

agency's estimate of the burden (including hours and costs) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 4, 2004.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-803]

Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Preliminary Results of Administrative Reviews, Preliminary Partial Rescission of Antidumping Duty Administrative Reviews, and Determination Not To Revoke in Part

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

ACTION: Preliminary results of antidumping duty administrative reviews.

SUMMARY: The Department of Commerce (the Department) is conducting administrative reviews of the antidumping duty orders on heavy forged hand tools, finished or unfinished, with or without handles (HFHTs), from the People's Republic of China (PRC). The period of review (POR) is February 1, 2002, through January 31, 2003. These reviews cover imports of subject merchandise from four manufacturers/exporters.

We preliminarily determine that certain manufacturers/exporters sold subject merchandise at less than normal value (NV) during the POR. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. We have also preliminarily determined not to revoke the antidumping duty order on hammers/sledges with respect to

hammers/sledges produced by Shandong Jinma Industrial Group Co., Ltd. (Jinma) and exported by Shandong Machinery Import & Export Corporation (SMC).

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

EFFECTIVE DATE: March 10, 2004.

FOR FURTHER INFORMATION CONTACT:

Mark Manning or Thomas Martin; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-5253 and (202) 482-3936, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 19, 1991, the Department published in the **Federal Register** (56 FR 6622) four antidumping orders on HFHTs from the PRC. Imports covered by these orders comprise the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg (3.33 pounds) (hammers/sledges); (2) bars over 18 inches in length, track tools and wedges (bars/wedges); (3) picks/mattocks; and (4) axes/adzes. See the *Scope of Reviews* section below for the complete description of subject merchandise.

On February 27, 2003, five exporters of the subject merchandise requested that the Department conduct administrative reviews of their exports of subject merchandise. Specifically, Tianjin Machinery Import & Export Corporation (TMC) requested that the Department conduct an administrative review of its exports of merchandise covered by the hammers/sledges order. Shangdong Huarong Machinery Co., Ltd. (Huarong) requested that the Department conduct an administrative review of its exports of merchandise covered by the bars/wedges order. Similarly, Liaoning Machinery Import & Export Corporation (LMC) and Liaoning Machinery Import & Export Corporation, Ltd. (LIMAC) also requested that the Department conduct an administrative review of their exports of merchandise covered by the bars/wedges order, and requested revocation pursuant to 19 CFR 351.222(b). Lastly, SMC requested that the Department conduct an administrative review of its exports of merchandise covered by the hammers/sledges and bars/wedges orders, and also requested revocation with respect to hammers/sledges pursuant to 19 CFR 351.222(b).

On February 28, 2003, the petitioner, Ames True Temper, requested administrative reviews of merchandise of 88 PRC producers/exporters covered by the axes/adzes, bars/wedges and hammers/sledges orders, in addition to the five companies identified above. Regarding the picks/mattocks order, the petitioner requested administrative reviews for the following six PRC companies, which were also included in the petitioner's request for review of the other three HFHTs orders: Fujian Machinery & Equipment Import & Export Corporation (FMEC), Huarong, Jinma, LMC, SMC, and TMC. On March 25, 2003, the Department published a notice of initiation of administrative reviews of merchandise covered by the four orders on HFHTs, produced/exported by the PRC companies identified by the petitioner, which includes the five companies identified above that requested a review of their own sales of subject merchandise. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 68 FR 14394 (March 25, 2003).

On March 26, 2003, the Department issued a shortened section A questionnaire to all of the PRC producers/exporters identified in the notice of initiation. This questionnaire requested that these companies report the quantity and value of their sales of merchandise during the POR that are subject to the four HFHTs antidumping orders.¹ In April and May 2003, we received letters from ten PRC producers/exporters stating that they had no shipments of subject merchandise during the POR. We received, on April 23, 2003, the shortened section A questionnaire responses from Huarong, LMC/LIMAC, SMC, TMC, and Jiangsu Guotai International Group Huatai Import & Export Company, Ltd. (Jiangsu). On May 6, 2003, the Department issued to interested parties the draft physical product characteristics for hand tools that we intend to use to make our fair value comparisons. From May 21, 2003 through May 28, 2003, the Department received comments on these physical product characteristics. Also on May 6, 2003, the Department issued the full section A questionnaire to Huarong, LMC/LIMAC, SMC, TMC, and Jiangsu. We received responses from Huarong, LMC/LIMAC, SMC, and TMC on May 28, 2003, and from Jiangsu on June 12,

¹ Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under review that it sells, and the manner in which it sells that merchandise in all of its markets.

2003. On June 18, 2003, the Department issued sections C and D of the antidumping questionnaire to Huarong, LMC/LIMAC, SMC, TMC, and Jiangsu.² Although Jiangsu's response to sections C and D of the questionnaire was due on July 25, 2003, the Department received no response from this company. On August 4, 2003, the Department notified Jiangsu that its response to sections C and D of the questionnaire was past due and requested that Jiangsu notify the Department if it had encountered unexpected difficulties in submitting its response. However, the Department never received a response to its August 4, 2003, letter. We received responses to sections C and D of the antidumping questionnaire on August 11, 2003 from Huarong, LMC/LIMAC, and SMC, and on August 18, 2003 from TMC. The Department issued numerous supplemental questionnaires to Huarong, LMC/LIMAC, SMC, and TMC throughout the period June through November 2003. We received timely responses to these supplemental questionnaires.

On October 16, 2003, the Department extended the time limit for completion of these preliminary review results until no later than March 1, 2004. See *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 59583 (October 16, 2003).

Scope of Reviews

The products covered by these reviews are HFHTs from the PRC, comprising the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg (3.33 pounds) (hammers/sledges); (2) bars over 18 inches in length, track tools and wedges (bars/wedges); (3) picks and mattocks (picks/mattocks); and (4) axes, adzes and similar hewing tools (axes/adzes).

HFHTs include heads for drilling hammers, sledges, axes, mauls, picks and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel wood splitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length,

heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently provided for under the following Harmonized Tariff System of the United States (HTSUS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded from these investigations are hammers and sledges with heads 1.5 kg. (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under. The HTSUS subheadings are provided for convenience and CBP purposes. The written description remains dispositive.

The Department has issued five final scope rulings regarding the merchandise covered by these orders: (1) On August 16, 1993, the Department found the "Max Multi-Purpose Axe," imported by the Forrest Tool Company, to be within the scope of the axes/adzes order; (2) on March 8, 2001, the Department found "18-inch" and "24-inch" pry bars, produced without dies, imported by Olympia Industrial, Inc. and SMC Pacific Tools, Inc., to be within the scope of the bars/wedges order; (3) on March 8, 2001, the Department found the "Pulaski" tool, produced without dies by TMC, to be within the scope of the axes/adzes order; (4) on March 8, 2001, the Department found the "skinning axe," produced through a stamping process, imported by Import Traders, Inc., to be within the scope of the axes/adzes order; and (5) on September 22, 2003, the Department found cast picks, produced through a casting process by TMC, to be within the scope of the picks/mattocks order.

LMC and LIMAC

In 1998, LMC underwent a reorganization and was split into two companies—LMC and LIMAC. According to LMC/LIMAC, the purpose of this reorganization was to increase business efficiency and conform with Chinese state policy that required companies to change their corporate ownership from an "all people's owned" basis to a "limited liability" basis. See LMC/LIMAC's May 28, 2003, submission at page 3 of Exhibit 7 and November 19, 2003, submission at 5. The part of the company that retained the name LMC is an "all people's owned" company, meaning that it belongs to the public, while the part of the company that became LIMAC is a "limited liability" company, which is owned by shareholders. In addition,

pursuant to this reorganization, LIMAC received authorization to export merchandise, and the decision was made to move LMC's export/import business to LIMAC. See LMC/LIMAC's May 28, 2003, submission at page 4 of Exhibit 7. LMC and LIMAC state that, in light of the policy that corporate ownership should be on a "limited liability" basis, and the decision to transfer business operations to LIMAC, most of LMC's staff has been transferred to LIMAC. The few remaining employees at LMC are there primarily for "wrapping up" operations. See LMC/LIMAC's November 19, 2003, submission at 5.

LMC and LIMAC claim that they are, in effect, one company with two names. See LMC/LIMAC's September 29, 2003, submission at 3. According to LMC and LIMAC, (1) the two companies share the same suppliers; (2) all sales income is kept in LIMAC's bank account even if the sale is made in LMC's name; (3) all business is directed to LIMAC, except for long-time customers who are familiar with the LMC name; (4) both companies use the same chart of accounts; and (5) the same sales staff manages all of the trading company business for both LMC and LIMAC, makes all of the pricing decisions for both LMC and LIMAC, and maintains all of the sales records pertaining to both LMC and LIMAC. See LMC/LIMAC's September 29, 2003, response at A-3 and A-4, and LMC/LIMAC's November 19, 2003, response at 1-5. Lastly, we note that comparing the export sales figures on LMC and LIMAC's income statements supports their assertion that export business is being directed to LIMAC. See LMC/LIMAC's May 28, 2003, submission at Exhibits 13-14.

