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April 26, 2004

MEMORANDUM TO: James J. Jochum
Assistant Secretary
for Import Administration

FROM: Joseph A. Spetrini
Deputy Assistant Secretary
AD/CVD Enforcement Group III

SUBJECT: Issues and Decision Memorandum for the Final Results of the
New Shipper Review of the Antidumping Duty Order on
Honey from the People's Republic of China

Summary

We have analyzed the comments and rebuttal comments of interested parties in the new shipper review of the antidumping duty order on honey from the People's Republic of China ("PRC") (A-570-863). As a result of our analysis, including factual information obtained since the preliminary results, we have made changes to the margin calculations for Sichuan-Dujiangyan Dubao Bee Industrial Co., Ltd. ("Dubao") and are now using a more contemporaneous labor rate, which was revised in September 2003 and was recently posted to IA's web site. Also, as explained below, we have determined that Dubao's second sale is not *bona fide* and we are also applying adverse facts available for Dubao's importer for the second sale. For Shanghai Xiuwei International Trading Co., Ltd. ("Shanghai Xiuwei") we are applying adverse facts available ("AFA"), which is 183.80 percent. We recommend that you approve the positions we have developed in the Discussion of the Issues section of this memorandum. Below is the complete list of the issues in this review for which we received comments from the interested parties:

- Comment 1: *Bona Fides* of Sichuan-Dujiangyan Dubao Bee Industrial Co., Ltd.'s U.S. Sales and Application of Adverse Facts Available for Dubao's Importer for the Second Sale
- Comment 2: Application of Adverse Facts Available for Shanghai Xiuwei International Trading Co., Ltd.

Background

We published in the *Federal Register* the preliminary results of this new shipper review on December

4, 2003. See Notice of Preliminary Results of Antidumping Duty New Shipper Review: Honey from the People's Republic of China, 68 FR 67832 (December 4, 2003) ("Preliminary Results").

On February 25, 2004, the Department extended the final results of this new shipper review by 30 days until March 25, 2004. See Notice of Extension of Time Limit on Final Results of New Shipper Review: Honey from the People's Republic of China, 69 FR 8625 (February 25, 2004). On March 31, 2004, the Department extended the final results of this new shipper review by 14 days until April 8, 2004. See Notice of Extension of Time Limit on Final Results of New Shipper Review: Honey from the People's Republic of China, 69 FR 16892 (March 31, 2004). On April 14, 2004, the Department extended the final results of this new shipper review by 16 days until April 26, 2004. See Notice of Extension of Time Limit on Final Results of New Shipper Review: Honey from the People's Republic of China, 69 FR 19814 (April 14, 2004).

We invited parties to comment on our Preliminary Results. We received case briefs from petitioners (the American Honey Producers Association and the Sioux Honey Association (collectively, petitioners)), on January 21, 2004. We received rebuttal briefs from Dubao and Shanghai Xiuwei on January 27, 2004. On February 27, 2004, we invited petitioners to comment on the new information in Shanghai Xiuwei's rebuttal brief but we did not receive any comments.

Scope of the Antidumping Duty Order

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

The merchandise subject to this review is currently classifiable under subheadings 0409.00.00, 1702.90.90, and 2106.90.99 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and the U.S. Bureau of Customs and Border Protection (BCBP) purposes, the Department's written description of the merchandise under order is dispositive.

Changes Since the Preliminary Results

1. Application of Adverse Facts Available for Shanghai Xiuwei - See Comment 2 below.

For our analysis of the above-mentioned changes to our preliminary margin calculation, *see* Memorandum to the File regarding Analysis of the Data Submitted by Shanghai Xiuwei International

Trading Co., Ltd. in the Final Results of the New Shipper Review on the Antidumping Duty Order on Honey from the People's Republic of China (April 26, 2004) ("Shanghai Xiuwei Analysis Memo").

2. *Bona Fides* of Dubao's U.S. Sales and Application of Adverse Facts Available for Dubao's Importer in the Second Sale. See Comment 1 below.

For our analysis of the above-mentioned changes to our preliminary margin calculation, *see* See Memorandum to the File regarding Analysis of the Data Submitted by Sichuan-Dujiangyan Dubao Bee Industrial Co., Ltd. In the Final Results of the New Shipper Review on the Antidumping Duty Order on Honey from the People's Republic of China (April 26, 2004) ("Dubao Analysis Memo").

Discussion of the Issues

Comment 1: *Bona Fides* of Dubao's U.S. Sales and Application of Adverse Facts Available for Dubao's Importer in the Second Sale

Petitioners argue that the Department, through verification and its own independent investigation, has obtained information demonstrating that Dubao's second U.S. sale was imported by a non-legitimate company, company A, and was not a *bona fide* transaction. Petitioners assert that the Department should calculate a cash deposit rate for Dubao based only on its first U.S. sale and should assign the second U.S. sale a PRC-wide rate on the basis of facts available.

Petitioners point out that the Department calculated an 8.47 percent *ad valorem* margin for Dubao based on two U.S. sales that took place during the POR. Petitioners state that they do not contest the Department's preliminary determination, in the Department's *bona fide* memorandum from Brandon Farlander and Dena Aliadinov through Abdelali Elouaradia to the File regarding the New Shipper Review on Honey from the People's Republic of China ("PRC") ("*Bona Fide* Memo"), dated November 26, 2003, that Dubao's first U.S. sale was a *bona fide* transaction. However, petitioners argue that Dubao's second U.S. sale, which was sold to company B, who then sold the subject merchandise to company A, who was the importer of record, is not *bona fide* and could improperly influence the cash deposit rate of Dubao's future shipments of subject merchandise to the United States.

Petitioners argue that Dubao did not disclose that company A was involved in its second U.S. sale, as an importer of record, in its initial section A, C, and D questionnaire responses, and that this information was only revealed in a Custom's Form 7501 that Dubao submitted in Exhibit 4 of its June 3, 2003 supplemental questionnaire response. Referring to the supplemental questionnaire and the Department's importer questionnaire, petitioners further argue that Dubao and its second U.S. customer, company B, refused to reveal company A's identity and withheld information about its role in Dubao's sale to company B. Petitioners state that only when the Department specifically inquired about the identity of company A did Dubao finally confirm, in its supplemental questionnaire response,

dated July 10, 2003, that company A was the customer of company B, and that company B sold the subject merchandise to company A after purchasing it from Dubao.

Petitioners refer to the Department's bona fide memorandum from Brandon Farlander and Dena Aliadinov through Abdelali Elouaradia to the File regarding the New Shipper Review on Honey from the People's Republic of China ("PRC") ("Bona Fide Memo"), dated November 26, 2003, which discusses the difficulties that the Department experienced in contacting company A and delivering an importer questionnaire to it, and state that these difficulties and company A's failure to respond to the importer questionnaire are an indication that company A is not a legitimate, going concern. Petitioners note that the Department attempted to deliver a copy of the importer questionnaire to company A on three separate occasions and that company A never responded to the Department's importer questionnaire. Petitioners also note that these events, detailed in the Department's Bona Fide Memo, suggest that company A does not have a fixed address. According to petitioners, a lack of a fixed address is a telling indicator regarding the status of company A, since it makes it difficult for potential customers to contact a company without a fixed address.

Regarding the legitimacy of company A, petitioners refer to the Department's Bona Fide Memo, where it discusses that company A has not filed annual information statements, as required by the California Secretary of State, which could result in company A not being allowed to do business in California and having to relinquish its rights to its name. Petitioners argue that there is nothing on the record to suggest that company A has filed the information statement, and therefore, company A may no longer be authorized to conduct business in California.

Petitioners argue that individual 1 acquired company A in order to create an impression of legitimacy regarding imports of honey from China. Specifically, petitioners refer to the Department's Bona Fide Memo, where it is stated that the previous owners of company A sold to a buyer who wanted a company that had been in business for two or three years. See Bona Fide Memo, dated November 26, 2003, at page 6 and 7. Petitioners argue that individual 1 did not want to start up a new company because it could raise concerns among Department officials if any of the parties involved in the transactions were organized around the time when the sales subject to the new shipper review were made. Petitioners also point out that the record shows that company A's previous owners had never imported any Chinese-origin agricultural products, and that company A had been closed for a considerable period of time before individual 1 purchased it. Additionally, according to petitioners, there is a discrepancy between the information of record concerning company A's involvement in Dubao's second U.S. sale prior to its being purchased by individual 1, and that this raises further uncertainties concerning the legitimacy of company A.

Petitioners also argue that company A has been involved in imports of Chinese honey from company D and company E after the POR. Furthermore, according to petitioners, individual 1 is a major owner of both company E and company A. Petitioners state that individual 1 denied owning shares in any other company besides company E and that company E did not mention its post-POR sales to company A.

