to assess, upon further instruction by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of high pressure steel cylinders from the PRC. These antidumping duties will be assessed on unliquidated entries of high pressure steel cylinders from the PRC entered, or withdrawn from the warehouse, for consumption on or after December 15, 2011, the date on which the Department published its *Preliminary Determination.*[4]

Effective on the date of publication of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit for estimated antidumping duties equal to the weighted-average dumping margins as listed below.[5] The ''PRC-wide'' rate applies to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Exporter	Producer	Weighted-average dumping margin (percent)
Beijing Tianhai Industry Co., Ltd	Beijing Tianhai Industry Co., Ltd	6.62
Beijing Tianhai Industry Co., Ltd	Tianjin Tianhai High Pressure Container Co., Ltd	6.62
Beijing Tianhai Industry Co., Ltd	Langfang Tianhai High Pressure Container Co., Ltd	6.62
Shanghai J.S.X. International Trading Corporation	Shanghai High Pressure Special Gas Cylinder Co., Ltd	6.62
Zhejiang Jindun Pressure Vessel Co., Ltd	Zhejiang Jindun Pressure Vessel Co., Ltd	6.62
Shijiazhuang Enric Gas Equipment Co., Ltd	Shijiazhuang Enric Gas Equipment Co., Ltd	6.62
PRC-Wide Rate[6]		31.21

This notice constitutes the antidumping duty order with respect to high pressure steel cylinders from the PRC pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room 7046 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: June 18, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–15297 Filed 6–20–12; 8:45 am]

BILLING CODE 3510–DS–P

[4] *See High Pressure Steel Cylinders From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value,* 76 FR 77964 (December 15, 2011) (''*Preliminary Determination*'').

[5] *See* section 736(a)(3) of the Act.

[6] The PRC-Wide entity includes: Shanghai High Pressure Container Co., Ltd.; Heibei Baigong Industrial Co., Ltd.; Nanjing Ocean High-Pressure Vessel Co., Ltd.; Qingdao Baigong Industrial and Trading Co., Ltd.; Shandong Huachen High Pressure Co., Ltd.; Shandong Province Building High Pressure Vessel Limited Company; Sichuan Mingchaun Chengyu Co., Ltd.; and Zhuolu High Pressure Vessel Co., Ltd.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Honey From the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order

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

ACTION: Notice of Affirmative Preliminary Determination of Circumvention of Antidumping Duty Order.

SUMMARY: In response to a request from the American Honey Producers Association and the Sioux Honey Association (collectively ''Petitioners''), the Department of Commerce (''Department'') initiated an anticircumvention inquiry pursuant to section 781(d) of the Tariff Act of 1930, as amended (''the Act'') to determine whether blends of honey and rice syrup should be considered subject to the antidumping duty order on honey from the People's Republic of China (''PRC'') [1] under the later-developed merchandise provision.

DATES: *Effective Date:* June 21, 2012.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand, telephone: (202) 482–3207, or Josh Startup, telephone: (202) 482–5260; AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On December 7, 2011, the Department initiated this anticircumvention inquiry regarding blends of honey and rice syrup from the PRC.[2] On February 3, 2012, the Department issued a questionnaire to all parties on the comprehensive service list for this *Order,* and Anhui Hundred Health Foods Co., Ltd. (''Anhui Hundred'').[3] On March 9, 2012, Petitioners submitted a timely response. No other parties submitted questionnaire responses. On May 4, 2012, Petitioners filed a submission arguing that the Department does not need to notify the International Trade Commission (''ITC'') regarding this inquiry.

[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Honey From the People's Republic of China,* 66 FR 63670 (December 10, 2001) (''*Order*'').

[2] *See Honey From the People's Republic of China: Initiation of Anticircumvention Inquiry,* 76 FR 239 (December 13, 2011) (''*Initiation Notice*'').

[3] Anhui Hundred, a PRC producer of blends of honey and rice syrup, was not on the comprehensive scope service list, but filed a submission opposing the initiation of this inquiry on November 1, 2011 (''Anhui Hundred Opposition''). Previously, Anhui Hundred filed a scope ruling request on its blend of honey and rice syrup on April 4, 2011, which was placed on the record of this inquiry by the Department on August 8, 2011 (''Anhui Scope Request''). The Department declined to initiate Anhui Hundred's scope inquiry on June 27, 2011.

Scope of the Order

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

The merchandise subject to the order is currently classifiable under subheadings 0409.00.00, 1702.90.90, 2106.90.99, 0409.00.0010, 0409.00.0035, 0409.00.0005, 0409.00.0045, 0409.00.0056, and 0409.00.0065 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise under order is dispositive.

Merchandise Subject to the Anticircumvention Request

The merchandise subject to the anticircumvention request is blends of honey and rice syrup, regardless of the percentage of honey they contain, from the PRC.

Preliminary Determination

We preliminarily determine that blends of honey and rice syrup, regardless of the percentage of honey contained, are therein circumventing the antidumping duty order on honey from the PRC, as provided in section 781(d) of the Act. In determining whether blends of honey and rice syrup are appropriately considered a later-developed product under section 781(d) of the Act, the Department evaluated the arguments raised by the interested parties in light of the statute, regulations, and the applicable legislative history.

