

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.

Jinan Yipin reported that it is a limited-liability company owned by private investors. Shangdong Heze and Trans-High reported that they are limited-liability companies. Harmoni reported that it is a privately owned company. Each has asserted the following: (1) There is no government participation in setting export prices; (2) sales managers and authorized employees have the authority to bind sales contracts; (3) they do not have to notify any government authorities of management selections; (4) there are no restrictions on the use of export revenue; (5) each is responsible for financing its own losses. Jinan Yipin's, Shangdong Heze's, Trans-High's, and Harmoni's questionnaire responses do not suggest that pricing is coordinated among exporters. During our analysis of the information on the record we found no information indicating the existence of government control. Consequently, we preliminarily determine that Jinan Yipin, Shangdong Heze, Trans-High, and Harmoni have met the criteria for the application of a separate rate.

The PRC-Wide Rate and Use of Facts Otherwise Available

All respondents were given the opportunity to respond to the Department's questionnaire. As explained above, we received questionnaire responses from Jinan Yipin, Shangdong Heze, Trans-High, and Harmoni, and we have calculated a separate rate for each of these companies. The PRC-wide rate applies to all entries of subject merchandise except for entries from companies that have received their own rate based on the final results of a prior segment of this proceeding (e.g., Jinan Yipin). As discussed below, Top Pearl and Wo Hing are appropriately considered part of the PRC-wide entity.

Top Pearl and Wo Hing did not respond to the Department's questionnaire. 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, the Department shall, subject to section 782(d), 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 requested information but also to provide a "full explanation and suggested alternative forms." Because Top Pearl and Wo Hing did not respond to the questionnaire, we find that, in accordance with sections 776(a)(2)(A) and (B) of the Act, the use of total facts available is appropriate. *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 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* Statement of Administrative Action (SAA) accompanying the URAA, H. Doc. No. 103–316, at 870 (1994). Section 776(b) of the Act authorizes the Department to use as adverse facts-available information derived from the petition, the final determination from the less-than-fair-value (LTFV) investigation, a previous administrative review, or any other information placed on the record.

On December 30, 2002, the Department issued its antidumping duty questionnaire to Top Pearl and Wo Hing via Federal Express. On January 6, 2003, the questionnaire issued to Top Pearl was returned to the Department by Fed Ex because it had been unable to deliver the package. We were able to obtain a correct address for Top Pearl and re-issued the questionnaire on January 14, 2003. We confirmed that the questionnaire was signed for and received on January 16, 2003. *See* memorandum to file regarding questionnaire for Top Pearl, Ltd., dated January 15, 2003, and memorandum from Mark Ross, Program Manager, to Laurie Parkhill, Office Director, entitled "Responses to Questionnaire" dated June 27, 2003 (*Status of Questionnaire Responses Memorandum*). We also confirmed that Wo Hing signed for and received the questionnaire on January 2,

2003. *See Status of Questionnaire Responses Memorandum*. Because Top Pearl and Wo Hing did not provide responses to the Department's questionnaire, the Department is unable to determine Top Pearl's and Wo Hing's eligibility for a separate rate. Thus, Top Pearl and Wo Hing have not rebutted the presumption of government control and are presumed to be part of the PRC entity.

The PRC entity (including Top Pearl and Wo Hing) failed to cooperate to the best of its ability in this administrative review, thus making the use of an adverse inference appropriate. Therefore, in accordance with the Department's practice, as adverse facts available, we have preliminarily assigned to the PRC entity (including Top Pearl and Wo Hing) the PRC-entity rate of 376.67 percent.

Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, a figure which it applies as facts available. To be considered corroborated, information must be found to be both reliable and relevant. Throughout the history of this proceeding, the highest rate ever calculated is 376.67 percent; it is currently the PRC-wide rate and was calculated based on information contained in the petition. *See Notice of Final Determination of Sales at Less Than Fair Value: Fresh Garlic from the People's Republic of China*, 59 FR 49058, 49059 (September 26, 1994). The information contained in the petition was corroborated for the preliminary results of the first administrative review. *See Fresh Garlic from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Partial Termination of Administrative Review*, 61 FR 68229, 68230 (December 27, 1996). Further, it was corroborated in subsequent reviews to the extent that the Department referred to the history of corroboration and found that the Department received no information that warranted revisiting the issue. *See Fresh Garlic from the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review*, 67 FR 11283 (March 13, 2002). Similarly, no information has been presented in the current review that calls into question the reliability of this information. Thus, the Department finds that the information is reliable.

With respect to the relevance aspect of corroboration, the Department stated in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof*,