

### 5. State Government of Jharkhand Programs

- a. Grants and Tax Exemptions under the State Industrial Policy of 2001
- b. Subsidies for Mega Projects under the JSIP of 2001

### 6. State Government of Maharashtra Programs

- a. Refunds of Octroi Under the PSI of 1993, Maharashtra Industrial Policy of 2001, and Maharashtra Industrial Policy of 2006.
- b. Infrastructure Assistance for Mega Projects.
- c. Land for Less than Adequate Remuneration.
- d. Loan Guarantees Based on Octroi Refunds by the SGM.
- e. Investment Subsidy.

### Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for the reviewed company for the period January 1, 2007, through December 31, 2007. We preliminarily determine the net subsidy rate for Essar to be 21.95 percent *ad valorem*.

If the final results remain the same as these preliminary results, the Department intends to issue assessment instructions to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of the final results of this review. We will instruct CBP to collect cash deposits for the respondent at the countervailing duty rate indicated above of the f.o.b. invoice price on all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. We will also instruct CBP to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company.

These deposit requirements, when imposed, shall remain in effect until further notice.

### Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of the public announcement of this notice. Pursuant to 19 CFR 351.309(b)(1), interested parties may submit written arguments in response to these preliminary results. Unless otherwise indicated by the Department, case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments

raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs. See 19 CFR 351.309(c)(1)(ii). Parties who submit written arguments in this proceeding are requested to submit with the written argument: (1) a statement of the issue, and (2) a brief summary of the argument. Parties submitting case and/or rebuttal briefs are requested to provide the Department copies of the public version on disk. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs.

Representative of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(1)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of arguments made in any case or rebuttal briefs.

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: December 19, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-357-812]

### Honey from Argentina: Preliminary Results of Antidumping Duty Administrative Review and Intent to Revoke Order in Part

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

**SUMMARY:** In response to requests by interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on honey

from Argentina. The review covers four firms, three of which were selected as mandatory respondents (see "Background" section of this notice for further explanation). The period of review (POR) is December 1, 2006, through November 30, 2007.

We preliminarily determine that sales of honey from Argentina have been made below normal value (NV) by Patagonik S.A. (Patagonik). With respect to the other two mandatory respondents, Asociacion de Cooperativas Argentinas (ACA) and Seylinco, S.A. (Seylinco), we preliminarily determine that their sales of honey have not been made below NV during the POR. We also preliminarily intend to revoke Seylinco from the antidumping duty order subject to its request dated December 31, 2007. Finally, we preliminarily assign the dumping margin calculated for Patagonik to the one company subject to this review but not selected as a mandatory respondent (*i.e.*, Compania Inversora Platense S.A. (CIPSA)). For more information, see the "Background" section below; see also "Preliminary Results of Review," below. If these preliminary results are adopted in our final results of administrative review, we will issue appropriate assessment instructions to U.S. Customs and Border Protection (CBP). Interested parties are invited to comment on these preliminary results. See "Preliminary Results of Review," below.

**EFFECTIVE DATE:** December 30, 2008.

### FOR FURTHER INFORMATION CONTACT:

Maryanne Burke (Seylinco), David Cordell (Patagonik), Deborah Scott (ACA), or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Room 7866, Washington, DC 20230; telephone (202) 482-5604, (202) 482-0408, (202) 482-2657, or (202) 482-0649, respectively.

### SUPPLEMENTARY INFORMATION:

#### Background

On December 10, 2001, the Department published the antidumping duty order on honey from Argentina. See *Notice of Antidumping Duty Order: Honey From Argentina*, 66 FR 63672 (December 10, 2001). On December 3, 2007, the Department published in the **Federal Register** its notice of opportunity to request an administrative review of this order. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 72 FR 67889 (December 3, 2007). In response, on December 31,

2007, the American Honey Producers Association and the Sioux Honey Association (collectively, the petitioners) requested an administrative review of the antidumping duty order on honey from Argentina for the period December 1, 2006, through November 30, 2007. The petitioners requested that the Department conduct an administrative review of entries of subject merchandise made by 13 Argentine producers/exporters. In addition, the Department received requests for review from four Argentine exporters included in the petitioners' request. Furthermore, the Department received one request from an exporter that was not included in the petitioners' request for review.