Legal Framework

Section 781(d) of the Act provides that the Department may find circumvention of an antidumping duty order when merchandise is developed after a less-than-fair-value (''LTFV'') investigation is initiated (''later-developed merchandise''). In conducting anticircumvention inquiries under section 781(d)(1) of the Act, the Department shall consider the following criteria: (A) Whether the later-developed merchandise has the same general physical characteristics as the merchandise with respect to which the order was originally issued (''earlier product''); (B) whether the expectations of the ultimate purchasers of the later-developed merchandise are the same as for the earlier product; (C) whether the ultimate use of the earlier product and the later-developed merchandise is the same; (D) whether the later-developed merchandise is sold through the same channels of trade as the earlier product; and (E) whether the later-developed merchandise is advertised and displayed in a manner similar to the earlier product.

In addition, section 781(d)(2) of the Act also states that the administering authority may not exclude later-developed merchandise from a countervailing or antidumping duty order merely because the merchandise (A) is classified under a tariff classification other than that identified in the petition or the administering authority's prior notices during the proceeding, or (B) permits the purchaser to perform additional functions, unless such additional functions constitute the primary use of the merchandise, and the cost of the additional functions constitute more than a significant proportion of the total cost of production of the merchandise.

The statute does not provide further guidance in defining the meaning of later development. The only other source of guidance available is the brief discussion of later-developed products in the legislative history for section 781(e) of the Act, which, although addressing later-developed products with respect to the ITC's injury analysis, we find is also relevant to the Department's analysis. The Conference Report on H.R. 3, Omnibus Trade and Competitiveness Act of 1988 suggests that a later-developed product may be one which has been produced as a result of a ''significant technological advancement or a significant alteration of the merchandise involving commercially significant changes.'' [4] While this provision of the legislative history does not exclusively limit the meaning of later developed to only those instances involving a significant technological advancement or significant alteration of subject merchandise, it provides guidance by defining certain types of later-developed merchandise. In addition, in the first section 781(d) determination involving portable electric typewriters, the Department also cited a U.S. Senate report: ''{s}ection 781(d) was designed to prevent circumvention of an existing order through the sale of later developed products or of products with minor alterations that contain features or technologies not in use in the class or kind of merchandise imported into the United States at the time of the original investigation.'' [5]

In addition to the statute, prior later-developed merchandise cases also provide further guidance, foremost of which is that the Department has considered ''commercial availability'' in some form in its prior later-developed merchandise anticircumvention inquiries.[6] In each case, the Department addressed the ''commercial availability'' of the later-developed merchandise in some capacity, such as the product's presence in the commercial market or whether the product was fully ''developed,'' *i.e.,* tested and ready for commercial production. The Court of International Trade and the Court of Appeals for the Federal Circuit have affirmed this test holding that a ''product's actual presence in the market at the time of the {antidumping} investigation is a necessary predicate of its inclusion or exclusion from the scope of an antidumping order.'' [7] Additionally, in *Candles,* the Department considered whether the merchandise at issue in that inquiry was later developed as a result of a significant technological development or a significant alteration of the merchandise involving commercially significant changes.[8]

Based upon the legislative history of the anticircumvention provision and prior later-developed merchandise

[4] The legislative history for this provision provides that, ''With respect to later-developed products, a significant injury issue can arise if there is a significant technological development or a significant alteration of the merchandise involving commercially significant changes in the characteristics and uses of the product * * * Thus, a later-developed product incorporating a new technology that provides additional capability, speed, or functions would be covered by the order as long as it has the same basic characteristics and uses.'' *See* H.R. Conf. Rep No. 576, 100th Cong., 2d Sess., at 603 (1988), *reprinted in* 1988 U.S.C.C.A.A.N. 1547, 1636. The CIT has subsequently held that neither the legislative history nor the ITC consultation provision at 781(e) ''define or limit the meaning of later-developed merchandise.'' *Target Corp.* v. *United States,* 32 C.I.T. 1016, 1025 (Ct. Int'l Trade 2008).

[5] *See* S. Rep No. 40., 100th Cong., 1st Sess. 101 (1987).

[6] See *PET Final; EMD Final;* and *EPROMs Final. See Portable Electric Typewriters from Japan: Final Scope Ruling,* 55 FR 47358 (November 13, 1990) (''*PET Final*''); *Electrolytic Manganese Dioxide from Japan: Final Scope Ruling,* 57 FR 395 (January 6, 1992) (''*EMD Final*''); and *Erasable Programmable Read Only Memories from Japan: Final Scope Ruling,* 57 FR 11599 (April 6, 1992) (''*EPROMS Final*''); *Later-Developed Merchandise Anticircumvention Inquiry of the Antidumping Duty Order on Petroleum Wax Candles from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order* 71 FR 59075 (October 6, 2006) (''*Candles*'').

[7] *See Target Corp.* v. *United States,* 578 F. Supp. 2d 1369, 1375–1376 (Ct. Int'l Trade 2008) (citations omitted); *Target Corp.* v. *United States,* 609 F.3d 1352, 1360 (Fed. Cir. 2010).