Petitioners assert that the companies' attempts to conceal their business dealings and/or affiliations with each other, provides further justification for the Department to determine that company A is not a legitimate, going concern.

Citing a past new shipper proceeding, petitioners state that the Department has previously rescinded a review in which it determined that the single sale at issue was not *bona fide* and there was no *bona fide* sale upon which to base a margin calculation. See Fresh Garlic from the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review, 67 FR 11,283, 11,284 (March 13, 2002). Petitioners state that, in the instant new shipper review, the Department has preliminarily determined that one of Dubao's sales is *bona fide*, but petitioners argue that Dubao's other reported U.S. sale does not have the indicia of a *bona fide* transaction. Petitioners assert that the Department should not consider Dubao's second sale in calculating a margin and cash deposit rate for Dubao in this proceeding. Petitioners state that this action would be appropriate because it would not penalize Dubao for company A's lack of response to the Department's requests for information, and it would uphold the integrity of the U.S. trade laws by refusing to allow the Department's enforcement of those laws to be influenced improperly by illegitimate transactions. Petitioners add that if the Department were to instruct U.S. Customs and Border Protection ("CBP") to liquidate the transaction involving company A at the PRC-wide rate, on the basis of facts available, it would encourage U.S. importers to respond to the Department's requests for information in the future. Additionally, according to petitioners, the calculation of a cash deposit rate for Dubao based only on its apparently *bona fide* sale would enable Dubao to export under a company-specific rate, while leaving open until the second annual administrative review the specific amount of duties to be assessed on its shipments made after the POR.

Dubao refutes petitioners' argument that its second U.S. sale was not a *bona fide* transaction. Dubao argues that petitioners' allegation is not based on information about the actual terms of the transaction set by Dubao and company B, which was verified by the Department. According to Dubao, petitioners' allegation is based on speculation about the importer and subsequent purchaser of the subject merchandise, company A. Dubao argues that petitioners do not cite to any statutes, regulations or case law in support of their proposition that the corporate status of a downstream, unaffiliated third party purchaser is relevant in evaluating the *bona fides* of a separate, upstream sales transaction between an exporter and its unaffiliated customer. Dubao asserts that, consistent with the Department's established practice, a proper analysis of the facts verified by the Department in this review when viewed in the totality of the circumstances clearly indicate that both of Dubao's U.S. sales were *bona fide*. Therefore, according to Dubao, the Department must calculate a company-specific weighted average dumping margin for Dubao based on its factors of production data and sales data for both of its two U.S. sales.

Dubao refers to two previous cases and argues that the determination of whether a U.S. sale is *bona fide* depends on the "totality of the circumstances" of the sale in question, and that the "totality of the circumstances" must address all of the factors that the Department has identified in prior cases. See

Natural Bristle Paint Brushes and Brush Heads from the People's Republic of China, 65 FR 45753 (July 25, 2000) and Oil Country Tubular Goods from Japan, 65 FR 15305 (March 22, 2000).

Citing to prior cases, Dubao argues that no single “totality of circumstances” factor is dispositive but, in prior cases, have included the following: 1) the timing of the sale, 2) the sale price and quantity, 3) expenses arising from the sales transaction, 4) whether the sale was sold to the customer at a loss, and 5) whether the sales transaction between the exporter and importer was executed on an arm’s-length basis. See Honey from the People's Republic of China, 68 FR 62053 (October 31, 2003) (Issues and Decision Memo, Comment 1), and OCTG, 65 FR 15305 (March 22, 2000) (Issues and Decisions Memo, comment 1). Dubao also argues that the Department must also consider whether a sale is typical of a company’s normal business practices, consistent with good business practices, or so artificially structured as to be commercially unreasonable. See Honey from the People's Republic of China, 68 FR 62053 (October 31, 2003) (Issues and Decision Memo, comment 1).

Dubao asserts that, in evaluating whether a sale is *bona fide*, petitioners’ analysis must have adequate evidence addressing each of the Department’s factors. Dubao states that petitioners have not addressed any of the factors relevant to totality of the circumstances analysis, such as the timing of Dubao’s sale to company B, the sale price and quantity, the selling expenses associated with the sale, whether the sale was sold at a loss, or whether the transaction was an arm’s length transaction. Furthermore, according to Dubao, petitioners have not considered whether Dubao’s sale to company B was typical of Dubao’s normal business practices, consistent with good business practices, or was commercially unreasonable.

Dubao claims that petitioners are improperly speculating about the corporate status of company A, the subsequent purchaser of Dubao’s second sale, and asserting that it is the only controlling factor for the Department’s *bona fide* analysis of the sale between Dubao and company B. Dubao disputes petitioners’ statement that company A’s failure to respond to the Department’s importer questionnaire proves that it is not a legitimate, going concern. Dubao argues that company A was under no obligation to reveal its business proprietary information to the Department because it was not a party to this proceeding or to the sales transaction between Dubao and company B. Dubao adds that a legitimate business entity may choose not to disclose information that could jeopardize its relationships with its customers/suppliers.

According to Dubao, the Department verified the correspondence between it and its U.S. customers during the POR, the sales terms, and the payment documents. Referring to the Department’s Verification Report, Dubao states that it did not have communications with company A regarding its POR sales. See Memorandum to the File from The Team Through Abdelali Elouaradia, New Shipper Review of the Antidumping Duty Order on Honey from the People's Republic of China (“PRC”) (“Dubao Verification Report”), dated September 23, 2003, at 16-19 and Verification Exhibit 6. Dubao states that petitioners do not challenge the legitimacy of its U.S. customers, based on their business addresses, and that petitioners arguments concerning the significance of company A’s business

address are misguided. Dubao asserts that “totality of circumstances” is primarily concerned with the transaction subject to investigation over which the participating parties had control.

Dubao claims that petitioners appear to admit that company A was not a party to the sales transaction between Dubao and company B by stating that it was “involved” in the sale. Dubao also claims that petitioners did not articulate how company A was involved in Dubao’s second sale. Dubao argues that company A was not involved in any way in the transaction between Dubao and company B, and that it only learned of company A’s identity as a subsequent purchaser of the subject merchandise as a direct result of the Department’s request for U.S. Customs entry documents, which Dubao requested from company B. Dubao states that it cannot be responsible for knowledge of any or all subsequent resales of the merchandise it produced and exported, that it would require significant amounts of time and resources for Dubao to investigate these subsequent transactions, and could harm its relationships with its customers.

According to Dubao, proper analysis of the “totality of circumstances” indicates Dubao’s sale to company B was *bona fide*, and that the sale between company B and company A should not be the sale in question. Dubao claims that, at verification, the Department confirmed that the time of Dubao’s sale to company B was commercially reasonable. In support of its claim, Dubao refers to the Verification Report and Verification Exhibit 6, and states that the record evidence proves that its negotiations with company B and its obligations under the sales contract were handled in a timely manner. Therefore, according to Dubao, analysis of the timing of the sale with company B indicates that the sale was *bona fide*.

Dubao also argues that the sales price and quantity of its sale to company B were commercially reasonable. According to Dubao, the Department verified that Dubao’s negotiations with company B factored in U.S. market conditions and costs of production in order to maximize profits. See Verification Report at page 13. Dubao refers to a previous case and states that its prices were consistent with the U.S. market. See Honey from China, 68 FR 62053 (Issues and Decision Memo, comment 1); DOC Bona Fide Memo at Attachment XIII. Additionally, Dubao states that the quantity of the shipment was also reasonable and this further proves that its sale to company B was *bona fide*.

Dubao asserts that its sale to company B was not sold at a loss, and that it incurred the customary selling expenses associated with its sales terms. See Verification Report and Verification Exhibit 6. Dubao refers to a previous court ruling and states that its sale to company B was executed on an arm’s length basis, where arm’s length transactions are “those transactions whose terms are negotiated based on the independent interests of the parties.” See American Silicon Technologies v. United States, 110 F. Supp. 2d 992, 996 (CIT 2000). Dubao states that its negotiation process with company B shows that the sale was a result of a compromise made in each party’s best interests.

Dubao argues that record evidence confirms that its sale to company B was consistent with its normal business practices and international practices because the sales and shipment documentation for this

sale mirror documentation that Dubao used for its other U.S. and export sales. See Dubao's First Supplemental Section A Response, dated June 3, 2003, on page 8 and Exhibits 4 and 5, and Verification Exhibit 6. Dubao adds that it fulfilled its sales obligations as required by the agreed-upon sales terms with company B. Dubao states that, according to the INCOTERMS, its responsibilities included providing the goods in conformity with the contract of sale, obtaining an export license for the goods, and delivering the goods in a time period stipulated in the contract. Dubao argues that it fulfilled its responsibilities, according to its sales terms with company B, and that these responsibilities did not give Dubao the right to ask its buyer for information regarding the buyer's subsequent resales or other commercial activities. Dubao claims that the Department verified documents proving that it complied with the sales contract and performed all of its obligations in its sale to company B. See Verification Report on pages 18 through 19 and Verification Exhibit 6.

