

involvement in the determination of export prices, profit distribution, marketing strategy, and contract negotiations of Fay Candles, Qingdao Kingking, Shandong Jiaye's, and Shanghai Charming's companies. Our analysis indicates that there is no government involvement in the daily operations or the selection of management for these companies. In addition, we found that the Fay Candle's, Qingdao Kingking, Shandong Jiaye's, and Shanghai Charming's pricing and export strategy decisions are not subject to any governmental review or approval, and that there are no governmental policy directives that affect these decisions.

With regard to Qingdao Kingking, its vice general manager has the right to negotiate prices and enter into contracts on behalf of Qingdao Kingking. There is no evidence that this authority is subject to any level of governmental approval. In addition, there are no restrictions on the use of Qingdao Kingking's export earnings. Qingdao Kingking reported that its general manager is selected by the board of directors, and subordinate management personnel are selected by the general manager. Qingdao Kingking is not required to notify the government about its management selection process.

With regard to Fay Candle, Fay Candle's chief executive officer (CEO) has the authority to enter into contracts on behalf of Fay Candle, and it sets prices pursuant to negotiations with its importers. There is no evidence that this authority is subject to any level of governmental authority. In addition, other than the requirement that hard currency earnings from exports be repatriated through an account in a state bank, there are no restrictions on the use of Fay Candle's export earnings. Fay Candle reported that the entrepreneurial investors who own the company appoint the CEO, and the CEO selects subordinate management personnel. Fay Candle provides identification of company officials to local government authorities for contact purposes only; it is not required to notify the government about its management selection process.

With regard to Shandong Jiaye, its export sales manager has the right to negotiate prices, while the general manager has the authority to enter into contracts on behalf of Shandong Jiaye. There is no evidence that this authority is subject to any level of governmental authority. In addition, there are no restrictions on the use of Shandong Jiaye's export earnings. Shandong Jiaye reported that its board of directors selects its general manager and the general manager selects subordinate management personnel. Shandong Jiaye

provides the name of the general manager to the government for purposes of receiving its business license; however, it is not required to notify the government about its management selection process.

With regard to Shanghai Charming, its general manager has the authority to set the price and to enter into contracts on behalf of Shanghai Charming. There is no evidence that this authority is subject to any level of governmental authority. In addition, there are no restrictions on the use of Shanghai Charming's export earnings. Shanghai Charming reported that its management is appointed by its parent company, a non-Chinese company. Shanghai Charming is not required to notify the government about its management selection process.

Consequently, because evidence on the record indicates an absence of government control, both in law and in fact, over Fay Candle's, Qingdao Kingking's, Shandong Jiaye's, and Shanghai Charming's export activities, we preliminarily determine that these companies have met the requirements for receiving a separate rate for purposes of this review.

Quantity and Value Discrepancy for Qingdao Kingking

The Department has identified a significant discrepancy between the quantity and value data Qingdao Kingking reported with the quantity and value information that the Department identified through Customs data queries. The Department requested an explanation from Qingdao Kingking in its June 6, 2003, supplemental and received Qingdao Kingking's response in its July 11, 2003, submission; however, in this response, Qingdao Kingking did not adequately explain why there could be such a significant discrepancy. The Department also contacted Customs about this issue and will be working closely with it to determine the cause of this discrepancy. In addition, the Department will further examine this issue for the final results by requesting additional information from Qingdao Kingking and addressing the issue at verification.

Treatment of Fay Candle and Its U.S. Importers, TIJID and Palm Beach

Respondent Fay Candle claimed in the questionnaire responses that it is affiliated with its U.S. importers, TIJID and Palm Beach. In its section A questionnaire response, Fay Candle submitted evidence to the Department concerning its corporate structure, ownership, and relationship to its U.S. importers, TIJID and Palm Beach. The evidence on the record regarding Fay

Candle's relationship with TIJID and Palm Beach does not demonstrate that TIJID and Palm Beach were affiliated with Fay Candle under section 771(33) of the Act during the POR. For a full discussion of this issue (which includes business proprietary details), see *Memorandum from Sebastian G. Wright through Sally C. Gannon to Barbara E. Tillman, Regarding Petroleum Wax Candles from the People's Republic of China for the Period of August 1, 2001 through July 31, 2002: Analysis of the Relationship between Dongguan Fay Candle Co., Ltd., and TIJID, Inc. and Palm Beach Home Accents, Inc.* (September 2, 2003) (*Affiliation Memo*). Therefore, the Department preliminarily finds that Fay Candle is not affiliated with TIJID and Palm Beach for purposes of these preliminary results and is basing its fair value comparisons on export price rather than constructed export price. The Department will continue to examine Fay Candle's relationship with its U.S. importers in the context of verification and for the final results of this administrative review.

Date of Sale

Fay Candle and Qingdao Kingking reported various dates as the basis for their dates of sale. Although the Department maintains a presumption that invoice date is the date of sale (19 CFR 351.401(i)), "[i]f the Department is presented with satisfactory evidence that the material terms of sale are finally established on a date other than the date of invoice, the Department will use that alternative date as the date of sale." *Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27349 (May 19, 1997) (*Preamble*).

With regard to Fay Candle, it reported two distinct dates of sale based on the type of sale. According to Fay Candle, the terms of the sales transactions become fixed at different stages based on the type of sale. After examining the documentation placed on the record by Fay Candle, the Department preliminarily determines that the invoice date is the appropriate date of sale to use for Fay's EP sales in these preliminary results. Because the information regarding Fay Candle's dates of sale is mostly business proprietary, the Department's full analysis of Fay Candle's dates of sale can be found in the *Memorandum from Sebastian Wright through Sally C. Gannon to The File, Regarding Petroleum Wax Candles from the People's Republic of China for the Period of August 1, 2001 through July 31, 2002: Analysis of the Sales Date for Dongguan Fay Candle Co., Ltd.*