[8] *See Candles,* 71 FR at 59,077.

inquiries, the Department continues to include a ''commercial availability'' standard in its analysis of this proceeding, as was indicated in the *Initiation Notice.* As noted above, both the legislative history and prior later-developed merchandise inquiries place emphasis on evaluating the ''commercial availability'' of the specific product to determine whether that product is later-developed, pursuant to section 781(d) of the Act. Accordingly, the Department will evaluate whether blends of honey and rice syrup were not ''commercially available'' at the time of the LTFV investigation in order to be properly considered later-developed merchandise. Additionally, similar to the Department's analysis in *Candles,*[9] the Department will examine whether blends of honey and rice syrup are materially different from those under consideration at the time of the investigation, while allowing them to have ''the same basic characteristics and uses.'' [10] Through this analysis, the Department ensures that the merchandise which is the subject of this scope inquiry is not the same as the merchandise explicitly excluded under the scope of the *Order*.

We have analyzed the information and comments of interested parties in this anticircumvention inquiry. Based on all of the information on the record, the Department considered whether the merchandise subject to this anticircumvention inquiry constitutes ''later-developed merchandise'' within the meaning of section 781(d) of the Act.

Whether Blends of Honey and Rice Syrup Are Later-Developed Merchandise

Commercial Availability

First, we address whether blends of honey and rice syrup constitute later-developed merchandise by determining whether this merchandise was commercially available at the time of the LTFV investigation. As evidence that blends of honey and rice syrup were not commercially available at the time of the investigation, Petitioners note that the ITC Report [11] specifically identifies ''refined sugar, high-fructose corn syrup, and the like'' [12] as being used to make artificial honey. They note that rice syrup was not included in this illustrative list, because only refined sugar and high-fructose corn syrup were readily available in the U.S. market, with corn syrup being the most common sweetener mixed with honey.[13] Further, according to Petitioners, at the time of the original investigation honey blended with any other non-honey sweeteners was rare in the U.S. market due to economic adulteration.[14] The Department specifically requested from the parties any evidence that blends of honey and rice syrup were commercially available prior to November 2, 2000, when the investigation was initiated.[15] No parties submitted any evidence to the Department demonstrating that blends of honey and rice syrup were available prior to the initiation of the investigation. Additionally, evidence on the record shows that the first imports of blends of honey and rice syrup to the United States from the PRC did not occur until August 2004.[16]

Petitioners argue that blends of honey and rice syrup were neither commercially developed nor commercially available when the antidumping investigation was initiated on November 2, 2000.[17] As discussed in the *Initiation FR,* Petitioners note that none of the three U.S. trade investigations between 1993 and 2001 discussed blends of honey and rice syrup,[18] and therefore they provide no evidence of blends of honey and rice syrup being available at the time the investigation was initiated.[19] Petitioners also point to the Port Import Export Reporting Service (''PIERS'') ship manifest summaries which show that the first shipments of blends of honey and rice syrup from the PRC did not enter the United States until almost four years after the investigation was initiated.[20] Petitioners also submitted an affidavit from an industry expert stating that prior to the investigation the domestic industry did not produce blends of honey and rice syrup, and had no knowledge of any imports of such a product.[21] Petitioners also note that several studies on honey adulteration published from 1991 through 2002 do not mention rice syrup as an adulterant, including the National Honey Board's (which is overseen by the U.S. Department of Agriculture and conducts market research) 2002 Honey Attitude and Usage Study, which does not refer to any blend of honey with any non-honey sweeteners being available at the time of the investigation.[22]

Anhui Hundred argues that ''honey syrup'' (blends of honey and rice syrup) is not a newly developed product designed to circumvent the *Order* as demonstrated by the fact that both honey and honey preparations existed before the investigation and that both the Petitioners and the Department knew of their existence.[23] Further, Anhui Hundred contends that despite this knowledge, Petitioners chose to include in the scope only preparations containing over 50 percent honey.[24] However, as discussed above, there is no evidence on the record that honey and rice syrup was blended together or commercially available at the time of the investigation, and as discussed further below, the blends of honey and rice syrup under consideration in this inquiry are a materially different product than other honey blends.

Anhui Hundred also notes that Petitioners did not bring an anticircumvention request prior to this proceeding in 2011, even though, according to PIERS data, blends of honey and rice syrup have been imported since as early as 2003.[25] Similarly, Anhui Hundred argues that two rulings by Customs and Border Protection (''CBP'') demonstrate that

[9] As discussed in the immediately preceding paragraph, in *Candles,* the Department considered whether the merchandise at issue was materially different from the merchandise contemplated by the order in so far as the later-developed merchandise was the result of a significant technological development or a significant alteration of the merchandise involving commercially significant changes.

[10] See H.R. Conf. Rep No. 576, 100th Cong., 2d Sess., at 603 (1988), reprinted in 1988 U.S.C.C.A.A.N. 1547, 1636.