According to Dubao, the sale in question subject to the "totality of the circumstances" standard should be the sale between Dubao and company B. Dubao argues that the facts of this case indicate that this sale is still *bona fide*, even if the Department could examine the corporate legitimacy of subsequent customers as a potential additional factor in its "totality of the circumstances" analysis. Dubao claims that company A's corporate status is irrelevant regarding whether a *bona fide* sales has occurred, either between Dubao and company B or company B and company A. Dubao states that company A was not a party to the transaction between Dubao and company B. Dubao acknowledges that company A's corporate validity may have been suspended under California law, but argues that, under California law, if company B does not invalidate the contract between it and company A, then the sale is still enforceable and valid regardless of company A's corporate status. See Cal. Rev. & Tax. Code section 23304.5.

Furthermore, according to Dubao, the transaction between it and company B is legally distinct from the transaction between company B and company A. Dubao argues that it cannot be held responsible for the transaction between company B and company A when it was not involved in that transaction and had no control over it. Dubao adds that the Department verified Dubao received payment in full from both of its sales, including the sale with company B. See Verification Report at pages 16 through 19 and Verification Exhibit 6. Dubao asserts that it has fully cooperated to the best of its ability with the Department and has presented evidence verified by the Department that supports finding that both of Dubao's POR sales were legitimate, commercially viable, and *bona fide* transactions with unaffiliated customers in the United States. Therefore, according to Dubao, the final results must be based on the U.S. sales and factors of production data that Dubao provided to the Department.

Department's Position

We agree with petitioners that the information the Department obtained through verification and its own research demonstrates that Dubao's second U.S. sale to company B is not a *bona fide* commercial transaction. Based on the record evidence before the Department, and our analysis of the totality of the circumstances, including the activities of the importer, we find that Dubao's sale to company B was not

a *bona fide* transaction. Therefore, we recommend only using Dubao's first U.S. sale for purposes of calculating the antidumping duty margin for this new shipper review. We discuss this finding below.

In the preliminary results of this new shipper review, the Department treated both of Dubao's sales as *bona fide* transactions for purposes of its preliminary findings. See Preliminary Results at 8. However, the Department noted in the Preliminary Results that it intended to fully examine all issues pertaining to the *bona fides* of Dubao's second U.S. sale (i.e., its sale to company B) for purposes of the final results of this review, and requested comments on this issue. See Dubao Analysis Memo for business proprietary information concerning the company names of Dubao's U.S. customer for its second U.S. sale, company B, and the importer of record for this sale, company A (company B's customer).

We have now analyzed all of the information provided by Dubao and petitioners, with respect to the question of whether Dubao's sale to company B constitutes a *bona fide* commercial transaction, reviewable under the new shipper provisions of the Department's regulations. We note that the Department's regulations state that an exporter or producer which has a "sale" or "entry" for the first time in the United States may apply for a new shipper review. See 19 CFR 351.214(b)(2)(iv)(A). However, to sustain a new shipper review, the exporter or producer must also show that its sales to the U.S. during the "new shipper" POR were *bona fide*. See 19 CFR 351.214(b)(2)(iv)(C). See also Fresh Garlic from the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review, 67 FR 11283 (March 13, 2002), and accompanying Issues and Decision Memorandum; and Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty New Shipper Review, and Final Rescission of Antidumping Duty New Shipper Review, 68 FR 1439 (January 10, 2003), and accompanying Issues and Decision Memorandum.

In determining whether sales are *bona fide* commercial transactions, the Department examines the totality of the circumstances of the sale in question. If the weight of the evidence indicates that "the transaction has been so artificially structured as to be commercially unreasonable," it is not a *bona fide* commercial transaction and must be excluded. See Certain Cut-to-Length Carbon Steel Plate From Romania: Notice of Rescission of Antidumping Duty Administrative Review, 63 FR 47232, 47234 (September 4, 1998) (Romanian Plate); see also Windmill Int'l Pte., Ltd. v. United States, 193 F. Supp.2d 1303, 1313 (February 21, 2002) (Windmill) (affirming Commerce's application of the commercially reasonable test in Romanian Plate). The U.S. Court of International Trade (CIT) has agreed that where a transaction is an orchestrated scheme involving artificially high prices, the Department may disregard the sale as not resulting from a *bona fide* transaction. See Chang Tieh Industry Co. v. United States, 840 F. Supp. 141, 146 (CIT 1993) (Chang Tieh).

In determining whether a U.S. sale in the context of a new shipper review is a *bona fide* transaction, the Department considers numerous factors, with no single factor being dispositive, in order to assess the totality of the circumstances surrounding the sale in question.

See Certain Preserved Mushrooms From the People's Republic of China: Final Results and Partial Rescission of the New Shipper Review and Final Results and Partial Rescission of the Third Antidumping Duty Administrative Review, 68 FR 41304 (July 11, 2003) and accompanying Issues and Decision Memorandum at Comment 2. Consistent with these principles, the Department normally considers factors such as, *inter alia*, the timing of the sale, the sale price and quantity, the expenses arising from the sales transaction, whether the sale was sold to the customer at a loss, and whether the sales transaction between the exporter and importer was executed on an arm's-length basis. See American Silicon Technologies v. United States, 110 F. Supp. 2d 992, 996 (CIT 2000); see also 1998-00 NSR Mushrooms from the PRC and the accompanying Issues and Decision Memorandum at Comment 10. An examination of whether a sale is *bona fide* transaction may be extensive and may include a variety of these and other factors, depending upon the nature and circumstances of each company and its corresponding sales practices.

For the final results, we considered all information on the record to determine whether the totality of the circumstances surrounding Dubao's sale to company B and subsequent importation by company A is a *bona fide* transaction, including the price and quantity, the timing of the sale, the sales process and terms of sale and related expenses, the legitimacy of the buyer and seller, and the activities and circumstances of the importer of record (*i.e.*, company A).

Applying the above-mentioned factors to this case, the Department notes that the sale in question subject to the "totality of the circumstances" standard is the sale between Dubao and company B. Nevertheless, as part of its analysis, the Department carefully scrutinizes the overall circumstances of company A, and its involvement in purchasing and importing the merchandise. The Department has established a practice of examining the importers involved in new shipper reviews for purposes of its *bona fides* analysis. See Memorandum to Joseph A. Spetrini through Barbara E. Tillman: Freshwater Crawfish Tail Meat from the People's Republic of China: Whether the Sales in the New Shipper Review of North Supreme are *Bona Fide* (January 2, 2003) at 5-6 (where the Department examined the *bona fides* of the importer, in addition to other totality of the circumstances factors, and decided to rescind the review). See also Notice of Final Rescission of Antidumping Duty New Shipper Review: Freshwater Crawfish Tail Meat from the People's Republic of China, 68 FR 68028 (December 5, 2003) and the accompanying Issues and Decision Memorandum at 5 ("Crawfish from the PRC") (where the Department examined the *bona fides* of the importer and rescinded the new shipper review of the exporter because, *inter alia*, the merchandise was apparently resold to an unaffiliated importer at a loss, and the Department was unable to confirm the legitimacy or existence of the unaffiliated importer).

As discussed below, we conclude that Dubao's sale to company B was not a *bona fide* commercial transaction. In other words, we find that the totality of circumstances of this particular transaction demonstrates that the entire transaction was not a *bona fide* commercial transaction because it falls outside of normal business practice and is otherwise commercially unreasonable. In reaching this conclusion, we have evaluated several factors, including:

- 1) price and quantity considerations;
- 2) the overall sales processes and selling expenses; and
- 3) the circumstances and legitimacy of the importer.

We discuss our findings below.

Price and Quantity Considerations

For purposes of our *bona fide* analysis, we compared the price and quantity of Dubao's sale to company B to the unit prices and quantities of other PRC honey imports during the POR, as well as to the average unit values ("AUVs") of honey imports from all countries during the POR. We also compared the price and quantity of this sale to the price and quantity of Dubao's other sales made to the United States after the POR.

With regard to pricing comparisons, we note that the sale price of Dubao's sale to company B was average vis-à-vis other imports of honey from the PRC during the POR. We find that in comparison to the industry-wide AUV of U.S. imports of honey from China (specific to the POR for entries under HTSUS numbers 04090000, 17029090, and 21069099), Dubao's U.S. sales prices are reasonable.¹ We also note that the price of Dubao's sale to Company B during the POR is consistent with the prices at which Dubao sold honey to the United States subsequent to the POR. See Attachment XIII of the Department's Bona Fide Memo, dated November 26, 2004.