In light of the above, it appears that LMC is being dissolved and replaced by LIMAC. Moreover, the fact that the same personnel export subject merchandise and make pricing decisions, regardless of which company's invoice is used, indicates that a single sales staff knows the identity of both company's customers and has the discretion to assign sales to either company. Since LIMAC's operations are intertwined with LMC's operations, it would frustrate the purpose of the antidumping statute to grant LMC and LIMAC separate dumping margins. Given the shared personnel, operations, and decision making of LMC and LIMAC, we conclude that LMC and LIMAC did not operate independently of each other during the POR and they should receive a single antidumping duty rate. Therefore, we preliminarily determine that it is appropriate to treat LMC and

² Section C of the questionnaire requests a complete listing of U.S. sales. Section D requests information on the factors of production (FOP) of the merchandise under review.

LIMAC as a single entity for purposes of the margin calculations for these administrative reviews and the application of the antidumping law. *See Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results of Administrative Antidumping Duty and New Shipper Reviews, and Final Rescission of New Shipper Review*, 65 FR 20948 (April 19, 2000) and accompanying Issues and Decision Memorandum at Comment 16 (where the Department considered the operations of two PRC trading companies to be sufficiently intertwined as to warrant receiving the same antidumping duty rate).

Preliminary Partial Rescission

In accordance with 19 CFR 351.213(d)(3), we are preliminarily rescinding these reviews with respect to Zhenjiang All Joy Light Industrial Products & Textiles; Linshu Jinrun Ironware & Tools Co., Ltd.; Jinhua Runhua Foreign Trade Co., Ltd.; Tian Rui International Trade Co., Ltd.; Jinhua Twin-Star Tools Co., Ltd.; Jinma, Ltd.; Hebei Machinery Import & Export Corporation; Chenzhou Estar Enterprises Ltd.; China National Machinery Import & Export Corporation; and Ningbo Tiangong Tools Co., Ltd., who reported that they did not sell merchandise subject to any of the four HFHT antidumping orders during the POR. We are also preliminarily rescinding the review of Huarong and LMC/LIMAC with respect to the hammers/sledges and picks/mattocks orders, since Huarong and LMC/LIMAC reported that they made no shipments of subject hammers/sledges and picks/mattocks. No one has placed evidence on the record to indicate that these companies had sales of subject merchandise during the POR. In addition, we examined shipment data furnished by CBP for the producers/exporters identified above and are satisfied that the record does not indicate that there were U.S. entries of subject merchandise from these companies during the POR.

Preliminary Determination To Not Revoke in Part

The Department "may revoke, in whole or in part" an antidumping duty order upon completion of a review under section 751 of the Tariff Act of 1930, as amended (the Act). While Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222. This regulation requires, *inter alia*, that a company requesting

revocation must submit the following: (1) A certification that the company has sold the subject merchandise at not less than NV in the current review period and that the company will not sell at less than NV in the future; (2) a certification that the company sold the subject merchandise in commercial quantities in each of the three years forming the basis of the revocation request; and (3) an agreement to reinstatement in the order or suspended investigation, as long as any exporter or producer is subject to the order (or suspended investigation), if the Secretary concludes that the exporter or producer, subsequent to the revocation, sold the subject merchandise at less than NV. *See* 19 CFR 351.222(e)(1). Upon receipt of such a request, the Department will consider the following in determining whether to revoke the order in part: (1) Whether the producer or exporter requesting revocation has sold subject merchandise at not less than NV for a period of at least three consecutive years; (2) whether the continued application of the antidumping duty order is otherwise necessary to offset dumping; and (3) whether the producer or exporter requesting revocation in part has agreed in writing to immediate reinstatement of the order, as long as any exporter or producer is subject to the order, if the Department concludes that the exporter or producer, subsequent to revocation, sold the subject merchandise at less than NV. *See* 19 CFR 351.222(b)(2); *see also* *Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Intent to Revoke Antidumping Duty Order in Part: Certain Pasta From Italy*, 66 FR 34414, 34420 (June 28, 2001).

On February 27, 2003, SMC submitted a request, in accordance with 19 CFR 351.222(e)(1), that the Department revoke the order covering hammers/sledges from the PRC with respect to its sales. In accordance with 19 CFR 351.222(e)(1), the request was accompanied by certifications from SMC that, for three consecutive years, including this review period, it sold the subject merchandise in commercial quantities at not less than NV, and would continue to do so in the future. SMC also agreed to its immediate reinstatement in this antidumping order, as long as any producer or exporter is subject to the order, if the Department concludes, subsequent to revocation, that SMC sold the subject merchandise at less than NV.

For these preliminary results, the Department has relied upon SMC's sales activity during the 2000–2001, 2001–2002, and 2002–2003 PORs in making

its decision regarding SMC's revocation request. In the final results of the 2000–2001 administrative review, SMC received a *de minimis* dumping margin on its sales of hammers/sledges produced by Jinma. *See Notice of Amended Final Results of Antidumping Duty Administrative Reviews: Heavy Forged Hand Tools From the People's Republic of China (Hammers/Sledges)*, 68 FR 14943 (March 27, 2003) (HFHT's 2000–2001 Review). SMC withdrew its request for review in the intervening administrative review, which covered the 2001–2002 period. *See Heavy Forged Hand Tools from the People's Republic of China: Partial Rescission of Antidumping Duty Administrative Review*, 68 FR 352 (January 3, 2003). In the instant review, covering the 2002–2003 period, SMC is preliminarily receiving a *de minimis* dumping margin with respect to its sales of hammers/sledges produced by Jinma.

In determining whether the absence of dumping over three consecutive years is a sufficient basis to revoke an order, in part, the Department must be able to determine that the company continued to participate meaningfully in the U.S. market during each of the three years at issue. *See Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada: Final Results of Antidumping Duty Administrative Reviews and Determination To Revoke in Part*, 64 FR 2173, 2175 (January 13, 1999); *see also Pure Magnesium From Canada: Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke Order in Part*, 64 FR 12977, 12979 (March 16, 1999); and *Notice of Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Order: Brass Sheet and Strip from the Netherlands*, 65 FR 742 (January 6, 2000). This practice has been codified in 19 CFR 351.222(d)(1), which states that, "before revoking an order or terminating a suspended investigation, the Secretary must be satisfied that, during each of the three (or five) years, there were exports to the United States in commercial quantities of the subject merchandise to which a revocation or termination will apply." *See* 19 CFR 351.222(d)(1); *see also* 19 CFR 351.222(e)(1)(ii). For purposes of revocation, the Department must be able to determine that past margins are reflective of a company's normal commercial activity. Sales during the POR which, in the aggregate, are of an abnormally small quantity, do not provide a reasonable basis for

determining that the order is no longer necessary to offset dumping.

We preliminarily determine that SMC did not ship hammers/sledges produced by Jinma to the United States in commercial quantities during the three consecutive years under consideration. Specifically, we find that the quantity of SMC's sales to the United States in the *HFHTs 2000-2001 Review* were a small percentage of the quantity of sales SMC made during the investigative period. See Memorandum from Jeff Pedersen, Case Analyst, to the File, "Commercial Quantity Analysis of Shipments of Heavy Forged Hand Tools (Hammers/Sledges) to the United States by Shandong Machinery Import & Export Corporation," dated March 1, 2004. Consequently, although SMC received a *de minimis* margin during the first review period, and is preliminarily receiving a *de minimis* margin in the instant review, the margin from the first administrative review was not based on commercial quantities within the meaning of the revocation regulation. The sales volume during the *HFHTs 2000-2001 Review* is so small in comparison with the sales volume during the investigative period that it does not provide any meaningful information on SMC's normal commercial experience. Therefore, we preliminarily determine that SMC does not qualify for revocation from the order on hammers/sledges under 19 CFR 351.222 (b) and (e).

On February 27, 2003, LMC/LIMAC submitted a request, in accordance with 19 CFR 351.222(e)(1), that the Department revoke the order covering bars/wedges from the PRC with respect to its sales. In accordance with 19 CFR 351.222(e)(1), the request was accompanied by certifications from LMC/LIMAC that, for three consecutive years, including this review period, it sold the subject merchandise in commercial quantities at not less than NV, and would continue to do so in the future. LMC/LIMAC also agreed to its immediate reinstatement in this antidumping order, as long as any producer or exporter is subject to the order, if the Department concludes, subsequent to revocation, that it sold the subject merchandise at less than NV.