[11] *See Honey from Argentina and China,* Inv. Nos. 701–TA–402 and 731–TA–892–893 (Final), USITC Pub. 3470 (''ITC Report'') at I–6.

[12] *See id.*

[13] *See* Petitioners' Supplemental Questionnaire Response dated, November 21, 2011, (''Petitioners' Supp. QR'') at 6, and Exhibit 4.

[14] Economic adulteration is the practice of dishonestly diluting pure honey with a less expensive substitute and then reselling the blend to unknowing consumers as pure honey. *See* Petitioners' Questionnaire Response dated March 9, 2012, (''Petitioners' QR'') at 18–20, explaining the history of the honey market and economic adulteration. *See also* Petitioners' Request for Scope/Circumvention Inquiry on Honey Syrup from China and Opposition to Anhui Hundred Scope Request on Honey Syrup from China submitted June 8, 2011, at 7–8, stating that ''it is illegal under federal and most states' law to sell, as ''honey,'' honey that has been blended with any other type of sweetener,'' and citing 21 U.S.C. section 381(a).

[15] *See* Questionnaire from the Department To ALL PARTIES, RE: Anti-Circumvention Inquiry of Honey-Rice Syrup Blends from the People's Republic of China (''PRC''), dated February 3, 2012, at 4.

[16] *See* Petitioners' Supp. Response at 11–12.

[17] *See id.* at 5.

[18] *See* ITC Report, the ITC's 1993–94 ''safeguard'' investigation, *Honey from China,* Inv. No. TA–406–13, USITC Pub. 2715 (Jan. 1994) (''1994 ITC Report''), and the 1994–95 AD investigation, *Honey from the People's Republic of China,* Inv. No. 731–TA–722 (Preliminary), USITC Pub. 2832 (Nov. 1994) (''ITC AD Report'').

[19] *See* Petitioners' QR at 6–7, and *Initiation FR* at 77482–3.

[20] *See* Petitioners' QR at 8.

[21] *See id.* at 8, citing Petitioners' Supp. QR at Exhibit 3.

[22] *See* Petitioners' QR at 8–9, and *Initiation FR* at 77483.

[23] *See* Anhui Hundred Opposition at 2–3.

[24] *See id.* at 3.

[25] *See id.*

blends of honey and rice syrup were identified as early as 2005, and, therefore, cannot be considered a newly-developed product.[26] However, there is no prescribed time limit for a party to bring a later-developed merchandise claim. Additionally, as explained above, the relevant question is whether the product in question was developed after the start of the investigation, not at what time the product was developed in relation to the anticircumvention inquiry itself.

Petitioners argue that the evidence highlighted by Anhui Hundred (*e.g.* the PIERS data) in fact shows that blends of honey and rice syrup did not arrive on the U.S. market until four years after the initiation of the investigation.[27] Additionally, Petitioners contend that the CBP challenges made in 2005 and 2009 placed on the record by Anhui Hundred only show that blends of honey and rice syrup were present in those years, but do not show that they were commercially available when the investigation initiated.[28]

Based on the three U.S. trade investigations,[29] several honey adulteration studies which do not mention the existence of blends of honey and rice syrup at all,[30] a National Honey Board Survey,[31] PIERS data,[32] and the affidavit of an industry expert,[33] the Department determines that blends of honey and rice syrup were not commercially available at the time the investigation was initiated. Instead, the PIERS data demonstrates blends of honey and rice syrup first became commercially available in the United States in August of 2004.[34]

Materially Different Merchandise

Next, the Department analyzed whether blends of honey and rice syrup are materially different from those under consideration at the time of the investigation. We begin our analysis by noting that the scope specifically addresses ''artificial honey,'' and includes artificial honeys ''containing more than 50 percent natural honey by weight.'' According to the ITC Report, artificial honeys are ''mixtures based on sucrose, glucose, or invert sugar, generally flavored or colored and prepared to imitate natural honey.'' [35] Based on this description, blends of honey and rice syrup comprised of over 50 percent honey qualify as artificial honey because they are composed of sucrose, glucose and water, and imitate honey as discussed below in the *Physical Characteristics* section, and therefore fall within the scope of this *Order*.

However, Petitioners argue that the Department's analysis should not end there because blends of honey and rice syrup did not exist at the time of the *Order,* and they are materially different from the artificial honey contemplated by the scope because they are not susceptible to current testing methods, as are other honey blends.[36] Petitioners explain that at the time the *Order* was written, scientific testing existed which could detect the amount of cane or corn syrup in a honey blend, because honey is a C–3 sugar which is different from corn syrup and cane syrup which are C–4 sugars, and this difference was detectable via testing.[37] These tests were developed to prevent pure honey from being diluted by cheaper non-honey sweeteners (*e.g.* cane and corn syrup) which existed prior to the initiation of the investigation, and being resold as pure honey to unwitting consumers (a process known as honey adulteration).[38] However, these testing methods, according to Petitioners, cannot distinguish the amount of rice syrup in a honey and rice syrup blend, because rice syrup and honey are both C–3 sugars.[39] As a result, Petitioners' argue this evidence demonstrates that neither the ITC nor Petitioners considered excluding blends of honey and C–3 sugars containing 50 percent or less by weight when there was no way to determine if such products fall within the scope's 50 percent threshold.[40]

The Department preliminarily determines that, while honey blends are contemplated by the *Order,* blends of honey and rice syrup are materially different from those blends because they are not made of C–4 sugars. This difference is important because the percentages present in the *Order* are premised on honey-sugar blends for which the percentage of honey and sugar are determinate. However, as demonstrated by Petitioners, the percentage of sugar in blends of honey and rice syrup is not determinate because one cannot identify the percentage of C–3 sugars blended with honey.[41] Put differently, without the ability to test for the relative amount of honey present in a blend of rice-syrup and honey, the ''50 percent natural honey by weight'' threshold in the scope is without meaning for blends of honey and rice syrup.