With regard to quantity, we note that the quantity of Dubao's sale to company B was high in comparison to the quantities of other PRC honey imports during the POR. However, the quantity of Dubao's sale to company B is substantially lower than the quantities of honey that Dubao sold to the United States subsequent to the POR.

With regard to the price and quantity of company B's subsequent resale to company A, we note that company B resold this exact same shipment of honey to company A for the exact same price that it paid Dubao. We compared the price and quantity on the invoice from Dubao to company B with the Customs entry document, listing company A as the importer of record, and noted that the quantities and values are identical. See pages 51 and 59 of Dubao Verification Exhibit 6 (showing identical price and quantity on the invoice and Customs entry document). Therefore, company B resold to company A at the same price that it had paid to Dubao. Company B did not explain why it resold the merchandise to company A for the same price that it purchased it from Dubao.

The overall sales process and selling expenses

¹ The unit price of Dubao's second U.S. sale exclusive of various incurred fees and expenses, is more than the China industry-wide AUV of \$1.56 per kilogram.

The Department reviewed various aspects of the overall sales transaction concerning the sale and importation of this shipment, including the sales process between Dubao and company B, and the subsequent sales process between company B and company A, the importer of record. Specifically, we reviewed the timing of the sales, the negotiation processes, the selling expenses, and whether each entity made a profit on the sale.

With regard to the sale between Dubao and company B, we did not find the timing of the sale to be unreasonable, and we note that the agreement on the price between the exporter, Dubao, and Dubao's U.S. customer, company B, appears to have been reached through a credible negotiation process. See pages 77 through 83 of Dubao Verification Exhibit 6.

However, we note several unusual practices by company B regarding this specific transaction. Company B incurred certain expenses based on its sales terms with Dubao and company A which were high relative to the underlying costs of the transaction. See Dubao's Final Analysis Memo for the specific expenses incurred by company B, since this is business proprietary information. We found during verification that Dubao did not compensate company B for these additional expenses. See Dubao Verification Report at 18. Further, we note that the payment transaction from company B to Dubao was unusual but the specifics are business proprietary. See Dubao's Final Analysis Memo for details.

Moreover, as noted above, company B resold to company A at the same price that it had paid to Dubao. Therefore, since company B sold its honey for the same price to company A, but incurred additional expenses for which it was not reimbursed, it incurred a loss on this subsequent transaction. Thus, on its face, the transaction between company B and company A does not appear to be commercially reasonable, nor does it appear to have been made on an arm's-length basis.

Unusual Circumstances - Activities of the Importer

As part of its *bona fide* analysis, the Department also looked at the circumstances surrounding the activities of the importer. As documented at length in our Bona Fide Memo, and as petitioners have pointed out, there are concerns about the legitimacy of company A, the importer of record for Dubao's second U.S. sale.

Specifically, company A has not been responsive to the Department's importer questionnaires and apparently has provided a false address to the Department and to the Bureau of Customs and Border Protection ("CBP"). As noted at length in our detailed memorandum evaluating the bona fides of this transaction, we have tried but been unable to document the existence or location of company A. In particular, we were unable to find evidence that company A exists and that it was or is officially registered in California to do business (the information we have pertains to the previous owners), and there are suspicious circumstances surrounding individual 1's purchase of company A, as detailed in the Department's Bona Fide Memo, dated November 26, 2003. See Dubao's Final Analysis Memo for business proprietary information.

Thus, for all the reasons discussed above, as well as additional business proprietary reasons listed in the Bona Fide Memo, we cannot conclude that company A is a legitimate company as we have been unable to establish any independent evidence that this company existed as a going concern for purposes of this transaction.

Additionally, we find Dubao's statement, in its rebuttal brief, that it only learned of company A's identity as a direct result of the Department's request for Customs entry documents to be inconsistent with the statements that Dubao made during verification. Specifically, during verification, we asked how Dubao found out about company A, to which Dubao replied that company A had problems with company B and contacted Dubao directly after terminating its relationship with company B. Dubao explained that it had negotiations with company A and, based on when these negotiation occurred, it knew of company A's identity as company B's customer by the time the Department had issued its supplemental questionnaires to Dubao. See Dubao's Analysis Memo, dated April 26, 2004, for business proprietary information.

Conclusion - Totality of Circumstances

Thus, based on the totality of circumstances, the Department determines that Dubao's sale to company B is not a *bona fide* commercial transaction. As noted above, numerous aspects of this sale indicate that it is not typical of a company's normal business practices, and is otherwise not consistent with good business practices.

Company B resold the merchandise to an unaffiliated importer (company A) for the same price it purchased the merchandise, resulting in a loss of money on the sale. The Department was unable to verify the existence or identity of the unaffiliated downstream company who imported and took possession of this shipment. There are several other facts in support of our conclusion that this sale was not typical of a company's normal business practices (*i.e.*, sales expenses and payment information) but this information is business proprietary. Please see Dubao's Final Analysis Memo for the specific details.

Thus, for all the reasons discussed above, we determine that Dubao's sale of honey to company B is not a *bona fide* commercial transaction. Rather, it appears that company B simply purchased and resold the honey at a loss to a company who was listed as importer of record for the sole purposes of obtaining a new shipper bond. In reaching this decision, we note that this new shipper review has a similar fact pattern to Crawfish from the PRC, where the Department was unable to conclude that the importing parties were actual commercial entities, and found that the exporters' U.S. customer had sold the merchandise to the importers at the same price paid to the exporter, and therefore, incurred a loss because not all of the expenses were covered.

Thus, based on the record before the Department, and an analysis of the totality of the circumstances, we conclude that Dubao's second U.S. sale during the POR was not a *bona fide* transaction.

Therefore, we recommend excluding this sale from our calculation of Dubao's dumping margin calculations.

Adverse Facts Available with respect to Dubao's U.S. importer (company A) for its second sale

Dubao's importer for its second sale (company A) failed to respond to the Department's questionnaires or participate in any way in this proceeding. Indeed, the Department made numerous attempts to contact the U.S. importer for Dubao's second U.S. sale (company A), yet found the importer to be unavailable and/or unwilling to assist in the conduct of this administrative review. *See* the Department's bona fide memorandum from Brandon Farlander and Dena Aliadinov through Abdelali Elouaradia to the File regarding the New Shipper Review on Honey from the People's Republic of China ("PRC") ("Bona Fide Memo"), dated November 26, 2003. On June 13, 2003, the Department issued an importer questionnaire to the legal counsel for Dubao, and instructed that it be forwarded to Dubao's importers. On June 30, 2003, the Department received an importer questionnaire response from Dubao's U.S. customer, but this entity was not the U.S. importer for the second sale. In Dubao's second supplemental questionnaire, Dubao stated that its U.S. customer was not the importer of record for its second sale and provided a Customs Form 7501, which listed the importer of record and an address for this importer. The Department sent an importer questionnaire twice to the 7501 Form address but did not get a response. In addition, the Department sent an importer questionnaire to the address for this U.S. importer listed with the California Secretary of State's office and it was returned, with FedEx indicating that no business existed at that location. The Department located the owner of the 7501 Form address, via the Los Angeles Office of the Assessor's property ownership records and called this owner and he stated that he had lived at that address for two years and had never heard of the U.S. importer, nor was he employed by or an owner of the U.S. importer. At Dubao's verification, the Department informed Dubao that we were unable to locate the U.S. importer and we requested Dubao's contact names and numbers for this U.S. importer. The Department called this person provided by Dubao and she stated that the U.S. importer's address was the address listed on the Customs Form 7501, except for a slight address difference. We sent the importer questionnaire a second time to the Customs Form 7501 address (slightly modified as noted above) and, again, did not get a response. Also, we left a message with this contact person and asked her to provide another address if necessary. The Department did not hear from this contact, nor did the U.S. importer respond to the Department's importer questionnaire.

The Department was successful in locating a website for this U.S. importer and called the phone number appearing on that website, but discovered that the number had been disconnected. Furthermore, the Department e-mailed the company but no one responded. Finally, the Department called information for the greater Los Angeles area and the operator could not locate the U.S. importer in its phone directory.

Section 771(9) of the Act defines an "interested party" under the antidumping duty law as including producers, exporters, or "United States importer of subject merchandise." The U.S. importer for Dubao's second sale was an interested party. Section 776(a)(2) of the Act, provides that if an

interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d), use facts otherwise available in reaching the applicable determination.

Further, section 776(b) of the Act provides that the Department may use an inference adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's request for information. See also Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act (URAA), H.R. Rep. No. 103-316 at 870 (1994).

Clearly, Dubao's importer for its second transaction failed to participate in any way in this review and did not act to the best of its ability. Accordingly, we are applying the adverse facts available rate of 183.80 percent as an assessment rate for the U.S. importer for Dubao's second sale, which we have determined is not a *bona fide* sale.