As discussed in the *Use of Facts Available* section below, we have preliminarily determined that the use of adverse facts available (AFA) is warranted with respect to LMC/LIMAC's sales of bars/wedges during the POR. Since LMC/LIMAC has not received a zero or *de minimis* margin in the instant review, we preliminarily determine not to revoke the order with

respect to LMC/LIMAC's sales of bars/wedges to the United States.

Verification

As provided in section 782(i) of the Act, we conducted verifications of the information provided by the trading company SMC, and one of its suppliers, Jinma. We used standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and the selection of original source documentation as exhibits. Our verification findings are detailed in the memoranda dated December 24, 2003, the public versions of which are in the Central Records Unit's Public File.

Although section 782(i)(2) of the Act requires the Department to conduct a verification of the information relied upon in revoking an order, as stated above, we are preliminarily denying LMC/LIMAC's request for revocation. For this reason, the Department has not conducted a verification of LMC/LIMAC.

Separate Rates Determination

The Department has treated the PRC as a non-market economy (NME) country in all previous antidumping cases. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Refined Brown Aluminum Oxide (Otherwise known as Refined Brown Artificial Corundum or Brown Fused Alumina) from the People's Republic of China*, 68 FR 55589 (September 26, 2003). It is the Department's policy to assign all exporters of the merchandise subject to review that are located in NME countries a single antidumping duty rate unless an exporter can demonstrate an absence of governmental control, both in law (*de jure*) and in fact (*de facto*), with respect to its export activities. To establish whether an exporter is sufficiently independent of governmental control to be entitled to a separate rate, the Department analyzes the exporter using the criteria established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), as amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). Under the separate rates criteria established in these cases, the Department assigns separate rates to NME exporters only if they can demonstrate the absence of both *de jure* and *de facto* governmental control over their export activities.

Absence of *De Jure* Control

Evidence supporting, though not requiring, a finding of the absence of *de jure* governmental control over export activities includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR at 20589.

In previous reviews of the HFHTs orders, the Department granted separate rates to Huarong, LMC/LIMAC, SMC, and TMC. See, e.g., *Heavy Forged Hand Tools From the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review and Determination Not To Revoke in Part*, 67 FR 57789 (September 12, 2002). However, it is the Department's policy to evaluate separate rates questionnaire responses each time a respondent makes a separate rates claim, regardless of whether the respondent received a separate rate in the past. See *Manganese Metal From the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12441 (March 13, 1998). In the instant reviews, Huarong, LMC/LIMAC, SMC, and TMC submitted complete responses to the separate rates section of the Department's questionnaire. The evidence submitted in the instant reviews by these respondents includes government laws and regulations on corporate ownership, business licences, and narrative information regarding the companies' operations and selection of management. The evidence provided by Huarong, LMC/LIMAC, SMC, and TMC supports a finding of a *de jure* absence of governmental control over their export activities because: (1) there are no controls on exports of subject merchandise, such as quotas applied to, or licenses required for, exports of the subject merchandise to the United States; and (2) the subject merchandise does not appear on any government list regarding export provisions or export licensing.

Absence of *De Facto* Control

The absence of *de facto* governmental control over exports is based on whether the respondent: (1) Sets its own export prices independent of the government and other exporters; (2) retains the proceeds from its export sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) has the authority to negotiate

and sign contracts and other agreements; and (4) has autonomy from the government regarding the selection of management. See *Silicon Carbide*, 59 FR at 22587; see *Sparklers*, 56 FR at 20589; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995) (*Furfuryl Alcohol*).

In their questionnaire responses, Huarong, LMC/LIMAC, SMC, and TMC submitted evidence indicating an absence of *de facto* governmental control over their export activities. Specifically, this evidence indicates that: (1) Each company sets its own export prices independent of the government and without the approval of a government authority; (2) each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) each exporter has a general manager, branch manager or division manager with the authority to negotiate and bind the company in an agreement; (4) the general manager is selected by the board of directors or company employees, and the general manager appoints the deputy managers and the manager of each department and (5) foreign currency does not need to be sold to the government. Therefore, the Department has preliminarily determined that Huarong, LMC/LIMAC, SMC, and TMC have established *prima facie* that they qualify for separate rates under the criteria established by *Silicon Carbide* and *Sparklers*.

Use of Facts Available

Section 776(a)(2) of the Act, provides that, if an interested party (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Furthermore, section 776(b) of the Act states that “{i}f the administering authority finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission ..., in reaching the applicable determination under this title, may use an inference

that is adverse to the interests of that party in selecting from among the facts otherwise available.” See also Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act (URAA), H.R. Rep. No. 103-316 at 870 (1994).

In the instant reviews, Huarong, LMC/LIMAC, and TMC significantly impeded our ability to complete the review of the bars/wedges order, which we conducted pursuant to section 751 of the Act, and to impose the correct antidumping duties, as mandated by section 731 of the Act. In addition, some of the respondents failed to provide certain information that was requested by the Department in the reviews of the axes/adzes (Huarong, LMC/LIMAC, SMC, and the PRC-wide entity), bars/wedges (Huarong, SMC, TMC, and the PRC-wide entity), hammers/sledges (the PRC-wide entity), and picks/mattocks (SMC and PRC-wide entity) antidumping orders. As discussed below, although Huarong, LMC/LIMAC, SMC, and TMC are entitled to separate rates, we preliminarily determine that their failures warrant the use of AFA in determining dumping margins for their sales of merchandise subject to certain HFHTs orders.

Huarong

Prior to the instant period under review, Huarong entered into an agreement with a PRC company under which the PRC company would act as an “agent” for the vast majority of Huarong’s U.S. sales of bars/wedges. Pursuant to this agreement, the “agent” supplied Huarong with blank invoices and packing lists, both of which were on the “agent’s” letterhead and stamped by the “agent’s” general manager. Huarong filled out these invoices and packing lists and used them when exporting subject bars/wedges to the United States during the POR. When making “agent” sales, Huarong conducted all of the negotiations with the U.S. customer regarding price and quantity, and arranged the foreign inland freight, international freight, and marine insurance associated with these sales. Additional proprietary information regarding these transactions is in the Memorandum from Thomas F. Futtner, Acting Office Director, to Holly A. Kuga, Acting Deputy Assistant Secretary, “Application of Adverse Facts Available to Shandong Huarong Machinery Corporation Ltd. with Respect to Bars/Wedges,” dated March 1, 2004 (Huarong Bars/Wedges AFA Memorandum).

After reviewing the record of this review, we find that Huarong has continually misrepresented the true nature of its relationship with the

“agent” during the POR. In its questionnaire responses, Huarong claimed that its relationship with the “agent” stemmed from a bona fide business arrangement whereby the “agent” provided commercial services in connection with Huarong’s sales. However, only by issuing two supplemental questionnaires on this topic did the Department learn that the “agent” had no real commercial involvement in these sales. In fact, the “agent” was compensated by Huarong, not for commercial services normally associated with being a sales agent, but instead, for providing Huarong with blank invoices and packing lists, which Huarong used to make the vast majority of its sales to the United States. See Huarong Bars/Wedges AFA Memorandum.

Section 776(a)(2)(C) of the Act states that the Department may, if an interested party “significantly impedes a proceeding” under the antidumping statute, use facts otherwise available in reaching the applicable determination. In this case, Huarong’s invoice scheme with its “agent” has impeded our ability to complete the administrative review, pursuant to section 751 of the Act, and impose the correct antidumping duties, as required by section 731 of the Act. Therefore, pursuant to section 776(a)(2)(C) of the Act, we find it appropriate to base Huarong’s dumping margin for bars/wedges on facts available.

In selecting from among the facts available, pursuant to section 776(b) of the Act, an adverse inference is warranted when the Department has determined that a respondent has failed to cooperate by not acting to the best of its ability to comply with our request for information. In this case, an adverse inference is warranted because (1) Huarong misrepresented the nature of its arrangement with the “agent” by portraying the company as a bona fide agent for the vast majority of Huarong’s sales of bars/wedges to the United States, (2) Huarong participated in a scheme that resulted in circumvention of the antidumping duty order, and (3) the existence of such a scheme during the POR undermined our ability to impose accurate antidumping duties, pursuant to our statutory mandate under section 731 of the Act. Moreover, section 776(b) of the Act indicates that an adverse inference may include reliance on information derived from the petition, the final determination in the less-than-fair-value (LTFV) investigation, any previous administrative review, or any other information placed on the record. As AFA, we are assigning to Huarong’s

sales of bars/wedges the 139.31 percent PRC-wide rate for bars/wedges published in the most recently completed administrative review of this antidumping order. *See Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review of the Order on Bars and Wedges*, 68 FR 53347 (September 10, 2003) (*HFHTs Final Results for Eleventh Review*); *see also* Huarong Bars/Wedges AFA Memorandum.