In conclusion, the Department finds that honey and rice syrup blends constitute later-developed merchandise, that is, merchandise developed after the honey investigation and this merchandise is materially different from the merchandise under consideration at the time of the investigation and, in particular, different from the honey blends specifically excluded under the *Order*.

Whether Blends of Honey and Rice Syrup Should Be Included Within the Scope of the Order

As noted above, section 781(d)(1) provides that in determining whether merchandise developed after an investigation is within the scope of an antidumping duty order, the Department shall consider whether blends of honey and rice syrup, regardless of the percentage of honey they contain, have the same general physical characteristics, same ultimate user expectations, same ultimate use, uses the same channels of trade, and same advertisement and display as the products covered by the scope.

(1) Physical Characteristics

With regard to whether blends of honey and rice syrup comprised of any percentage of honey share the same physical characteristics as honey products covered by the language of the *Order,* Petitioners have presented information indicating that there is no substantial difference in physical characteristics. Petitioners argue that the test report submitted by Anhui Hundred shows that blends of honey and rice syrup are indistinguishable from in-scope blends of honey and rice syrup in terms of sugar and water content.[42] Additionally, in appearance, Anhui Hundred's test report describes the 90 percent rice syrup, ten percent honey blend as ''a translucent, straw colored, thick liquid with no visible foreign substances,'' which according to Petitioners is a description which applies equally to in-scope blends of honey and rice syrup and pure natural honey.[43]

Secondly, Petitioners note that Anhui Hundred (doing business as ''Anhui

[26] *See id.* at 4, and Exhibit 1.

[27] *See id.*

[28] *See id.* at 10.

[29] *See* the ITC Report, 1994 ITC Report, and the ITC AD Report.

[30] *See* Petitioners' Supp. QR. at 14–16, and Exhibits 5–9.

[31] *See* Petitioners' QR at 8–9.

[32] *See* Anhui Hundred Opposition at 2–3.

[33] *See* Petitioners QR at Exhibit 3.

[34] *See* Petitioners' Supp. Response at 11–12.

[35] *See* ITC Report at I–6.

[36] Petitioners' Supp. Response at 11.

[37] *See id.* at 7–8.

[38] *See* Petitioners' QR at 18–9.

[39] *See id.*

[40] *See* Petitioners' Supp. Response at 11.

[41] *See* Petitioners' QR at 18–23.

[42] *See id.* at 13.

[43] *See id.* at 14–15.

Freedom Foods'') uses the same six descriptions to market blends of honey and rice syrup regardless of whether the blends are in-scope or out-of-scope, meaning the products must have the same physical characteristics.[44] Additionally, Petitioners provided evidence from the Web sites of other PRC producers of blends of honey and rice syrup, showing that they too market blends of honey and rice syrup using the identical descriptions, for their blends of honey and rice syrup ranging from ten percent honey to 90 percent honey.[45]

Thirdly, Petitioners state no scientific test exists to effectively distinguish between in-scope and out-of-scope blends of honey and rice syrup based on differences in those products' physical characteristics.[46] Therefore, Petitioners argue, because all blends of honey and rice syrup produce the same test results, where a tester can determine a mixture of honey and rice syrup is present, but not in what ratio, for purposes of the analysis above, the Department must find that blends of honey and rice syrup have identical physical characteristics to in-scope blends and honey.[47] Based on all of the above evidence, the Department finds Petitioners have demonstrated honey and rice syrup blends, regardless of the percentage of honey they contain, have the same physical characteristics as honey.

(2) Expectations of the Ultimate Users

Petitioners argue that the ultimate users of blends of honey and rice syrup have the same expectations as users of honey. Based on the affidavit of an industry expert, Petitioners argue that because blends of honey and rice syrup contain the word ''honey,'' the ultimate consumers expect ''a honey based sweetener that looks, smells, and tastes like honey'' regardless of the relative percentage of honey they contain.[48] Petitioners also placed evidence on the record from various producers of blends of honey and rice syrup, showing that they advertise and market blends of honey and rice syrup as having the same physical characteristics, therefore, consumers cannot have any differing expectations for these products, other than price.[49] Additionally, Petitioners put National Honey Board surveys on the record showing consumers often mistake honey blends with honey, and there is no evidence in the reports to suggest consumers can distinguish between in-scope and out-of scope blends.[50] Based on this evidence, the Department finds that the Petitioners have demonstrated through National Honey Board surveys and advertising language on multiple PRC exporter Web sites, and an affidavit by an industry expert that consumers have similar expectations for blends of honey and rice syrup regardless of the percentage of honey they contain, as well as for pure honey.