An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. See section 776(b) of the Act. It is the Department's practice to assign the highest rate from any segment of a proceeding as total adverse facts available when a respondent fails to cooperate to the best of its ability. (See e.g., Certain Forged Stainless Steel Flanges From India: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review, 67 FR 10358 (March 7, 2002) ("Because we were unable to calculate margins for these respondents, we have assigned them the highest margin from any segment of this proceeding, in accordance with our practice."); Stainless Steel Plate in Coils From Taiwan: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review, 67 FR 5789 (February 7, 2002) ("Consistent with Department practice in cases where a respondent fails to cooperate to the best of its ability, and in keeping with section 776(b)(3) of the Act, as adverse facts available we have applied a margin based on the highest margin from this or any prior segment of the proceeding.").

In keeping with Department precedent, for this new shipper review, we have determined that it is appropriate to assign Dubao's U.S. importer for the second sale the rate of 183.80 percent – the highest rate determined in any segment of this proceeding. This rate was established in the LTFV investigation based on information contained in the petition. See Notice of Final Determination of Sales at Less Than Fair Value: Honey from the PRC, 66 FR 50608 (October 4, 2001) and accompanying Issues and Decision Memorandum (Final Determination). In selecting a rate for adverse facts available, the Department selects a rate that is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." See Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan, 63 FR 8909, 8932 (February 23, 1998).

We note that information from a prior segment of this proceeding constitutes "secondary information," and section 776(c) of the Act provides that, when the Department relies on such secondary information rather than on information obtained in the course of a review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. (Secondary information is described in the SAA as "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise." See SAA at 870.) The SAA states that the independent sources may include published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. The SAA also clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. As noted in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 57391, 57392 (November 6, 1996) ("TRBs"), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

As noted above, we are applying as AFA the highest rate from any segment of this administrative proceeding, which is the petition rate from the LTFV investigation. We note that in the LTFV investigation, the Department corroborated the information in the petition that formed the basis of the 183.80 percent PRC-wide entity rate. See Final Determination. Specifically, in the LTFV investigation, the Department compared the prices in the petition to the prices submitted by individual respondents for comparable merchandise. Moreover, the information upon which the AFA rate we are applying for the current review was corroborated again during the 2001-2002 administrative review, and found to be both reasonable and reliable. See Honey from the People's Republic of China: Preliminary Results of First Antidumping Duty Administrative Review, 68 FR 69988, 69992 (December 16, 2003) ("01-02 Preliminary Results"). No information has been presented in the current review that calls into question the reliability of this information. Thus, the Department finds that the information is reliable.

We further note that, with respect to the relevance aspect of corroboration, the Department stated in TRBs that it will "consider information reasonably at its disposal as to whether there are circumstances that would render a margin irrelevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin." See TRBs at 61 FR 57392. See also Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review, 61 FR 6812, 6814 (February 22, 1996) (disregarding the highest margin in the case as best information 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). The information used in calculating this margin was based on information from the petition, which was deemed reliable as compared to the selling prices of actual PRC exporters of the subject merchandise. This rate is also currently applicable to all exporters subject to the PRC-

wide rate. Moreover, as there is no information on the record of this review that demonstrates that this rate is not appropriately used as adverse facts available, we determine that this rate has relevance.

As the rate is both reliable and relevant, we determine that it has probative value. Accordingly, we determine that the highest rate from any segment of this administrative proceeding (*i.e.*, the petition rate of 183.80 percent, which is the current PRC-wide rate) is in accord with section 776(c)'s requirement that secondary information be corroborated (*i.e.*, that it have probative value).

We therefore recommend, for assessment purposes, applying this rate of 183.80 percent to Dubao's U.S. importer for the second sale.

Comment 2: Application of Adverse Facts Available for Shanghai Xiuwei International Trading Co., Ltd.

Petitioners argue that the Department, through verification and its own investigative activities, has obtained information demonstrating that Shanghai Xiuwei and its officials have provided false and conflicting information to the Department. Thus, petitioners assert that the Department should assign Shanghai Xiuwei the PRC-wide rate on the basis of adverse facts available.

Petitioners note that in the Department's Bona Fide Memorandum from Brandon Farlander and Dena Aliadinov through Abdelali Elouaradia to the File, dated November 26, 2003 ("Bona Fide Memo"), individual 1, and possibly other owner(s), were identified as the new owner(s) of company A and is also an owner(s) of Shanghai Xiuwei. See page 7 of Bona Fide Memo. Also, for specifics on this business proprietary information, see the business proprietary version of the Analysis Memorandum for Shanghai Xiuwei International Trading Co., Ltd. in the Final Results of the Administrative Review for the period 2/10/01 - 11/30/02, dated April 26, 2004 ("Shanghai Xiuwei Analysis Memo"). Petitioners note that the Department obtained this information because the prior owners of company A provided a copy of the contract which demonstrates that individual 1 purchased company A. However, petitioners note that at verification, individual 1 denied holding shares in any other companies other than Shanghai Xiuwei and that he had never worked for a U.S. company. See pages 3 and 4 of Verification of U.S. Sale for respondent Shanghai Xiuwei International Trading Co., Ltd. ("Shanghai Xiuwei") and Factors of Production Information Submitted by Henan Oriental Bee Products Co., Ltd ("Henan Oriental"), dated September 30, 2003 ("Shanghai Xiuwei verification report").

Also, petitioners argue that individual 1 is also associated with another entity, company B, which is relevant in this proceeding. Petitioners next cite to business proprietary information on the record about individual 1 and state that individual 1 is the same person as individual 2. See the Shanghai Xiuwei Analysis Memo dated April 26, 2004 for details of this business proprietary information. Petitioners cite the following information on the record as support that individual 1 associated with Shanghai Xiuwei and company A and individual 2 of company B are the same person:

First, individual 1's first name is, petitioners claim, a variant-formed Chinese character that would not likely be confused with other characters. Petitioners cite another argument but this information is business proprietary; thus, see the Shanghai Xiuwei Analysis Memo dated April 26, 2004 for details.

Second, petitioners contend that company C was involved in both company D and company E's exports of honey during the POR. Petitioners note that Shanghai Xiuwei's U.S. customer, company F, stated in its importer questionnaire that it sold its honey to company C. Also, petitioners cite business proprietary information concerning company D and a link with company C but this information is business proprietary. See Shanghai Xiuwei Analysis Memo dated April 26, 2004 for details. Additionally, petitioners note that in August 2002, individual 1 met with individual 3 who later established company F.

Third, petitioners note that at Shanghai Xiuwei's verification, the Department discovered that individual 1 is the general manger of company G, a trading company that exports seafood products to the U.S. Also, petitioners note that the Department has obtained certain business proprietary information linking company B with individual 2.

Fourth, petitioners contend that the individuals responsible for constructing the sales that have been reported in this proceeding have a detailed knowledge of the operation of the U.S. antidumping laws. For example, petitioners note that individual 1's involvement with Shanghai Xiuwei, company A, and company B reflects an association with companies that have either exported or imported products covered by antidumping duty orders. Petitioners contend that at verification, the Department discovered that company B is an importer of product A, a product that is under the U.S. antidumping duty order.

Fifth, petitioners note that after the POR in this proceeding, company A, with individual 1 as its new owner, purchased and imported into the United States honey from company D and company E. Petitioners state that they do not find credible company D's explanation of certain business proprietary information. See the Shanghai Xiuwei Analysis Memo dated April 26, 2004 for details.

Petitioners contend that individual 1's denial at verification of his ownership of company A demonstrates that individual 1 is attempting to manipulate the Department's analysis through his involvement and ownership interests in Shanghai Xiuwei, company A, and company B.

Petitioners assert that individual 1 had a significant incentive to withhold from the Department information that he owns an interest in Shanghai Xiuwei and company A because this relationship will affect the Department's analysis of whether the sales between these entities in the second administrative review are export price or constructed export price sales.

Because of Shanghai Xiuwei's efforts to mislead the Department as to the ownership interests held by and associations of individual 1, who is an owner(s) of Shanghai Xiuwei, Shanghai Xiuwei's responses

are completely unreliable and justify the Department's application of adverse facts available in assigning a dumping margin and cash deposit rate to that company in its final results.

Petitioners claim that Shanghai Xiuwei attempted to conceal its sales of honey to company A after the conclusion of the POR. Petitioners note that at verification, Shanghai Xiuwei provided its post-POR sales of honey to the United States and that none of these sales provided by Shanghai Xiuwei were to company A. However, petitioners note that information obtained by the Department from CBP shows that company A was the importer of record for a significant number of honey shipments made to the United States by Shanghai Xiuwei in the post-POR period, citing the Bona Fide Memo at 9 and Attachment XIII. Also, petitioners note that the CBP data obtained by the Department reflect that company A imported honey from China in the post-POR period that was shipped to the United States by company D and company E.