On January 28, 2008, the Department initiated a review of the 14 companies<sup>1</sup> for which an administrative review was requested. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 73 FR 4829 (January 28, 2008).

On February 5, 2008, the Department issued a memorandum indicating its intention to limit the number of respondents selected for review and to select mandatory respondents based on CBP data for U.S. imports of Argentine honey during the POR. On February 19, 2008, two companies, ACA and Seylinco, submitted comments in response to the Department's intended respondent selection methodology. ACA argued the Department must choose the largest exporters as respondents. Seylinco asserted the Department must select Seylinco as a mandatory respondent because it had requested revocation, in part, of the antidumping duty order. Seylinco also argued that failure to choose Seylinco would deny it the benefits it believes it has earned under the regulation governing revocations based on an absence of dumping. On February 19, 2008, the petitioners also filed comments regarding the Department's intended respondent selection methodology. The petitioners maintained that based on the CBP data as well as publicly-available data, the Department should select

ACA, Nexco S.A. and, possibly, Honeymax S.A. as mandatory respondents. The petitioners also argued that to the extent Seylinco was requesting to be reviewed as a mandatory respondent on the basis of its request for revocation, the Department should reject that request. In addition, in their February 19, 2008, letter, the petitioners timely withdrew their requests for review of the following six companies: AGLH S.A., Algodonera Avellaneda S.A., Bomare S.A. (Bodegas Miguel Armengol), Mercoline S.A., Productos Afer S.A., and Seabird Argentina S.A.

On March 3, 2008, Seylinco submitted comments rebutting the petitioners' contention that Seylinco should not be chosen as a mandatory respondent. Seylinco reiterated that it should be a mandatory respondent because of its request for revocation in part, and not to select Seylinco would be equivalent to denying that request.

On March 18, 2008, the petitioners timely withdrew their requests for an administrative review of El Mana S.A., HoneyMax S.A., and Nexco S.A.

On March 20, 2008, the Department determined that, because it was not feasible to examine all five of the remaining producers/exporters of subject merchandise, the most appropriate methodology for purposes of this review was to select the four largest of these producers/exporters by export volume. These four respondents were ACA, CAA/Mielar, Patagonik and Seylinco. The Department stated it would apply a review-specific average margin to the company not selected, *i.e.*, CIPSA. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, "Selection of Respondents," dated March 20, 2008. On March 25, 2008, the Department issued sections A, B, and C of the antidumping questionnaire to all four exporters chosen as mandatory respondents in this review.

On May 22, 2008, both the petitioners and CAA/Mielar submitted letters withdrawing their requests for an administrative review of CAA/Mielar.

On June 16, 2008, the Department published a notice of partial rescission in response to the petitioners' February 19, 2008, and March 18, 2008, withdrawals of their review requests, as well as the petitioners' and CAA/Mielar's request for withdrawal of the review of CAA/Mielar. See *Honey from Argentina: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 33975 (June 16, 2008).

On July 7, 2008, the Department extended the deadline for the preliminary results of this review from

September 2, 2008, to December 19, 2008. See *Honey from Argentina: Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 38396 (July 7, 2008).