(3) Ultimate Use of Merchandise

Petitioners state that all blends of honey and rice syrup have the same ultimate uses as in-scope honey, and cite to a National Honey Board survey which shows that all blends of honey and rice syrup are consumed for baking, and on/in breads, pancakes and cereal.[51] Petitioners also placed a series of advertisements on the record, showing both in-scope and out-of-scope blends having identical uses (*e.g.* toppings for pancakes, bread, *etc.*).[52]

Anhui Hundred argues that blends of honey and rice syrup are not substitutes for pure honey, because blends of honey and rice are only sold to commercial bakeries and manufacturers, and are not for retail sale.[53] However, the Department notes that the *Order* is not limited to pure honey. Furthermore, commercial bakeries and manufacturers also use pure honey,[54] other in-scope artificial honey blends,[55] and both in-scope and out-of-scope blends of honey and rice syrup.[56] Additionally, as discussed below in the *Channels of Trade* and *Advertising* sections, there is evidence on the record that blends of honey and rice syrup are in fact sold for retail uses, in contrast to Anhui Hundred's contention that such blends are not for retail sale.[57] Further, the Department finds that even if blends of honey and rice syrup were not sold for retail use that would not mean that they do not have similar uses, since they both are used for commercial baking. Based on this evidence, the Department finds that blends of honey and rice syrup have the same ultimate uses as honey.

(4) Channels of Trade

Petitioners contend that blends of honey and rice syrup, regardless of the honey content, are used by industrial bakers, or sold in health food stores, or grocery stores in honey bear bottles.[58] Anhui Hundred similarly contends that blends of honey and rice syrup are sold to ''bakeries, and commercial food processors as a sweetener, while small quantities may be repackaged for retail sale to individual consumers.''[59] Petitioners state that producers of blends of honey and rice syrup, including Anhui Hundred, market blends of honey and rice syrup in honey bear bottles and other retail containers on Internet Web sites, as well as steel drums.[60] Further, Petitioners argue, even if blends of honey and rice syrup were only sold to commercial bakeries and processed food manufacturers, both less than- and greater than-50 percent blends still travel through the same channels of trade to reach those consumers because they are marketed the same on Web sites and in the same containers.[61] Finally, Petitioners note that Anhui Freedom Foods sells all of its blends of honey and rice syrup, regardless of honey content, in any packaging the consumer wishes, from squeeze bottles, to steel drums.[62] Based on the evidence on the record, including multiple Web sites showing blends of honey and rice syrup being sold in the same containers regardless of the percentage of honey they contain,[63] and Anhui Hundred's own submission stating that blends of honey and rice syrup are consumed by bakeries and commercial food processors,[64] the

[44] *See id.* at Exhibit 17. Petitioners explain that Anhui markets both in-scope and out of scope blends of rice syrup using the same six descriptions: ''Appearance: white~yellow, no visible impurities by naked eyes''; ''Smell: mildly sweet, with the flavor of honey''; ''Taste'' similar to honey very much;'' ''Moisture 18.5% max.''; ''Fructose/reducing sugar 48% min.''; and Color is ''30min.''

[45] *See id.* at 16–18. For example, Wuhu Tongli Foods markets both its 90 percent honey to rice syrup blend and its 10 percent honey to rice syrup blend the same, stating ''regardless of the honey-to-rice syrup ratio selected for the blend, ''it taste similar to honey very much.'' *See id.* at Exhibit 20.

[46] *See id.* at 18–25.

[47] *See id.* at 23.

[48] *See id.* at 26.

[49] *See id.* at 31.

[50] *See* Petitioners' Supp. Response at 18–19, and Exhibits 13–15.

[51] *See id.* at 32.

[52] *See id.* at 32–34.

[53] *See* Anhui Hundred Opposition at 5.

[54] *See, e.g.,* ITC Report at I–5 stating, ''honey appears in a variety of products such as bread and other baked goods, cereal, condiments, candy, medicine, and even shampoo.''

[55] *See id.* at I–6, stating in-scope artificial honey is used as a ''direct substitute for natural honey.''

[56] *See* Anhui Scope Request at 3, stating ''the vast majority of honey syrup consumed world-wide is used by bakeries and commercial food processors as a sweetener * * *''; *see also* Petitioners' Supp. QR, at Exhibit 14, the National Honey Board 2006 Survey indicating honey and rice syrup blends would be used for baking and as spreads for bread and pancakes.

[57] *See, e.g.,* Petitioners' Supp. QR at Exhibits 17, 20–22, showing Web sites selling blends of honey and rice syrup from PRC producers in jars and traditional honey bears for individual use and sale.

[58] *See* Petitioners' QR at 34–5.

[59] *See* Anhui Scope Request at 3.

[60] *See* Petitioners' QR at 35–6, and Exhibit 17.

[61] *See id.*

[62] *See id.* at 36.