Petitioners note at verification that Shanghai Xiuwei stated that it made post-POR sales to company H and company I yet none of the sales to company I were identified as such in data maintained by CBP. Instead, petitioners note that CBP data indicate post-POR sales to company A.

Petitioners contend that this inconsistency between the sales information submitted by Shanghai Xiuwei and the CBP data obtained by the Department demonstrates Shanghai Xiuwei's misrepresentation of the nature of its operations to the Department. Thus, petitioners argue that this misrepresentation warrants its responses to the Department's questionnaire unreliable and justifies the Department's application of adverse facts available in assigning a margin and cash deposit rate to Shanghai Xiuwei in its final results.

Petitioners note that during Shanghai Xiuwei's verification, the Department discovered that individual 1 is general manager of company G and that Shanghai Xiuwei's attempts to conceal this information from the Department further reflects its efforts to create an impression that it is a new shipper with no significant prior history or other associations, such as individual 1's associations with company G and company B, an importer of product A. These facts, petitioners contend, demonstrate that Shanghai Xiuwei's responses to the Department's requests for information are not credible or reliable and cannot serve as the basis for the Department's calculation of a company-specific margin for Shanghai Xiuwei in its final results.

Petitioners contend that Shanghai Xiuwei's efforts to mislead and deceive the Department undermine the credibility of its responses and support the application of adverse facts available. Petitioners cite section 776(a) of the Tariff Act of 1930, as amended, and argue that the Department is required to use facts otherwise available, subject to section 1677m(d), where necessary information is not on the record, or where an interested party: (1) withholds information that has been requested by the Department; (2) fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject sections 1677m(c)(1) and (e); (3) significantly impedes a proceeding; or (4) provides such information but the information cannot be verified. Petitioners argue that the record in this proceeding demonstrates that the application of facts available with respect to

Shanghai Xiuwei is appropriate under each of these criteria, even though the Department need only find one to be applicable to apply facts available.

Petitioners argue that Shanghai Xiuwei's efforts to withhold and provide misleading information to the Department in this proceeding mirror the circumstances at issue in a recent administrative review of the antidumping duty order on certain preserved mushrooms from China, citing Certain Preserved Mushrooms From the People's Republic of China: Final Results and Partial Rescission of the New Shipper Review and Final Results and Partial Rescission of the Third Antidumping Duty Administrative Review, 68 FR 41,304 (July 11, 2003) ("Mushrooms Final"). Petitioners contend that in the Mushrooms Final, the Department applied adverse facts available to two respondents in its final results based on its determinations that the two companies made significant misrepresentations that caused the Department to question the veracity of other responses provided by the respondents. Also, petitioners note that the Department reached these results in the Mushrooms Final despite its verification of the responses of one respondent, noting that the Department stated that its verification findings were predicated on the reliability of the respondent's own information and records.

Petitioners state that, in this proceeding, the Department's verification of the information submitted by Shanghai Xiuwei is predicated on the reliability of that company's information and records. However, petitioners contend that other information uncovered by the Department during the course of this proceeding demonstrates that Shanghai Xiuwei has materially misrepresented the nature of the corporate holdings, employment, and other associations of individual 1, an owner of a certain percentage of Shanghai Xiuwei's shares.

Petitioners note the volume of trade in this proceeding for Shanghai Xiuwei is relatively small and that the shipments in the second administrative review by Shanghai Xiuwei will be impacted by the nature of its affiliation with company A.

Petitioners argue that the Department's reliance on adverse facts available to establish an assessment and cash deposit rate for Shanghai Xiuwei in this proceeding will encourage Shanghai Xiuwei to cooperate with the Department in future reviews and ensure that Shanghai Xiuwei cannot undermine the efficacy of the antidumping duty law by making material misrepresentations to the Department.

Shanghai Xiuwei rebuts petitioners arguments and instead contends that Shanghai Xiuwei and its officials provided accurate and truthful information to the Department during this proceeding and the Department should continue to use the dumping duty rate it calculated for Shanghai Xiuwei in the preliminary determination.

Shanghai Xiuwei stated that, as stated in petitioners' case brief and in the Department's Bona Fide Memo, individual 1, one of the two owners of Shanghai Xiuwei, signed a purchase contract with the prior owners of company A on a certain date to acquire company A. Then, Shanghai Xiuwei stated that individual 1 only acted as an agent for individual 4 and that individual 1 transferred his ownership to individual 4 after he went back to China. Shanghai Xiuwei then stated that it provided copies of the

transfer agreement and bank document to prove the payment from individual 4 to individual 1 in Attachment A to Shanghai Xiuwei's rebuttal brief filed with the Department on January 27, 2004.

Shanghai Xiuwei stated that at the time of verification, individual 1 owned no shares of any companies other than Shanghai Xiuwei and that Shanghai Xiuwei and its officials did not withhold any information from the Department with respect of ownership. Shanghai Xiuwei contends that there is no incentive for individual 1 to conceal this information because even if Shanghai Xiuwei and company A were affiliated in the next administrative review, a fair dumping duty rate can still be calculated for Shanghai Xiuwei.

Next, Shanghai Xiuwei rebuts petitioners' argument that it is concealing its post-POR sales of honey to company A. Shanghai Xiuwei stated that during verification, per the Department's request, Shanghai Xiuwei submitted a list of the post-POR U.S. sales of honey, together with the names of all respective importers. Shanghai Xiuwei stated the reason company A was not reported as an importer was because all of these shipments that Shanghai Xiuwei made to company A were not filed for entry and were temporarily stored in a U.S. bonded warehouse and later shipped back to Shanghai Xiuwei in China. Shanghai Xiuwei stated that at the time of verification, it already knew that because of a lack of antidumping bond, these shipments to company A would not enter into the United States and would be shipped back to China. Thus, Shanghai Xiuwei stated that because these sales did not go through, it did not report them as U.S. honey sales. Shanghai Xiuwei then stated that it provided copies of bonded warehouse documents and return shipping documents as Attachment B to Shanghai Xiuwei's rebuttal brief filed with the Department on January 27, 2004. Shanghai Xiuwei contends that for all other sales that it reported during verification, the antidumping bond was still available and that it believed that those sales would go through smoothly.

Shanghai Xiuwei contends that, contrary to petitioners' allegation, it did not attempt to conceal individual 1's employment with company G and that at verification, individual 1 stated that he worked for company G. Shanghai Xiuwei argues that it answered each of the Department's questions in its March 20, 2003 Section A response (see Attachment C for a copy of pages 9 and 10 of its response) accurately and truthfully and that none of the questions asked if any of Shanghai Xiuwei's owners were also employed as managers by any other companies. Shanghai Xiuwei stated that neither it nor individual 1 attempted to conceal individual 1's concurrent managerial positions with other companies.

Department's Position: We agree with Petitioners in part and determine that the use of facts available is warranted for Shanghai Xiuwei, and that Shanghai Xiuwei failed to act to the best of its ability. Therefore, we are assigning to Shanghai Xiuwei the rate of 183.80 percent as adverse facts available.

Section 776(a)(2) of the Act, provides that if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the

administering authority shall, subject to section 782(d), use facts otherwise available in reaching the applicable determination.

Section 782(d) of the Act provides that if the Department determines that a response to a request for information does not comply with the request, the Department shall promptly inform the person submitting the response of the nature of the deficiency, and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of the review.

Further, section 776(b) of the Act provides that the Department may use an inference adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's request for information. See also Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act (URAA), H.R. Rep. No. 103-316 at 870 (1994).

For the reasons outlined below, and pursuant to sections 776(a)(2)(A), (B), (C), and (D) of the Act, we find that we should use facts otherwise available in reaching our findings with respect to exports by Shanghai Xiuwei. Specifically, Shanghai Xiuwei withheld information that was specifically requested by the Department, failed to provide such information by the deadlines for the submission of the information in the form and manner requested, significantly impeded this proceeding, and provided information that could not be verified. Further, in using the facts otherwise available, we find that an adverse inference is warranted pursuant to Section 776(b), because Shanghai Xiuwei has not acted to the best of its ability. We discuss each of these findings below.

Use of Facts Available

At Shanghai Xiuwei's verification, the Department requested that Shanghai Xiuwei provide all sales invoices since inception of the company. Specifically, the Department's verification outline stated that Shanghai Xiuwei should have the following documents available for verification: complete financial statements, and notes, or interim financial statements and notes, covering the period of review (POR) and all subsequent monthly or quarterly statements and all journals, including sales journals, and accounts receivable journals. Also, in the verification outline, we noted that additional documentation may be required for a full verification. See page 2 of the verification outline for Shanghai Xiuwei and producer Henan Oriental Bee Products Co., Ltd., dated July 21, 2003 ("Shanghai Xiuwei verification outline"). The Department requested this information as part of its completeness test and in an effort to determine whether Shanghai Xiuwei was a legitimate new shipper company. In response, Shanghai Xiuwei provided what it claimed were all of its sales invoices since the company was formed, and we tied the total sales value and quantities from each invoice to its sales sub-ledger and financial statements. See pages 7 and 11 of Shanghai Xiuwei's verification report.

