either the separate rates application or certification.[15] We have preliminarily determined that the companies for which the review requests were not withdrawn (i.e., Dongtai Peak, Haoyikuai I&E, Qinshi Tangyi, and Haoyikuai Food) did not demonstrate their eligibility for separate rate status and are properly considered part of the PRC-wide Entity. In NME proceedings, "'rates' may consist of a single dumping margin applicable to all exporters and producers."[16] As explained above in the "Separate Rates" section, we consider all companies within the PRC subject to government control unless they are able to demonstrate an absence of government control with respect to their export activities. We assign to these companies a single antidumping duty rate distinct from the separate rate(s) we determined for companies found to be independent of government control with respect to their export activities. We consider that the influence the government has over the economy warrants determining a rate for the entity that is distinct from the rates found for companies that have provided sufficient evidence to establish that they operate freely with respect to their export activities.[17] Therefore, we find these companies to be subject to the PRC-wide Entity rate of $2.63 per kilogram, which

[13] See Milky Way Review Request.
[14] See Honey From the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order, 77 FR 50464 (August 21, 2012).
[15] The separate rate application and certification are available at: http://ia.ita.doc.gov/nme/nme-sep-rate.html.
[16] See 19 CFR 351.107(d).
[17] See Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, 68 FR 37116 (June 23, 2003), and accompanying Issues and Decision Memorandum at Comment 9.

is the rate assigned to the PRC-wide Entity in the most recently completed review of this proceeding.[18]

Conclusion

We recommend applying the above methodology for these preliminary results.

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Agree Disagree

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Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

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(Date)

[18] See Administrative Review of Honey from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 77 FR 70417 (November 26, 2012).