[63] *See* Petitioners' Supp. QR at Exhibits 19–23, and Petitioners' Supp. Response at 28–30, and Attachments A, B, D.1, D.2, and E.

[64] *See* Anhui Scope Request at 3.

Department finds that the channels of trade for all ratios of blends of honey and rice syrup are also similar to those used for honey.

(5) Advertising

Petitioners argue that blends of honey and rice syrup, regardless of the percentage of honey they contain, are advertised and displayed in the same manner as in-scope honey. For example, Petitioners observe that Anhui Freedom Foods sells ''syrup honey'' and ''honey blended syrup'' in blends ranging from ten percent honey to at least 70 percent honey in containers which are identical in terms of size, listed applications and uses, advertising used, and channels of trade.[65] Petitioners note that the same is true for other PRC producers of blends of honey and rice syrup, which use identical labeling and advertising for both less than- and greater than-50 percent blends.[66] Petitioners also note that the packaging almost always prominently displays the word ''honey'' on the front, and is often in bear bottles so consumers associate it with pure honey.[67] Based on this evidence on the record, the Department finds that honey and rice syrup blends are advertised in the same or similar manner as honey.

Other Arguments by Anhui Hundred

Anhui Hundred also contends that Petitioners have not put any evidence on the record to support their claim that blends of honey and rice syrup have been sold as pure honey. The Department notes that it is not basing its circumvention finding on the contention that blends of honey and rice syrup are being fraudulently sold as pure honey, nor is that an element of the Department's later-developed merchandise analysis.

Finally, prior to the initiation, Anhui Hundred argued that initiation of an anticircumvention inquiry based on the lack of an enforceable test would set a bad precedent for future cases.[68] Anhui Hundred argues that including blends of honey and rice syrup would cause uncertainty about what products are included in the scope of the *Order* and which products are likely to be included in the future.[69] The Department does not find these arguments persuasive. First, Anhui has not provided any legal basis for these arguments. The Department has analyzed the statutorily mandated criteria and this is the correct focus of this anticircumvention inquiry. In addition, if the Department affirms this preliminary determination and finds all blends of honey and rice syrup are later-developed merchandise, it will amend the scope language to that affect in an unambiguous manner. Further, a revised scope would clear up some of the current uncertainty around the *Order,* as demonstrated by the CBP challenges cited above.

Anhui Hundred also argues that a lack of a test does not necessarily make an order unenforceable because the composition of the merchandise could be verified through manufacturing and shipping documentation, as well as on-site verifications.[70] Once again, there is no legal basis for the Anhui Hundred's argument. The Statute does not require the Department to make a determination of unenforceability before making an affirmative circumvention determination. In any event, the evidence does not support Anhui Hundred's argument because in the case of the honey *Order,* CBP's ability to test the composition of the merchandise has been a tool in the enforcement of the *Order.*[71] In this regard, Petitioners stated that they specifically agreed to the 50 percent threshold in the scope because they thought it would be enforceable.[72] CBP's ability to continue to enforce the *Order* has now been called into question because of the development of blends of honey and rice syrup which are not susceptible to current testing methods.

Conclusion

Based on the above information, the Department finds that the blends of honey and rice syrup are later-developed merchandise. The evidence on the record demonstrates that blends of honey and rice syrup were not commercially available at the time that the investigation was initiated and these blends are materially different from the blends contemplated by the *Order.* Additionally, all honey rice syrup blends, regardless of the percentage of honey they contain, meet the criteria under sections 781(d)(1)(A–E) of the Act.

The evidence on the record of this inquiry, taken as a whole, leads to our preliminary determination that U.S. imports of blends of honey and rice syrup are later-developed products of the subject merchandise, within the meaning of section 781(d) of the Act, and are within the scope of the *Order.*

Suspension of Liquidation

Section 351.225(l)(2) of the Department's regulations states: ''If liquidation has not been suspended, the Secretary will instruct CBP to suspend liquidation and to require a cash deposit of estimated duties, at the applicable rate, for each unliquidated entry of the product entered, or withdrawn from warehouse, for consumption on or after the date of initiation of the scope inquiry.'' In accordance with section 351.225(l)(2) of the Department's regulations, we will instruct CBP to suspend liquidation of all entries of blends of honey and rice syrup, from the PRC that were entered, or withdrawn from warehouse, for consumption on or after December 7, 2011, the date of initiation of this anticircumvention inquiry.

The merchandise subject to suspension of liquidation based on this determination is all blends of honey and rice syrup regardless of the percentage of honey contained in the blend. In accordance with sections 735(c) and 781(b) of the Act and 19 CFR 225(i)(3), we will direct CBP to suspend liquidation and require cash deposits of estimated duties, at the rate applicable to the exporter, on all unliquidated entries of all honey and rice syrup blends regardless of the percentage of honey they contain, that were entered, or withdrawn from warehouse, for consumption on or after December 7, 2011, the date of initiation of the circumvention inquiry. This suspension of liquidation will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 781(d) of the Act, we have notified the ITC of the proposed inclusion of blends of honey and rice syrup in the antidumping duty order on honey from the PRC.[73] The ITC has not yet determined if consultations are not necessary.