However, notwithstanding Shanghai Xiuwei's assertion that it provided all of its sales at verification, we note that CBP data indicates Shanghai Xiuwei had additional shipments of subject merchandise since its inception that it failed to report to us at verification. Specifically, CBP data indicates that Shanghai

Xiuwei shipped a substantial amount of honey to company A, an affiliated U.S. importer, which were not reported to the Department at verification. See Attachment XIII of the Department's Bona Fide Memo. We note that Shanghai Xiuwei's shipments to company A were substantial, representing approximately 50 percent of its sales for the financial statement period ending June 30, 2003 (i.e., January 1, 2003 through June 30, 2003).

We noted this discrepancy on page 9 of the Bona Fide Memo and afforded Shanghai Xiuwei an opportunity to explain this discrepancy. In its rebuttal, Shanghai Xiuwei stated that it did not record these shipments to company A in its sales sub-ledger because such shipments were not filed for entry but were temporarily put into a U.S. bonded warehouse and later shipped back to China. Also, Shanghai Xiuwei stated that at the time of verification, Shanghai Xiuwei already knew that because of a lack of an antidumping bond for company A, its shipments to company A would not enter into the U.S. and would be returned to China and thus did not report them as U.S. honey sales.

Shanghai Xiuwei is correct that these shipments to company A did not enter the U.S. Customs territory. However, based on Shanghai Xiuwei's questionnaire responses and description at verification of how it maintains its accounting books in its normal course of business, its shipments to company A should have been but were not listed in Shanghai Xiuwei's sales income sub-ledger and accounts receivable. In this regard, Shanghai Xiuwei stated at verification that an accounting voucher is created when its accountant receives an expense or invoice, such as a sales invoice, and this transaction data is entered in the sub-ledger, and the sub-ledger figures are totaled and posted to the general ledger each month. Shanghai Xiuwei explained that these monthly figures from its general ledger are used to generate its quarterly and annual financial statements (see page 6 of the Shanghai Xiuwei verification report). Also, for its sales, Shanghai Xiuwei stated that it enters this transaction information into accounts receivable and, when it is paid, credits accounts receivable². Because these sales to company A were invoiced and shipped to the United States prior to June 30, 2003, these sales should have been included in Shanghai Xiuwei's sales income figure for its June 30, 2003 financial statement. However, these shipments to company A do not appear in the sales sub-ledger submitted to the Department at verification.

Further, we note that Shanghai Xiuwei's argument that it did not record these shipments as sales in its accounting records because these shipments to company A did not enter U.S. territory is not credible. We note that certain of its shipments to company I had not entered U.S. territory but were nevertheless recorded in Shanghai Xiuwei's sales sub-ledger, accounts receivable, and correspondingly, in its

²We note that Shanghai Xiuwei did not dispute the Department's verification report which described how Shanghai Xiuwei stated it maintained its accounting records in the normal course of business.

financial statement, ending June 30, 2003. See page 7 of Shanghai Xiuwei's verification report³. Yet, its shipments to company A, which also had not entered U.S. territory, were not in its accounting records.

We also do not find credible Shanghai Xiuwei's rebuttal argument that it did not report these shipments to the Department at verification because it knew these shipments to company A would not enter U.S. territory and therefore would be returned to China. This argument is premised on the untenable notion that Shanghai Xiuwei has the ability to invoice and ship the subject merchandise to company A and then, within a short period of time, have actual knowledge that such shipments would not enter the United States, and therefore need to be returned to China. Such an outcome is unlikely, given the minimal time differences between the shipment date from China to the United States, the arrival date in the United States, and the timing of verification. For the details on these time differences, which are business proprietary information, see the Shanghai Xiuwei Analysis Memo, dated April 26, 2004. In any event, even if Shanghai Xiuwei knew that these shipments to company A would be returned to China at the time of verification, Shanghai Xiuwei still should have recorded these shipments in its accounting records as "sales" at the time the transaction was made (in accordance with its normal accounting procedures as discussed above), but they did not do so.

Therefore, for all the reasons discussed above, we find that Shanghai Xiuwei did not report all of its sales at verification and provided incomplete sales sub-ledgers and financial statements at verification.

Second, in addition to its failure to report all of its sales at verification, Shanghai Xiuwei was also required to report in its response that one of its owners also owned a U.S. importer of subject merchandise. Specifically, the initial questionnaire sent to Shanghai Xiuwei on February 20, 2003 requested Shanghai Xiuwei to provide all information about Shanghai Xiuwei's relationships with any entities or individuals in any way involved in the production, processing, distribution, and sale of subject merchandise. Specifically, question 3c(i) of the Department's Section A questionnaire asked the following: "{F}or your company and its affiliates, provide a list of all the manufacturing plants, processing centers, distribution centers, sales office locations, research and development facilities and administrative offices involved in the manufacture, processing, and sale of the subject merchandise ...". In its March 20, 2003 Section A response, Shanghai Xiuwei stated: "We do not have any affiliates or operate any other facilities involved in the manufacture, processing, and sale of the subject merchandise ..."

Similarly, in the Department's verification outline, the Department instructed Shanghai Xiuwei to review its organizational and corporate structure and related parties and to discuss the internal structure of any

³In this regard, we note that Petitioners' case brief incorrectly asserts that none of the sales that Shanghai Xiuwei presented to the Department during verification as sales to company I were identified as such in CBP data. This statement is incorrect. The Department stated in our Bona Fide Memo that none of the sales to company I in Verification Exhibit ("VE")-10 were in the CBP data but the sales to company I in VE-5 were in the CBP data.

related companies. See page 3 of the Shanghai Xiuwei verification outline. When asked by the Department whether individual 1 owned stock in any other companies, individual 1 stated that he did not own shares in any other companies. See page 4 of Shanghai Xiuwei verification report.

Thus, Shanghai Xiuwei did not report in any of its responses or at verification that one of its owners, individual 1, also owned company A, a U.S. importer of subject merchandise. However, information on the record demonstrates clearly that Shanghai Xiuwei and company A are, in fact, affiliated⁴ based on individual 1's ownership levels in both companies and corresponding control in both companies. Specifically, individual 1's ownership level in Shanghai Xiuwei is significant enough to demonstrate control over Shanghai Xiuwei (see Exhibit A-7 of Shanghai Xiuwei's March 20, 2003 Section A response (business proprietary version) for the specific ownership percentage). Also, individual 1's ownership level in company A is enough to demonstrate control (see Attachment IX of the Bona Fide Memo (business proprietary version) for the specific ownership percentage). Therefore, based on individual 1's ownership level in company A and Shanghai Xiuwei, we find that company A and Shanghai Xiuwei are affiliates based on common ownership and the fact that individual 1 controls both companies via his stock ownership levels in both companies (company A and Shanghai Xiuwei). See Section 771(33)(E) of the Act. This is important because the shipments mentioned above to company A, which Shanghai Xiuwei did not report at verification, were to this same importer (company A).

Therefore, company A and Shanghai Xiuwei are affiliates, as noted above, and Shanghai Xiuwei did not inform the Department of this relationship until the Department placed this information on the record at the preliminary results of this proceeding. In its rebuttal brief, Shanghai Xiuwei stated that individual 1 did purchase company A but then sold company A prior to verification. However, this information was provided after verification and thus cannot be verified. Also, despite the Department's request in its questionnaire, Shanghai Xiuwei never discussed this fact with the Department.

We note that petitioners have argued that individual 1 and individual 2 are the same person, and that Shanghai Xiuwei has failed to report other relationships. In this regard, there is not enough evidence on the record demonstrating that individual 1 is the same person as individual 2. After reviewing petitioners' cited evidence, we find that we do not have enough evidence that individual 1 and individual 2 are the same individual, despite Petitioners' cited operational business similarities. See pre-verification correction noted in Dubao Verification Report (demonstrating that individual 1 and individual 2 are not the same people).

Moreover, we also note that petitioners have argued that this same owner, individual 1, was also employed by another company (company G) and had worked for this other company prior to Shanghai Xiuwei's formation, but Shanghai Xiuwei never informed the Department of this fact as required by the Department's questionnaire. Only at verification, when asked specifically by the Department (and not as a pre-verification correction), did individual 1 state that he also worked for this other company as a

⁴Section 771(33)(E) of the Act states that persons shall be considered to be affiliated persons when any person directly or indirectly owns, controls, or holds with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.

general manager. Therefore, Shanghai Xiuwei failed to provide this information, as requested in the Department's questionnaire.