Jiangsu

In its section A quantity and value chart, Jiangsu reported its U.S. sales of axes/adzes, bars/wedges, and hammers/sledges. *See* Jiangsu's April 21, 2003, shortened section A questionnaire response. On June 18, 2003, the Department issued sections C and D of the antidumping questionnaire to Jiangsu. Although Jiangsu's response to sections C and D of the questionnaire was due on July 25, 2003, the Department never received a response from this company. On August 4, 2003, the Department notified Jiangsu that its sections C and D questionnaire response was past due and requested that Jiangsu notify the Department if it had encountered unexpected difficulties in submitting its response. The Department never received a response to its August 4, 2003, letter.

The evidence on the record of this review establishes that, pursuant to section 776(a)(2)(A) of the Act, the use of total facts available is warranted in determining the dumping margins for Jiangsu's sales of axes/adzes, bars/wedges and hammers/sledges because Jiangsu failed to provide either the U.S. sales information, or the FOP information for these three classes or kinds of subject merchandise. *See* Memorandum from Thomas F. Futtner, Acting Office Director, to Holly A. Kuga, Acting Deputy Assistant Secretary, "Application of Adverse Facts Available to Jiangsu Guotai International Group Huatai Import & Export Company, Ltd.," dated March 1, 2004 (Jiangsu AFA Memorandum).

Additionally, the record shows that Jiangsu has failed to cooperate by not acting to the best of its ability within the meaning of section 776(b) of the Act. In reviewing the evidence on the record, the Department finds that Jiangsu failed to provide information necessary to allow the Department to calculate Jiangsu's dumping margin for its sales of axes/adzes, bars/wedges and hammers/sledges. The Department notified Jiangsu that it must report the U.S. sales

and FOP data for the products subject to these three antidumping orders in its August 4, 2003 letter. Despite reporting quantities and values of U.S. sales under these orders, Jiangsu did not respond to the Department's section C and D general questionnaires. *See* June 8, 2003 Jiangsu section C and D questionnaire response. By not supplying the U.S. sales and FOP information regarding its sales of axes/adzes, bars/wedges, and hammers/sledges, Jiangsu failed to cooperate to the best of its ability. As Jiangsu has failed to cooperate to the best of its ability, we are using an adverse inference in selecting from among the facts available, pursuant to section 776(b) of the Act. *See* Jiangsu AFA Memorandum.

Pursuant to section 776(b) of the Act, the Department is preliminarily basing Jiangsu's dumping margin for sales of products subject to the antidumping orders on axes/adzes, bars/wedges, and hammers/sledges on AFA. Section 776(b) of the Act authorizes the Department to use, as AFA, information derived from the petition, the final determination in the LTFV investigation, any previous administrative review, or any other information placed on the record. Jiangsu has never established, in a prior segment of these proceedings, that it is entitled to a separate rate, and Jiangsu ceased to participate in this proceeding before the Department could issue a supplemental section A questionnaire addressing, among other things, Jiangsu's request for a separate rate. The information requested in the antidumping questionnaire is in the sole possession of the respondent, and could not be obtained otherwise. Thus, the Department is precluded from calculating a margin for Jiangsu or determining its eligibility for a separate rate. Because Jiangsu is not eligible for a separate rate, it is considered to be part of the PRC-wide entity.

Because Jiangsu failed to respond to our request for information and it is considered to be part of the PRC-wide entity, in accordance with sections 776(a)(2)(A) and (B), as well as section 776(b) of the Act, we are assigning total AFA to the PRC-wide entity. Section 776(b)(4) of the Act permits the Department to use as AFA information derived in the LTFV investigation or any prior review. Thus, in selecting an AFA rate, the Department's practice has been to assign respondents who fail to cooperate with the Department's requests for information the highest margin determined for any party in the LTFV investigation or in any administrative review. *See, e.g., Stainless Steel Plate in Coils from*

Taiwan; Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review, 67 FR 5789 (February 7, 2002) (*Plate from Taiwan*) ("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 any prior segment of the proceeding."). As AFA, we are assigning to the PRC-wide entity's sales of axes/adzes, bars/wedges, hammers/sledges, and picks/mattocks the rates of 55.74, 139.31, 45.42, and 98.77 percent, respectively, published in the most recently completed review of the HFHTs orders. *See HFHTs Final Results for Eleventh Review*. The rate identified for hammers/sledges is from the LTFV investigation. *See Final Determinations of Sales at Less Than Fair Value: Heavy Forged hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China*, 56 FR 241 (January 3, 1991) (*HFHTs Final LTFV Notice*). *See also* Jiangsu AFA Memorandum.

LMC/LIMAC

LMC/LIMAC reported its U.S. sales of axes/adzes in its section C questionnaire response. *See* LMC/LIMAC's August 11, 2003, section C and D questionnaire response at C-6, and Exhibit 2. LMC/LIMAC also reported the FOP information regarding these axes/adzes sales in its section D questionnaire response. *See* LMC/LIMAC's August 11, 2003, section C and D questionnaire response at Exhibits 11-13.

After reviewing LMC/LIMAC's questionnaire responses, the Department identified certain areas that required clarification and issued to a supplemental questionnaire to LMC/LIMAC covering sections A, C, and D of the questionnaire. In that supplemental questionnaire, we asked LMC/LIMAC various questions regarding the reported sales and FOP data for axes/adzes. LMC/LIMAC responded to all of these questions by stating that it is no longer participating in the axes/adzes review because the manufacturer of that merchandise is no longer willing to provide the requested information. *See* LMC/LIMAC's November 19, 2003, response at 6-7, 12-13, and 16.

The evidence on the record of this review establishes that, pursuant to section 776(a)(2)(A) of the Act, the use of total facts available is warranted in determining the dumping margin for LMC/LIMAC's sales of axes/adzes because LMC/LIMAC failed to provide supplemental sales and FOP information with respect to axes/adzes.

See Memorandum from Thomas F. Futtner, Acting Office Director, to Holly A. Kuga, Acting Deputy Assistant Secretary, "Application of Adverse Facts Available to Liaoning Machinery Import & Export Corporation and Liaoning Machinery Import & Export Corporation Limited with Respect to Axes/Adzes," dated March 1, 2004 (LMC/LIMAC AFA Memorandum for Axes/Adzes). Moreover, pursuant to section 776(a)(2)(D) of the Act, we find that total facts available is warranted because, by ceasing to participate, LMC/LIMAC has denied the Department the ability to verify the sales and FOP data that would be used to calculate its dumping margin. See LMC/LIMAC AFA Memorandum for Axes/Adzes.

Furthermore, the record shows that LMC/LIMAC failed to cooperate to the best of its ability, within the meaning of section 776(b) of the Act. In reviewing the evidence on the record, the Department finds that LMC/LIMAC failed to provide supplemental information necessary to allow the Department to accurately calculate EP and NV for LMC/LIMAC's sales of axes/adzes. Specifically, LMC/LIMAC stated that it stopped participating in the axes/adzes review, and failed to respond to supplemental questions related to its sales of axes, even though these questions involve information that is within LMC/LIMAC's control. For example, the Department requested a worksheet demonstrating how LMC/LIMAC calculated the sole reported price adjustment. LMC/LIMAC did not provide the worksheet requested even though the request did not require information from the uncooperative supplier factory. Regarding the FOP data, the Department notified LMC/LIMAC that it must "submit a separate section D response for each supplier/factory." Despite providing a separate section D response from its bars/wedges supplier, LMC/LIMAC reported that its supplier of axes/adzes refused to cooperate and did not provide the supplemental information requested by the Department. See November 19, 2003, LMC/LIMAC supplemental response at 12. By not responding to our requests for supplemental sales and FOP information for axes/adzes, LMC/LIMAC failed to cooperate to the best of its ability. As LMC/LIMAC has failed to cooperate to the best of its ability, we are using an adverse inference in selecting from among the facts available, pursuant to section 776(b) of the Act. See LMC/LIMAC AFA Memorandum for Axes/Adzes.