With respect to the three remaining mandatory respondents, ACA, Patagonik, and Seylinco, the chronology of this review is as follows: ACA filed its response to section A of the Department's questionnaire on April 22, 2008 and its response to sections B and C of the Department's questionnaire on May 28, 2008. On June 20, 2008, the petitioners submitted a letter alleging that ACA had made comparison market sales of honey at prices below the cost of production (COP) during the POR and on June 24, 2008, the petitioners filed comments regarding ACA's responses to sections A, B, and C of the Department's questionnaire. ACA submitted comments regarding the petitioners' cost allegation on June 30, 2008. The Department issued a supplemental questionnaire to ACA for sections A, B, and C of the questionnaire on July 15, 2008. ACA provided a response to two of the items in the supplemental questionnaire on July 30, 2008, and a response to the remainder of the supplemental questionnaire on August 19, 2008. On August 27, 2008, the Department issued a memorandum stating the petitioners had not provided a reasonable basis to believe or suspect ACA sold honey in the comparison market at prices below the COP during the POR and, based on this reason, did not initiate a sales-below-cost investigation for ACA. See Memorandum to Richard Weible, Director, Office 7, "Petitioner's Allegation of Sales Below the Cost of Production in the December 1, 2006 - November 30, 2007 Administrative Review of Honey from Argentina," dated August 27, 2008 (ACA Cost Allegation Memorandum). The Department issued a second supplemental questionnaire to ACA for sections A, B, and C on September 22, 2008, to which ACA responded on October 23, 2008. The Department issued another supplemental questionnaire to ACA for sections A, B, and C on November 25, 2008. ACA submitted its response to this third supplemental questionnaire on December 3, 2008.

With respect to Patagonik, we received its response to section A of the Department's questionnaire on April 22, 2008. On May 16, 2008, the Department issued a supplemental questionnaire to Patagonik for section A. Patagonik filed its response to sections B and C of the Department's questionnaire on May 22,

<sup>1</sup> Petitioners requested reviews of Compañia Apícola Argentina S.A. (CAA) and Mielar S.A. (Mielar) as separate entities. Counsel for CAA and Mielar filed a single request for review of ≥Mielar and CAA (or either of them). However, in a previous segment of this proceeding, the Department treated these two companies as a single entity. See *Honey from Argentina: Final Results of Antidumping Duty Administrative Review*, 70 FR 19926 (April 15, 2005). Thus, while the notice of initiation for this review lists 15 companies, CAA and Mielar are currently being treated as single entity based on that prior decision. Accordingly, there were a total of 14 companies for which reviews were initiated.

2008, and its response to the section A supplemental questionnaire on May 22, 2008, and June 6, 2008. On June 13, 2008, the petitioners submitted deficiency comments regarding Patagonik's responses to sections A through C of the Department's questionnaire. The Department issued Patagonik a supplemental questionnaire for sections A, B, and C on June 30, 2008, to which Patagonik responded on July 24, 2008. On September 12, 2008, the petitioners filed deficiency comments regarding various submissions by Patagonik. On September 19, 2008, the Department issued another supplemental questionnaire to Patagonik for sections A, B, and C. Patagonik submitted its response to that supplemental questionnaire on October 20, 2008. On October 30, 2008, the petitioners filed comments on Patagonik's October 20, 2008, response, as well as on the section D response from the selected beekeepers and middleman. The Department issued further supplemental questionnaires to Patagonik on November 3, 2008, and November 10, 2008, to which Patagonik responded on November 21, 2008.

In the most recently completed segment of the proceeding to which Patagonik was a party, *i.e.*, the new shipper review of Patagonik for the period December 1, 2004, to December 31, 2005, the Department disregarded certain below-cost sales from its analysis. *See Honey From Argentina: Preliminary Results of New Shipper Review*, 71 FR 67850 (November 24, 2006) (*New Shipper Preliminary Results*), unchanged in *Honey from Argentina: Final Results of New Shipper Review*, 72 FR 19177 (April 17, 2007) (*New Shipper Final Results*). As is our practice in such instances, in accordance with section 773(b)(2)(A)(ii) of the Tariff Act of 1930, as amended (the Act), we initiated a sales-below-cost investigation for this segment of the proceeding and notified Patagonik that certain suppliers would be requested to respond to section D of the questionnaire. On June 10, 2008, the Department notified Patagonik of the beekeepers and middleman the Department had selected to provide COP information. *See Memorandum to Richard Weible, Director, Office 7, "Selection of Cost of Production Respondents,"* dated June 10, 2008 (COP Respondents Memorandum).