Therefore, for all the reasons discussed above, we find that Shanghai Xiuwei failed to disclose in its responses and at verification important information about the nature of its relationship with an affiliated importer. In addition, we find that Shanghai Xiuwei failed to disclose that individual 1 worked for company G.

The Department must rely on the accounting records of a respondent and, in examining Shanghai Xiuwei, we examined its accounting records as a whole. At verification, we examined the financial statements which covered the U.S. sale made during the POR and sales made after the POR. The Department determined to examine all of Shanghai Xiuwei's accounting records at verification as part of its completeness test and to determine whether Shanghai Xiuwei is a *bona fide* company. As explained above, given the severity of information withheld by Shanghai Xiuwei, we determine that the content of all of its accounting books before the agency are unreliable. Therefore, because Shanghai Xiuwei withheld information that has been requested by the Department, significantly impeded this proceeding, and provided information which cannot be verified, we find it necessary to use facts available, pursuant to sections 776(a)(2)(A), (B), (C), and (D) of the Act.

Application of an Adverse Inference

Once the Department determines that the use of facts available is warranted, the Department must then determine whether an adverse inference is warranted pursuant to section 776(b) of the Act, which permits the Department to apply an adverse inference if it makes the additional finding that an interested party has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. 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 (SAA) accompanying the URAA, H. Doc. No. 316, 103d Cong., 2d Session at 870 (1994).

In determining whether a respondent has failed to cooperate to the best of its ability, the Department need not make a determination regarding the willfulness of a respondent's conduct. See Nippon Steel Corp. v. United States, 337 F. 3rd 1373, 1382-1383 (Fed. Cir. 2003). Furthermore, "an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference." Antidumping Duties; Countervailing Duties: Final Rule, 62 FR 27296, 27340 (May 19, 1997). Instead, the courts have made clear that the Department must articulate its reasons for concluding that a party failed to cooperate to the best of its ability, and explain why the missing information is significant to the review. Id. In determining whether a party failed to cooperate to the best of its ability, the Department considers whether a party could comply with the request for information, and whether a party paid insufficient attention to its statutory duties. See Tung Mung Dev. Co. v. US, 2001 Ct. Intl. Trade LEXIS 94 at *89 (CIT July 3, 2001); see also, Pacific Giant, Inc. v. United States, 223 F. Supp. 2d 1336, 1342 (August 6, 2002). Furthermore, to determine whether the respondent "cooperated" by "acting to the best of its ability" under section 776(b) of the Act, the

Department also considers the accuracy and completeness of submitted information, and whether the respondent has hindered the calculation of accurate dumping margins. See Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review, 62 FR 53808, 53819-53820 (October 16, 1997).

The Department finds that Shanghai Xiuwei failed to cooperate to the best of its ability because it withheld important information specifically requested by the Department. In particular, and as discussed above in detail, Shanghai Xiuwei provided incomplete sales sub-ledgers and financial statements at verification and failed to inform the Department that individual 1 owned company A. As noted above, Shanghai Xiuwei failed to report this information, notwithstanding that the Department expressly requested this information in initial and supplemental questionnaires, and at verification. Indeed, it was not until after the Department uncovered information about the relationship between Shanghai Xiuwei and company A that Shanghai Xiuwei confirmed this relationship. Also, it was not until after the Department stated that Shanghai Xiuwei had additional sales not listed in its sales sub-ledger that Shanghai Xiuwei admitted that it had additional sales to company A. Thus, Shanghai Xiuwei clearly withheld the requested information concerning its affiliate relationship with company A, and its additional shipments to company A.

We further find that Shanghai Xiuwei could have complied with the Department's request to respond accurately to the Department's requests for this information, but failed to do so. Shanghai Xiuwei clearly had access to this information, and could have supplied it, but did not do so. Moreover, at no point in the administrative review, prior to or during verification, did Shanghai Xiuwei notify the Department of the existence of any inaccuracies in information it reported to the Department, or seek guidance on the applicable reporting requirements, as contemplated in section 782(c)(1) of the Act. Moreover, the Department notified Shanghai Xiuwei of these deficiencies and offered the company an opportunity to explain them. As noted above, Shanghai Xiuwei either admitted the deficiencies, or provided explanations that were not credible.

We note that the information withheld by Shanghai Xiuwei is essential to the Department's dumping analysis. In particular, Shanghai Xiuwei's failure to report all of its sales and to provide accurate and complete sales sub-ledgers at verification calls into question the reliability of all sales-related information it provided to the Department, and undermines the credibility of its entire response. Shanghai Xiuwei's additional failure to inform the Department about all of its affiliates further deprives the Department of its ability to analyze fully the nature of Shanghai Xiuwei's relationships with its customers and importers, and whether the reported transactions have been made to affiliates.

In sum, despite the Department's detailed and very specific questionnaires and questions asked at verification, Shanghai Xiuwei gave insufficient attention to its statutory duty to reply accurately to requests for factual information regarding its affiliate and its additional U.S. shipments. We find that Shanghai Xiuwei's consistent failure to provide complete information concerning its affiliate relationships and its additional sales to company A amounts to a pattern of behavior of withholding information requested by the Department. As such, the Department finds that Shanghai Xiuwei failed to act to the best of its ability and an adverse inference is warranted.

An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. See section 776(b) of the Act. It is the Department's practice to assign the highest rate from any segment of a proceeding as total adverse facts available when a respondent fails to cooperate to the best of its ability. (See e.g., Certain Forged Stainless Steel Flanges From India: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review, 67 FR 10358 (March 7, 2002) ("Because we were unable to calculate margins for these respondents, we have assigned them the highest margin from any segment of this proceeding, in accordance with our practice."); Stainless Steel Plate in Coils From Taiwan: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review, 67 FR 5789 (February 7, 2002) ("Consistent with Department practice in cases where a respondent fails to cooperate to the best of its ability, and in keeping with section 776(b)(3) of the Act, as adverse facts available we have applied a margin based on the highest margin from this or any prior segment of the proceeding.").

In keeping with Department precedent, for this administrative review, we have determined that it is appropriate to assign Shanghai Xiuwei the rate of 183.80 percent – the highest rate determined in any segment of this proceeding. This rate was established in the LTFV investigation based on information contained in the petition. See Notice of Final Determination of Sales at Less Than Fair Value; Honey from the PRC, 66 FR 50608 (October 4, 2001) and accompanying Issues and Decision Memorandum (Final Determination). In selecting a rate for adverse facts available, the Department selects a rate that is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." See Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan, 63 FR 8909, 8932 (February 23, 1998).

We note that information from a prior segment of this proceeding constitutes "secondary information," and section 776(c) of the Act provides that, when the Department relies on such secondary information rather than on information obtained in the course of a review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. (Secondary information is described in the SAA as "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise." See SAA at 870.) The SAA states that the independent sources may include published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. The SAA also clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. As noted in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 57391, 57392 (November 6, 1996) ("TRBs"), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

As noted above, we are applying as AFA the highest rate from any segment of this administrative proceeding, which is the petition rate from the LTFV investigation. We note that in the LTFV investigation, the Department corroborated the information in the petition that formed the basis of the 183.80 percent PRC-wide entity rate. See Final Determination. Specifically, in the LTFV investigation, the Department compared the prices in the petition to the prices submitted by individual respondents for comparable merchandise. Moreover, the information upon which the AFA rate we are applying for the current review was corroborated again during the 2001-2002 administrative review, and found to be both reasonable and reliable. See Honey from the People's Republic of China: Preliminary Results of First Antidumping Duty Administrative Review, 68 FR 69988, 69992 (December 16, 2003) (“01-02 Preliminary Results”). No information has been presented in the current review that calls into question the reliability of this information. Thus, the Department finds that the information is reliable.

We further note that, with respect to the relevance aspect of corroboration, the Department stated in TRBs that it will “consider information reasonably at its disposal as to whether there are circumstances that would render a margin irrelevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin.” See TRBs at 61 FR 57392. See also Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review, 61 FR 6812, 6814 (February 22, 1996) (disregarding the highest margin in the case as best information 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). The information used in calculating this margin was based on information from the petition, which was deemed reliable as compared to the selling prices of actual PRC exporters of the subject merchandise. This rate is also currently applicable to all exporters subject to the PRC-wide rate. Moreover, as there is no information on the record of this review that demonstrates that this rate is not appropriately used as adverse facts available, we determine that this rate has relevance.

As the rate is both reliable and relevant, we determine that it has probative value. Accordingly, we determine that the highest rate from any segment of this administrative proceeding (i.e., the petition rate of 183.80 percent, which is the current PRC-wide rate) is in accord with section 776(c)'s requirement that secondary information be corroborated (i.e., that it have probative value).

Recommendation

Based on our analysis of the comments received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final antidumping margin and the final results of this new shipper review in the *Federal Register*.

Agree

Disagree

James J. Jochum
Assistant Secretary
for Import Administration

Date