Pursuant to section 776(b) of the Act, the Department is preliminarily basing LMC/LIMAC's dumping margin for sales

of products covered by the antidumping order on axes/adzes on AFA. Section 776(b) of the Act authorizes the Department to use, as AFA, information derived from the petition, the final determination in the LTFV investigation, any previous administrative review, or any other information placed on the record. As AFA, we are assigning to LMC/LIMAC's sales of axes/adzes the 55.74 PRC-wide rate for axes/adzes that was published in the most recently completed administrative review of this antidumping order. See *HFHT's Final Results for Eleventh Review*.

Additionally, prior to the instant period under review, LMC/LIMAC entered into an agreement with another PRC company under which LMC/LIMAC would act as an "agent" for certain U.S. sales of that company's bars/wedges products. Even though LMC/LIMAC was the "agent" for these sales, LMC/LIMAC had no part in negotiating the price and quantity with the U.S. customer, nor in arranging the foreign inland freight, brokerage and handling, Chinese customs clearance, and international freight associated with these sales. Instead, all of these functions were performed by the other company. Additional proprietary information regarding these transactions is in the Memorandum from Thomas F. Futtner, Acting Office Director, to Holly A. Kuga, Acting Deputy Assistant Secretary, "Application of Adverse Facts Available to Liaoning Machinery Import & Export Corporation and Liaoning Machinery Import & Export Corporation Limited with Respect to Bars/Wedges," dated March 1, 2004 (LMC/LIMAC AFA Memorandum for Bars/Wedges).

After reviewing the record of this review, we preliminarily find that LMC/LIMAC has continually misrepresented the true nature of its relationship with the other company during the POR. In its questionnaire responses, LMC/LIMAC claimed that its relationship with the other company stemmed from a bona fide business arrangement whereby LMC/LIMAC provided commercial services in connection with the other company's sales. However, only by issuing three supplemental questionnaires on this topic did the Department learn that LMC/LIMAC had no real commercial involvement in these sales. In fact, LMC/LIMAC was compensated by the other company, not for commercial services normally associated with being a sales agent, but instead for providing the other company with its invoices, which the other company used to make sales of subject merchandise to the United States. See

LMC/LIMAC AFA Memorandum for Bars/Wedges.

Section 776(a)(2)(C) of the Act states that the Department may, if an interested party "significantly impedes a proceeding" under the antidumping statute, use facts otherwise available in reaching the applicable determination. In this case, LMC/LIMAC's participation in an invoice scheme with the other company has impeded our ability to complete the administrative review pursuant to section 751 of the Act, and impose the correct antidumping duties, as required by section 731 of the Act. Therefore, pursuant to section 776(a)(2)(C) of the Act, we find that it is appropriate to base LMC/LIMAC's dumping margin for bars/wedges on facts available.

In selecting from among the facts available, pursuant to section 776(b) of the Act, an adverse inference is warranted when the Department has determined that a respondent has failed to cooperate by not acting to the best of its ability to comply with a request for information. In this case, an adverse inference is warranted because (1) LMC/LIMAC misrepresented the nature of its arrangement with the other company by portraying itself as a bona fide sales agent for certain sales of bars/wedges made by the other company to the United States, (2) LMC/LIMAC participated in a scheme that resulted in circumvention of the antidumping duty order, and (3) the existence of such a scheme during the POR undermined our ability to impose accurate antidumping duties, pursuant to our statutory mandate under section 731 of the Act. Moreover, section 776(b) of the Act indicates that an adverse inference may include reliance on information derived from the petition, the final determination in the LTFV investigation, any previous administrative review, or any other information placed on the record. As AFA, we are assigning to LMC/LIMAC's sales of bars/wedges the 139.31 PRC-wide rate for bars/wedges published in the most recently completed administrative review of this antidumping order. See *HFHT's Final Results for Eleventh Review*; see also LMC/LIMAC AFA Memorandum for Bars/Wedges.

SMC

In its section A quantity and value chart, in addition to its section C questionnaire responses, SMC reported its U.S. sales of axes/adzes and picks/mattocks. See SMC's May 28, 2003, section A questionnaire response at Exhibit 1; see SMC's August 11, 2003, section C questionnaire response at

Exhibit 2. However, SMC did not report any FOP information regarding axes/adzes and picks/mattocks in its section D response. See August 11, 2003 SMC section D questionnaire response at Exhibit 12–13 (demonstrating the absence of FOP data for these two classes or kinds of subject merchandise).

In our September 11, 2003, supplemental questionnaire, the Department asked SMC several questions regarding its failure to report FOP data for axes/adzes and picks/mattocks. SMC responded by stating that, “{b}ecause SMC is unable to participate in the administrative reviews under the separate antidumping orders on axes/adzes and picks/mattocks, SMC has not reported data regarding the FOP for the axes/adzes and picks/mattocks categories.” See SMC’s October 3, 2003, section C and D supplemental response at 15. SMC also stated that its “suppliers of axes/adzes and picks/mattocks decided not to cooperate and without their cooperation, SMC is unable to supply the factors of production data.” *Id.*

The evidence on the record of this review establishes that, pursuant to section 776(a)(2)(A) of the Act, the use of total facts available is warranted in determining the dumping margin for SMC’s sales of axes/adzes and picks/mattocks because SMC failed to provide the FOP information for these two classes or kinds of subject merchandise. In its questionnaire and supplemental questionnaire responses, SMC failed to provide the FOP information requested in the Department’s March 25, 2003, antidumping questionnaire and September 11, 2003, sections C and D supplemental questionnaire. See Memorandum from Thomas F. Futtner, Acting Office Director, to Holly A. Kuga, Acting Deputy Assistant Secretary, “Application of Adverse Facts Available to Shandong Machinery Import & Export Corporation,” dated March 1, 2004 (SMC AFA Memorandum).

Moreover, the record shows that SMC has failed to cooperate by not acting to the best of its ability within the meaning of section 776(b) of the Act. In reviewing the evidence on the record, the Department finds that SMC failed to provide information necessary to allow the Department to calculate NV for SMC’s sales of axes/adzes and picks/mattocks. The Department notified SMC that it must report its FOP data. Despite reporting FOP data from multiple factories for sales of other products subject to the HFHTs orders (*i.e.*, hammers/sledges and bars/wedges), SMC reported that its suppliers of axes/adzes and picks/mattocks refused to provide it with FOP data. See October

3, 2003 SMC section C and D supplemental response. By not supplying the FOP information for its sales of axes/adzes and picks/mattocks, SMC failed to cooperate to the best of its ability. As SMC has failed to cooperate to the best of its ability, we are using an adverse inference in selecting from among the facts available, pursuant to section 776(b) of the Act. See SMC AFA Memorandum.

Pursuant to section 776(b) of the Act, the Department is preliminarily basing SMC’s dumping margin for sales of products covered by the antidumping orders on axes/adzes and picks/mattocks on AFA. Section 776(b) of the Act authorizes the Department to use, as AFA, information derived from the petition, the final determination in the LTFV investigation, any previous administrative review, or any other information placed on the record. As AFA, we are assigning to SMC’s sales of axes/adzes and picks/mattocks the 55.74 and 98.77 percent rates for axes/adzes and picks/mattocks published in the most recently completed administrative review of these antidumping orders. See *HFHTs Final Results for Eleventh Review*, see also SMC AFA Memorandum.

TMC

Prior to the instant period under review, TMC entered into an agreement with another PRC company under which TMC would act as an “agent” for the majority of this company’s U.S. sales of bars/wedges. Pursuant to this agreement, TMC supplied the company with blank invoices, which were on TMC’s letterhead and stamped by TMC’s general manager. The other company filled out these invoices and used them when exporting the majority of its subject bars/wedges to the United States during the POR. When acting as the “agent” for these sales, TMC had no part in negotiating the price and quantity with the U.S. customer, nor in arranging the foreign inland freight, international freight, and marine insurance associated with these sales. Additional proprietary information regarding these transactions is in the Memorandum from Thomas F. Futtner, Acting Office Director, to Holly A. Kuga, Acting Deputy Assistant Secretary, “Application of Adverse Facts Available to Tianjin Machinery Import and Export Corporation,” dated March 1, 2004 (TMC AFA Memorandum).

After reviewing the record of this review, we preliminarily find that TMC has continually misrepresented the true nature of its relationship with the other company during the POR. In its questionnaire responses, TMC claimed

that its relationship with the other company stemmed from a bona fide business arrangement whereby TMC provided commercial services in connection with the other company’s sales. However, only by issuing three supplemental questionnaires on this topic did the Department learn that TMC had no real commercial involvement in these sales. In fact, TMC was compensated by the other company, not for commercial services normally associated with being a sales agent, but instead for providing the other company with blank invoices, which the other company used to make its sales to the United States. See TMC AFA Memorandum.

