

In summary, for purposes of these preliminary results of review, we are treating Wuhan's sale of honey to the United States as a *bona fide* transaction. However, as noted above, the Department intends to continue to carefully examine this issue for the final results of this review.

### Separate Rates

In proceedings involving NME countries, the Department begins with a presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to its export activities. In this review, Wuhan requested a separate company-specific rate.

To establish whether a company is sufficiently independent in its export activities from government control to be entitled to a separate, company-specific rate, the Department analyzes the exporting entity in an NME country under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (*Sparklers*), and amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22586–22587 (May 2, 1994) (*Silicon Carbide*).

The Department's separate-rate test is unconcerned, in general, with macroeconomic/ border-type controls (e.g., export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. See, e.g., *Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less Than Fair Value*, 62 FR 61754, 61757 (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997); and *Honey from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 60 FR 14725, 14726 (March 20, 1995).

Wuhan provided separate-rate information in its responses to our original and supplemental questionnaires. Accordingly, we performed a separate-rates analysis to determine whether this producer/exporter is independent from

government control (see *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 56570 (April 30, 1996)).

### De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR 20588, 20589.

Wuhan has placed on the record a number of documents to demonstrate absence of *de jure* control, including the "Foreign Trade Law of the People's Republic of China" (May 12, 1994) and the "Administrative Regulations of the People's Republic of China Governing the Registration of Legal Corporations" (June 3, 1998). The Department has analyzed such PRC laws and found that they establish an absence of *de jure* control. See, e.g., *Preliminary Results of New Shipper Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 30695, 30696 (June 7, 2001). At verification, we found that Wuhan's business license and "Certificate of Approval-For Enterprises with Foreign Trade Rights in the People's Republic of China" were granted in accordance with these laws. Moreover, the results of verification support the information provided regarding these PRC laws. See Wuhan Verification Report. Therefore, we preliminarily determine that there is an absence of *de jure* control over Wuhan's export activities.

### De Facto Control

Typically, the Department considers four factors in evaluating whether a respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or subject to, the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See *Silicon Carbide* at 22587.

As stated in previous cases, there is some evidence that certain enactments

of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. See *Silicon Carbide* at 22586–22587. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

Wuhan has asserted the following: (1) it is a privately-owned company; (2) there is no government participation in its setting of export prices; (3) its chief executive officer and authorized employees have the authority to bind sales contracts; (4) it does not have to notify any government authorities of its management selection; (5) there are no restrictions on the use of its export revenue; and (6) it is responsible for financing its own losses. Wuhan's questionnaire responses do not suggest that pricing is coordinated among exporters. Furthermore, our analysis of the responses during verification reveals no other information indicating the existence of government control. See Wuhan Verification Report, at 7–9. Consequently, because evidence on the record indicates an absence of government control, both in law and in fact, over the company's export activities, we preliminarily determine that Wuhan has met the criteria for the application of a separate rate. For further discussion of the Department's preliminary determination regarding the issuance of separate rates, see *Separate Rates Decision Memorandum* to Richard Weible, Office Director, AD/CVD Enforcement Group III, dated May 27, 2003, on file in the CRU located in room B-099 of the Main Commerce Building.

### Normal Value Comparisons

To determine whether the respondent's sale of the subject merchandise to the United States was made at a price below normal value, we compared its United States price to normal value, as described in the "United States Price" and "Normal Value" sections of this notice.

### United States Price

For Wuhan, we based the United States price on export price (EP) in accordance with section 772(a) of the Act, because the first sale to an unaffiliated purchaser was made prior to importation, and constructed export price (CEP) was not otherwise warranted by the facts on the record. We calculated EP based on the packed price from the exporter to the first unaffiliated customer in the United States. We deducted foreign inland freight and U.S.