Public Comment

Case briefs from interested parties may be submitted no later than 30 days from the publication of this notice. Rebuttal briefs must be limited to issues raised in such briefs and may be filed no later than five days after the deadline for filing case briefs.

Additionally, pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written

[65] *See id.* at 37.

[66] *See id.*

[67] *See id.*

[68] *See* Anhui Hundred Opposition at 5–9.

[69] *See id.* at 6.

[70] *See id.* at 7.

[71] *See* Petitioners' Supp. QR at Exhibit 26.

[72] *See id.* at 11.

[73] *See* the Department's letter to the ITC dated May 14, 2012, Re: *Anticircumvention Inquiry of the Antidumping Duty Order on Honey from the People's Republic of China.*

request to the Assistant Secretary for Import Administration, Room 1117, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed.[74] Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.

Final Determination

The Department intends to issue the final determination no later than October 2, 2012. This determination is issued and published in accordance with section 781(d) of the Act and section 351.225(j) of the Department's regulations.

Dated: June 13, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

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[74] *See Id.*

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–978]

High Pressure Steel Cylinders From the People's Republic of China: Countervailing Duty Order

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the ''Department'') and the International Trade Commission (''ITC''), the Department is issuing a countervailing duty order on high pressure steel cylinders (''steel cylinders'') from the People's Republic of China (''PRC'').

DATES: *Effective Date:* June 21, 2012.

FOR FURTHER INFORMATION CONTACT: David Layton or Christopher Siepmann, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0371 and (202) 482–7958, respectively.

Background

On May 7, 2012, the Department published its final determination in the countervailing duty investigation of steel cylinders from the PRC. *See High Pressure Steel Cylinders From the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 77 FR 26738 (May 7, 2012).

On June 14, 2012, the ITC notified the Department of its final determination pursuant to section 705(b)(1)(A)(i) of the Tariff Act of 1930, as amended (''the Act''), that an industry in the United States is materially injured by reason of subsidized imports of subject merchandise from the PRC. *See High Pressure Steel Cylinders From China,* USITC Pub. 4328, Investigation Nos. 701–TA–480 and 731–TA–1188 (Final) (June 2012).

Scope of the Order

The merchandise covered by the scope of the order is seamless steel cylinders designed for storage or transport of compressed or liquefied gas (''high pressure steel cylinders''). High pressure steel cylinders are fabricated of chrome alloy steel including, but not limited to, chromium-molybdenum steel or chromium magnesium steel, and have permanently impressed into the steel, either before or after importation, the symbol of a U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (''DOT'')-approved high pressure steel cylinder manufacturer, as well as an approved DOT type marking of DOT 3A, 3AX, 3AA, 3AAX, 3B, 3E, 3HT, 3T, or DOT–E (followed by a specific exemption number) in accordance with the requirements of sections 178.36 through 178.68 of Title 49 of the Code of Federal Regulations, or any subsequent amendments thereof. High pressure steel cylinders covered by these orders have a water capacity up to 450 liters, and a gas capacity ranging from 8 to 702 cubic feet, regardless of corresponding service pressure levels and regardless of physical dimensions, finish or coatings.

Excluded from the scope of the order are high pressure steel cylinders manufactured to U–ISO–9809–1 and 2 specifications and permanently impressed with ISO or UN symbols. Also excluded from the order are acetylene cylinders, with or without internal porous mass, and permanently impressed with 8A or 8AL in accordance with DOT regulations.

Merchandise covered by the order is classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') under subheading 7311.00.00.30. Subject merchandise may also enter under HTSUS subheadings 7311.00.00.60 or 7311.00.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

Countervailing Duty Order

In accordance with section 705(d) of the Act, the ITC has notified the Department of its final determination that the industry in the United States producing steel cylinders is materially injured by reason of subsidized imports of steel cylinders from the PRC. Therefore, in accordance with section 705(c)(2) of the Act, we are publishing this countervailing duty order.

As a result of this order, countervailing duties will be assessed on all unliquidated entries of steel cylinders from the PRC entered, or withdrawn from warehouse, for consumption on or after October 18, 2011, the date on which the Department published its preliminary affirmative countervailing duty determination in the **Federal Register**,[1] and before February 15, 2012, the date the Department instructed U.S. Customs and Border Protection (''CBP'') to discontinue the suspension of liquidation in accordance with section 703(d) of the Act. Section 703(d) of the Act states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for more than four months. Therefore, entries of steel cylinders made on or after February 15, 2012, and prior to the date of publication of the ITC's final determination in the **Federal Register** are not liable for the assessment of countervailing duties due to the Department's discontinuation, effective February 15, 2012, of the suspension of liquidation.

In accordance with section 706 of the Act, the Department will direct CBP to reinstitute the suspension of liquidation for steel cylinders from the PRC, effective the date of publication of the ITC's notice of final determination in the **Federal Register** and to assess, upon further advice by the Department pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates for the subject merchandise as noted below.

[1] *See High Pressure Steel Cylinders From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination,* 76 FR 64301 (October 18, 2011).