Section 776(a)(2)(C) of the Act states that the Department may, if an interested party “significantly impedes a proceeding” under the antidumping statute, use facts otherwise available in reaching the applicable determination. In this case, TMC’s participation in an invoice scheme with the other company has impeded our ability to complete the administrative review, pursuant to section 751 of the Act, and impose the correct antidumping duties, as required by section 731 of the Act. Therefore, pursuant to section 776(a)(2)(C) of the Act, we find it is appropriate to base TMC’s dumping margin for bars/wedges on facts available.

In selecting from among the facts available, pursuant to section 776(b) of the Act, an adverse inference is warranted when the Department has determined that a respondent has failed to cooperate by not acting to the best of its ability to comply with a request for information. In this case, an adverse inference is warranted because (1) TMC misrepresented the nature of its arrangement with the other company by portraying itself as a bona fide sales agent for the majority of the other company’s sales of bars/wedges to the United States, (2) TMC participated in a scheme that resulted in circumvention of the antidumping duty order, and (3) the existence of such a scheme during the POR undermined our ability to impose accurate antidumping duties, pursuant to our statutory mandate under section 731 of the Act. Moreover, section 776(b) of the Act indicates that an adverse inference may include reliance on information derived from the petition, the final determination in the LTFV investigation, any previous administrative review, or any other information placed on the record. As AFA, we are assigning to TMC’s sales of bars/wedges the 139.31 PRC-wide rate for bars/wedges published in the most recently completed administrative review of this antidumping order. See

HFHTs Final Results for Eleventh Review; see also TMC AFA Memorandum.

PRC-Wide Entity

As mentioned in the *Background* section above, the Department initiated these instant administrative reviews of the axes/adzes, bars/wedges, and hammers/sledges orders with respect to 93 PRC companies. We also initiated an administrative review of six PRC companies with respect to the picks/mattocks order. On March 26, 2003, we issued a shortened section A questionnaire to all of the companies identified in the notice of initiation. Although Jiangsu responded to our shortened and full section A questionnaires, this company did not respond to sections C or D of the questionnaire, and ceased participating in the instant reviews. As stated above, we have preliminarily not granted Jiangsu a separate rate and thus we consider it to be a part of the PRC-wide entity. Further, 77 of the 93 companies identified in our notice of initiation did not respond to our shortened section A questionnaire nor did these companies provide any information demonstrating that they are entitled to a separate rate. Thus, we consider these companies to be part of the PRC-wide entity.

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, or (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 of the Act, the Department shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination under this title. Furthermore, under section 782(c) of the Act, a respondent has a responsibility not only to notify the Department if it is unable to provide the requested information but also to provide a full explanation as to why it cannot provide the information and suggest alternative forms in which it is able to submit the information. Because Jiangsu and these 77 companies did not establish their entitlement to a separate rate and failed to provide certain requested information, we find that, in accordance with sections 776(a)(2)(A) and (B) of the Act, it is appropriate to base the PRC-wide margin in these reviews on facts available. See, e.g., *Final Results of Antidumping Duty Administrative Review for Two Manufacturers/Exporters: Certain Preserved Mushrooms from the People's*

Republic of China, 65 FR 50183, 50184 (August 17, 2000).

Section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of the party as the facts otherwise available. Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See SAA accompanying the URAA, H. Doc. No. 103-316, at 870 (1994). Section 776(b) of the Act authorizes the Department to use, as AFA, information derived from the petition, the final determination in the LTFV investigation, any previous administrative review, or any other information placed on the record.

Because Jiangsu and these 77 companies failed to respond to the Department's request for information and they are considered to be part of the PRC-wide entity, in accordance with sections 776(a)(2)(A) and (B), as well as section 776(b) of the Act, we are assigning total AFA to the PRC-wide entity. Section 776(b)(4) of the Act permits the Department to use as AFA information derived in the LTFV investigation or any prior review. Thus, in selecting an AFA rate, the Department's practice has been to assign respondents who fail to cooperate with the Department's requests for information the highest margin determined for any party in the LTFV investigation or in any administrative review. See, e.g., *Plate from Taiwan*. As AFA, we are assigning to the PRC-wide entity's sales of axes/adzes, bars/wedges, hammers/sledges, and picks/mattocks the rates of 55.74, 139.31, 45.42, and 98.77 percent, respectively. The rates selected for axes/adzes, bars/wedges, and picks/mattocks were published in the most recently completed review of the HFHTs orders. See *HFHTs Final Results for Eleventh Review*. The rate selected as AFA for hammers/sledges is from the LTFV investigation. See *HFHTs Final LTFV Notice*.

Sales of Scrapers and Tampers by Huarong, SMC, and TMC

On July 9, 2003, Huarong, SMC, and TMC asked the Department to provide "guidance" as to whether sales of scrapers and tampers should be reported to the Department. See respondents' July 9, 2003, submission at 2-3. On July 10, 2003, the Department replied that U.S. sales of scrapers with sale dates within the POR should be reported. At

that time, the Department also noted that if the respondents disagree with our guidance, they could request a formal scope ruling pursuant to 19 CFR 351.225(c). See Letter from Ron Trentham, Acting Program Manager, to the respondents, dated July 10, 2003. On July 11, 2003, the Department informed the respondents that they should also report U.S. sales of tampers with sales dates within the POR, as tampers are specifically mentioned in the scope of the HFHTs orders. See Memorandum from Mark Manning, Case Analyst, to the File, "Tampers are identified as subject merchandise in the scope of the order," dated July 11, 2003.

Huarong reported its U.S. sales of scrapers in its section C questionnaire response and the FOP data for scrapers in its section D questionnaire response. After reviewing Huarong's responses, the Department issued a supplemental questionnaire to Huarong covering sections A, C, and D of the questionnaire. In that supplemental questionnaire, we asked Huarong to confirm that it reported all of its sales of subject merchandise. Moreover, we asked several questions regarding the sales and FOP information for scrapers that Huarong reported in its questionnaire responses. In its supplemental questionnaire response, Huarong noted that an interested party to these proceedings requested a scope inquiry as to whether scrapers are within the scope of the HFHTs orders. Because of this scope request, Huarong stated that it will not report any additional information regarding its U.S. sales of scrapers, nor the FOP data for scrapers, until the question of whether scrapers are within the scope of the HFHTs orders has been settled. See Huarong's November 21, 2003, submission at 2-3. We note that the only sales Huarong reported for the axes/adzes order are its sales of scrapers.

Furthermore, Huarong, SMC, and TMC stated in their response and supplemental responses to section C of the questionnaire that they did not report their sales of tampers with dates of sale within the POR. In addition, Huarong, SMC, and TMC refused to report the FOP data for tampers in their responses and supplemental responses to section D of the questionnaire. These respondents refused to provide the sales and FOP data regarding tampers because, as with scrapers, there is an ongoing scope inquiry on whether tampers

are within the scope of the HFHT's orders.³

The evidence on the record of this review establishes that, pursuant to section 776(a)(2) of the Act, the use of total facts available is warranted in determining the dumping margin for Huarong's sales of scrapers and tampers, in addition to SMC and TMC's sales of tampers, because these respondents refused to provide complete sales and FOP information for their sales of these products. See Memorandum from Thomas F. Futtner, Acting Office Director, to Holly A. Kuga, Acting Deputy Assistant Secretary, "Application of Adverse Facts Available to Sales of Scrapers and Tampers," dated March 1, 2004 (AFA Memorandum for Scrapers and Tampers). In their questionnaire and supplemental responses, these respondents refused to provide the requested information on scrapers and tampers because the Department has not yet issued a final ruling in the separate, on-going scope inquiries regarding these products. However, 19 CFR 351.225(l)(4) states that, "notwithstanding the pendency of a scope inquiry, if the Secretary considers it appropriate, the Secretary may request information concerning the product that is the subject of the scope inquiry for purposes of a review under this subpart." Thus, even though the Department has not yet issued its final scope rulings in response to these inquiries, the Department may ask for the information regarding sales of these products during the course of an administrative review. Thus, it is appropriate to use facts available.

Moreover, the record shows that Huarong, SMC, and TMC failed to cooperate to the best of their ability, within the meaning of section 776(b) of the Act. In reviewing the evidence on the record, the Department finds that there is no information on the record indicating that Huarong, SMC, and TMC ever attempted to provide the sales information on tampers, nor did Huarong attempt to provide the additional information on scrapers requested by the Department, despite the fact that the sales information for scrapers and tampers is completely within their control. Moreover, Huarong failed to provide its FOP data for scrapers even though it is the producer of this merchandise. Although Huarong, SMC, and TMC do not produce tampers, none of these respondents provided any

reason as to why the supplying factories for tampers would not provide the FOP data. Thus, Huarong, SMC, and TMC failed to provide information necessary to allow the Department to accurately calculate EP and NV for their respective sales of scrapers and tampers. By not responding to our requests for supplemental information for scrapers, and by providing no information whatsoever for tampers, these respondents failed to cooperate to the best of their ability. As Huarong, SMC, and TMC have failed to cooperate to the best of their ability, we are using an adverse inference in selecting from among the facts available, pursuant to section 776(b) of the Act. See AFA Memorandum for Scrapers and Tampers.

Pursuant to section 776(b) of the Act, the Department is preliminarily basing Huarong's dumping margin for products covered by the antidumping orders on axes/adzes and bars/wedges, in addition to SMC and TMC's dumping margin for products covered by the antidumping order on bars/wedges, on AFA. Section 776(b) of the Act authorizes the Department to use, as AFA, information derived from the petition, the final determination in the LTFV investigation, any previous administrative review, or any other information placed on the record. As AFA, we are assigning to Huarong's sales of products covered by the axes/adzes and bars/wedges orders the 55.74 and 139.31 PRC-wide rates for axes/adzes and bars/wedges published in the most recently completed administrative reviews of these antidumping orders. See *HFHT's Final Results for Eleventh Review*. For SMC and TMC's sales of products covered by the bars/wedges order, we are assigning the PRC-wide rate for bars/wedges of 139.31 percent published in *HFHT's Final Results for Eleventh Review*.

Corroboration

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as facts available. Secondary information is defined as "{i}nformation 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 accompanying the URAA, H.R. Doc. No. 103-316 at 870 (1994) and 19 CFR 351.308(d).

The SAA further provides that the term "corroborate" means that the Department will satisfy itself that the

secondary information to be used has probative value. See SAA at 870. Thus, to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses, as total AFA, a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin. See *Heavy Forged Hand Tools From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review and Determination Not To Revoke in Part*, 67 FR 57789, 57791 (September 12, 2002).

All of the AFA rates selected above were calculated using information provided during the LTFV investigation or a past administrative review. Furthermore, none of these rates were judicially invalidated. Therefore, we consider these rates to be reliable. See the respective AFA memoranda identified above for further details.

When circumstances warrant, the Department may diverge from its standard practice of selecting as the AFA rate the highest rate in any segment of the proceeding. For example, in *Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996) (*Flowers from Mexico*), the Department did not use the highest margin in the proceeding as best information available (the predecessor to facts available) because that margin was based on another company's aberrational business expenses and was unusually high. See *Flowers from Mexico*, 61 FR 6812, at 6814. In other cases, the Department has not used the highest rate in any segment of the proceeding as the AFA rate because the highest rate was subsequently discredited, or the facts did not support its use. See also *Allegheny Ludlum Corp., et al. v. United States*, Slip Op 03-89 (July 24, 2003) at 22-26, currently on appeal, and *D & L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). None of these unusual circumstances are present with respect to the rates being used here. Moreover, the rates selected for axes/adzes, bars/wedges, and picks/mattocks are the rates currently applicable to the PRC-wide entity.

³ The Department initiated scope inquiries on tampers on August 4, 2003, and on scrapers on December 2, 2003. The final results of the inquiries are currently pending.

The rate selected as AFA for the PRC-wide entity's sales of hammers/sledges is from the LTFV investigation. As discussed in the AFA memorandum for Jiangsu, the previous PRC-wide rate for hammers/sledges of 27.71 percent has not encouraged cooperation. A review of the company-specific rates that have been calculated for hammers/sledges in prior administrative reviews indicates that there are no company-specific rates for hammers/sledges higher than the previous PRC-wide rate of 27.71 percent. The selected rate of 45.42 has relevance because it, and a nearly equivalent rate, were the PRC-wide rates for hammers/sledges during the first six administrative reviews of this order. See Jiangsu AFA Memorandum.

Accordingly, we have corroborated the AFA rates identified above in accordance with the requirement of section 776(c) of the Act that secondary information be corroborated (*i.e.*, that it have probative value). See the respective AFA memoranda identified above for further details.

Export Price

In accordance with section 772(a) of the Act, the Department calculated EPs for sales to the United States for the participating respondents receiving calculated rates because the first sale to an unaffiliated party was made before the date of importation and the use of constructed EP was not otherwise warranted. We calculated EP based on the price to unaffiliated purchasers in the United States. In accordance with section 772(c) of the Act, as appropriate, we deducted from the starting price to unaffiliated purchasers foreign inland freight, foreign warehousing, brokerage and handling, ocean freight, and marine insurance. For the respondents receiving calculated rates, each of these services was either provided by a NME vendor or paid for using a NME currency, with one exception. Thus, we based the deduction for these movement charges on surrogate values. See the *Normal Value* section of this notice for details regarding these surrogate values.

The one exception, referred to above, concerns ocean freight expenses incurred by SMC and TMC. These respondents, which are the only respondents receiving calculated rates, reported that during the POR they used both market economy ocean freight vendors, whom they paid in a market economy currency, and NME vendors. For SMC and TMC, we used, on a separate basis, the weighted average of each respondent's market economy ocean freight expenses to value ocean freight for all of their respective U.S. sales.

We valued foreign warehousing using the storage charges on export cargo stored in covered sheds at bulk terminals at Jawaharlal Nehru Port, as set by the Board of Trustees of Jawaharlal Nehru Port, effective March 17, 1997. We valued brokerage and handling and marine insurance using the rates reported in the public version of the questionnaire response in *Stainless Steel Wire Rod From India; Final Results of Administrative Review*, 63 FR 48184 (September 9, 1998) (*India Wire Rod*). The source used to value foreign inland freight is identified below in the *Normal Value* section of this notice. See Memorandum from Thomas Martin, Case Analyst, to the File, "Surrogate Values Used for the Preliminary Results of the Twelfth Administrative Reviews of Certain Heavy Forged Hand Tools From the People's Republic of China—February 1, 2002 through January 31, 2003," dated March 1, 2004 (Surrogate Value Memorandum).

To account for inflation or deflation between the time period that the freight, brokerage and handling, and insurance rates were in effect and the POR, we adjusted the rates using the wholesale price index (WPI) for India from the International Monetary Fund (IMF) publication, *International Financial Statistics*. See Surrogate Value Memorandum.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a FOP methodology if: (1) the merchandise is exported from an NME country; and (2) the available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value (CV) under section 773(a) of the Act.

As discussed in the separate rates section, the Department considers the PRC to be an NME country. The Department has treated the PRC as an NME country in all previous antidumping proceedings. Furthermore, available information does not permit the calculation of NV using home-market prices, third-country prices, or CV under section 773(a) of the Act. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. We have no evidence suggesting that this determination should be changed. Therefore, we treated the PRC as an NME country for purposes of these reviews and calculated NV by valuing the FOP in a surrogate country.

Section 773(c)(4) of the Act requires the Department to value the NME producer's FOP, to the extent possible, in one or more market economy countries that (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. The Department has determined that India, Pakistan, Indonesia, Sri Lanka, and the Philippines are countries comparable to the PRC in terms of overall economic development. See Memorandum from Ron Lorentzen, Acting Director, Office of Policy, to Thomas F. Futtner, Acting Office Director, AD/CVD Enforcement Group II, "Recommended Surrogate Countries," dated August 14, 2003.

India is comparable to the PRC in terms of per capita gross national product, the growth rate in per capita income, and the national distribution of labor. Furthermore, according to the *World Trade Atlas*,⁴ published by Global Trade Information Services, Incorporated, India exported a significant quantity of merchandise to the United States classified under HTSUS subheadings 8205.20, 8205.59, 8201.30, and 8201.40, the subheadings applicable to subject hand tools. These exports indicate that India is a significant producer of comparable merchandise. Accordingly, where possible, we have calculated NV using publicly available Indian surrogate values for the PRC producers' FOP. Consistent with the *Final Determination of Sales at Less than Fair Value: Certain Automotive Replacement Glass Windshields From the People's Republic of China*, 67 FR 6482 (February 12, 2002) and accompanying Issues and Decision Memorandum at Comment 1, we excluded from the surrogate country import data used in our calculations imports from Korea, Thailand and Indonesia. See Surrogate Value Memorandum.

Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on FOP reported by the respondents for the POR. To calculate NV, we valued the reported FOP by multiplying the per-unit factor quantities by publicly available Indian surrogate values. In selecting surrogate values, we considered the quality, specificity, and contemporaneity of the available values. As appropriate, we adjusted the value of material inputs to account for delivery

⁴ The *World Trade Atlas* is a secondary electronic source that contains Indian import data obtained from the publication *Monthly Statistics of the Foreign Trade of India*, Volume II—Imports (*Indian Import Statistics*).

costs. Where appropriate, we increased Indian surrogate values by surrogate inland freight costs. We calculated these inland freight costs using the reported distances from the PRC port to the PRC factory, or from the domestic supplier to the factory. This adjustment is in accordance with the United States Court of Appeals for the Federal Circuit's (CAFC) decision in *Sigma Corp. v. United States*, 117 F. 3d 1401, 1407–1408 (Fed.Cir. 1997). For those values not contemporaneous with the POR, we adjusted for inflation or deflation using the appropriate wholesale or producer price index published in the IMF's *International Financial Statistics*. We valued the FOP as follows:

(1) We valued direct materials used to produce HFHTs, packing materials, coal, acetylene gas, oxygen, and steel scrap generated from the production of HFHTs using, where available, the rupee per kilogram, per piece, or per cubic meter value of imports that entered India during the period February 2002 through January 2003, based upon data obtained from the *World Trade Atlas*. See Surrogate Value Memorandum.

(2) We valued labor using a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3). This rate is identified on the Import Administration's Web site. (See, <http://ia.ita.doc.gov/wages/>). See Surrogate Value Memorandum.

(3) We derived ratios for factory overhead, selling, general and administrative (SG&A) expenses, and profit using information reported for 2,024 Public Limited Companies for the period 2001–2002, in the *Reserve Bank of India Bulletin* for October 2003. From this information, we were able to calculate factory overhead as a percentage of direct materials, labor, and energy expenses; SG&A expenses as a percentage of the total cost of manufacturing (TOTCOM); and profit as a percentage of the sum of TOTCOM and SG&A expenses. See Surrogate Value Memorandum.

Whenever possible, the Department will use producer-specific data to calculate financial ratios. Unlike industry-specific data, which tends to be broader in terms of merchandise included, product-specific data obtained from specific producers of merchandise identical or similar to the subject merchandise pertains directly to the subject merchandise. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form From the People's Republic of China*, 66 FR 49345 (September 27, 2001), and accompanying Issues and Decision Memorandum at Comment 3. However, when the Department and the parties are unable to obtain surrogate information for valuing overhead, SG&A, and profit from manufacturers of merchandise identical or comparable to the subject merchandise, the Department must rely upon surrogate information derived from broader industry groupings. See *Notice of Final Results of New Shipper Review: Petroleum Wax Candles from the People's Republic of China*, 67 FR 41395 (June 18, 2002), and accompanying Issues and Decision Memorandum, at Comment 6.

In the instant reviews, neither the petitioner nor the respondents have placed any financial statements on the record. Moreover, the Department has been unable to locate financial statements specific to hand tools producers in India. Therefore, the Department is using broader financial data from the *RBI Bulletin* to calculate the financial ratios. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China*, 68 FR 7765 (February 18, 2003) and the accompanying Issues and Decision Memorandum at Comment 4; *Final Results of Antidumping New Shipper Review: Potassium Permanganate from the People's Republic of China*, 66 FR 46775 (September 7, 2001), and the accompanying Issues and Decision

Memorandum, at Comment 20; *Final Results and Partial Rescission of Antidumping Duty Administrative Review and Determination Not To Revoke in Part: Heavy Forged Hand Tools from the People's Republic of China*, 66 FR 48026 (September 17, 2001), and the accompanying Issues and Decision Memorandum at Comment 18; *Notice of Initiation of Antidumping Duty Investigation: Lawn and Garden Steel Fence Posts From the People's Republic of China*, 67 FR 37388, 37391 (May 29, 2002), and the accompanying Issues and Decision Memorandum, at Comment 6.

(4) We valued electricity using 2001–2002 data from the *Annual Report on The Working of State Electricity Boards & Electricity Departments*, published in May 2002 by the Power & Energy Division of the Planning Commission of the Government of India. We used the average tariff rate for Indian industry, as opposed to the commercial tariff rate or agricultural tariff rate. See Surrogate Value Memorandum.

(5) We used the following sources to value truck and rail freight services incurred to transport direct materials, packing materials, and coal from the suppliers of the inputs to the factories producing HFHTs:

Truck Freight: We valued road freight services using the rates used by the Department in the *Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China*, 65 FR 33805 (May 25, 2000). See Surrogate Value Memorandum.

Rail Freight: We valued rail freight services using average 2001–2002 rates published in the *Railway Budget 2003–2004 by the Reserve Bank of India Bulletin*, on May 19, 2003. See Surrogate Value Memorandum.

Preliminary Results of the Review

As a result of our reviews, we preliminarily determine that the following margins exist for the period February 1, 2002 through January 31, 2003:

Manufacturer/Exporter	Period	Margin (percent)
Shandong Huarong Machinery Corporation Limited (Huarong):		
Axes/Adzes	2/1/02–1/31/03	55.74
Bars/Wedges	2/1/02–1/31/03	139.31
Liaoning Machinery Import & Export Corporation (LMC)/ Liaoning Machinery Import & Export Corporation Ltd. (LIMAC):		
Axes/Adzes	2/1/02–1/31/03	55.74
Bars/Wedges	2/1/02–1/31/03	139.31
Shandong Machinery Import & Export Corporation (SMC):		
Axes/Adzes	2/1/02–1/31/03	55.74
Bars/Wedges	2/1/02–1/31/03	139.31
Hammers/Sledges	2/1/02–1/31/03	0.02
Picks/Mattocks	2/1/02–1/31/03	98.77

Manufacturer/Exporter	Period	Margin (percent)
Tianjin Machinery Import & Export Corporation (TMC):		
Axes/Adzes	2/1/02–1/31/03	10.49
Bars/Wedges	2/1/02–1/31/03	139.31
Hammers/Sledges	2/1/02–1/31/03	6.46
Picks/Mattocks	2/1/02–1/31/03	4.76
PRC-Wide Entity:		
Axes/Adzes	2/1/02–1/31/03	55.74
Bars/Wedges	2/1/02–1/31/03	139.31
Hammers/Sledges	2/1/02–1/31/03	45.42
Picks/Mattocks	2/1/02–1/31/03	98.77

Public Comment

The Department will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within ten days of the date of announcement of the preliminary results. An interested party may request a hearing within 30 days of publication of the preliminary results. See 19 CFR 351.310(c). Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, within five days after the time limit for filing case briefs. See 19 CFR 351.309(c)(1)(ii) and 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, the Department requests that parties submitting written comments provide the Department with a diskette containing the public version of those comments. We will issue a memorandum identifying the date of a hearing, if one is requested. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, the Department will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days of publication of the preliminary results. The assessment of antidumping duties on entries of merchandise covered by this review and future deposits of estimated duties shall be based on the final results of this review.

Assessment Rates

Upon completion of these administrative reviews, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), for the respondents receiving calculated dumping margins, we calculated importer-specific per-unit duty assessment rates based on the ratio

of the total amount of the dumping duties calculated for the examined sales to the total quantity of those same sales. These importer-specific per-unit rates will be assessed uniformly on all entries of each importer that were made during the POR. In accordance with 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the importer-specific assessment rate is *de minimis* (i.e., less than 0.5 percent *ad valorem*). For all shipments of subject merchandise for the four antidumping orders covering HFHTs from the PRC, exported by the respondents and imported by entities not identified by the respondents in their questionnaire responses, we will instruct CBP to assess antidumping duties at the cash deposit rate in effect on the date of the entry. Lastly, for the respondents receiving dumping rates based upon AFA, the Department, upon completion of these reviews, will instruct CBP to liquidate entries according to the AFA *ad valorem* rate. The Department will issue appraisal instructions directly to CBP upon the completion of the final results of these administrative reviews.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the final results of these administrative reviews for all shipments of HFHTs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies named above will be the rates for those firms established in the final results of these administrative reviews; (2) for any previously reviewed or investigated PRC or non-PRC exporter, not covered in these reviews, with a separate rate, the cash deposit rate will be the company-specific rate established in the most recent segment of these proceedings; (3) for all other PRC exporters, the cash deposit rates will be the PRC-wide rates established in the final results of these

reviews; and (4) the cash deposit rate for any non-PRC exporter of subject merchandise from the PRC who does not have its own rate will be the rate applicable to the PRC exporter that supplied the non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

Notification to Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this determination in accordance with sections 751(a)(1) and 777(I)(1) of the Act.

Dated: March 1, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04–5385 Filed 3–9–04; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Honey from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review

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

SUMMARY: On January 22, 2004, the Department of Commerce (the Department) published in the **Federal Register** (69 FR 3117) a notice