The Department issued section D of the antidumping duty questionnaire to solicit COP data from two selected beekeeper suppliers<sup>2</sup>, as well as the

largest middleman, Colmenares Santa Rosa S.R.L. (CSR) on June 24, 2008. On that same date, Patagonik informed the Department that one of the selected beekeepers was in fact three independent beekeepers. As a result, the Department replaced that beekeeper with the next largest one and asked the newly-selected beekeeper to complete section D of the questionnaire. *See Memorandum to Richard Weible, Director, Office 7, "Revision of Cost of Production Respondent Selection: Addendum to Memorandum of June 10, 2008,"* dated July 2, 2008 (COP Respondent Selection Addendum). The Department issued section D of the questionnaire to the newly selected beekeeper on July 7, 2008. We received responses from the beekeepers and middleman on August 21, 2008. On November 20, 2008, we issued a supplemental questionnaire for section D to the beekeepers and the middleman, which is due on December 31, 2008.

We received Seylinco's response to section A of the Department's questionnaire on April 22, 2008, and its response to sections B and C of the Department's questionnaire on May 22, 2008. On June 11, 2008, the petitioners submitted a letter alleging that Seylinco's comparison market sales of honey had been made at prices below the COP during the POR. Then, on June 13, 2008, the petitioners filed comments regarding Seylinco's responses to sections A, B, and C of the Department's questionnaire. On June 20, 2008, Seylinco submitted comments regarding the petitioners' cost allegation and on June 23, 2008, Seylinco responded to the petitioners' June 13, 2008, deficiency comments. On June 30, 2008, the petitioners submitted a reply to Seylinco's June 20, 2008 letter regarding the cost allegation.

On July 3, 2008, the Department issued a supplemental questionnaire to Seylinco for sections A, B, and C of the questionnaire. Seylinco responded to the section A supplemental questionnaire on July 28, 2008, and to the supplemental questionnaire for sections B and C on August 1, 2008. The Department issued a second supplemental questionnaire for sections A, B, and C on August 22, 2008, to which Seylinco responded on August 29, 2008. Finally, on August 27, 2008, the Department issued a memorandum in which it stated the petitioners had not provided a reasonable basis to believe or suspect Seylinco sold honey in the comparison market at prices below the COP during the POR and, based on this, did not initiate a sales-below-cost investigation for Seylinco. *See Memorandum to Richard Weible,*

Director, Office 7, "2006–2007 Administrative Review of Honey from Argentina; Petitioners' Allegation of Sales Below the Cost of Production by Seylinco, S.A.," dated August 27, 2008 (Seylinco Cost Allegation Memorandum).

On November 25, 2008, the petitioners submitted pre-preliminary results comments for each of the three mandatory respondents. ACA submitted comments in response to the petitioners' submission on December 4, 2008.

#### Scope of the Review

The merchandise covered by the order is honey from Argentina. The products covered 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 covered by the order is currently classifiable under subheadings 0409.00.00, 1702.90.90, and 2106.90.99 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 the order is dispositive.

#### Intent To Revoke In Part

As noted above, on December 31, 2007, Seylinco requested revocation of the antidumping duty order with respect to its sales of subject merchandise, pursuant to 19 CFR 351.222(b)(2). Seylinco's request was accompanied by certifications that it: (1) has sold subject merchandise at not less than NV in the current review period; (2) has sold subject merchandise in commercial quantities during each of the consecutive three years forming the basis for its request for revocation; and (3) agrees to reinstatement of the antidumping duty order if the Department concludes Seylinco has sold subject merchandise at less than NV subsequent to revocation. *See* 19 CFR 351.222(e)(1).

We preliminarily determine that the request from Seylinco meets all of the criteria under 19 CFR 351.222(e)(1) and that revocation is warranted pursuant to 19 CFR 351.222(b)(2). With regard to the criteria of 19 CFR 351.222(b)(2), our preliminary margin calculation shows Seylinco sold honey at not less than NV during the current review period. *See*

<sup>1</sup> The beekeepers' names are proprietary information.

“Preliminary Results of the Review” section below. In addition, Seylinco sold honey at not less than NV (i.e., its dumping margins were zero or *de minimis*) in the two previous administrative reviews in which it was involved. See *Honey from Argentina: Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part*, 73 FR 24220 (May 2, 2008) (2005–2006 Final Results) and *Honey from Argentina: Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part*, 72 FR 25245 (May 4, 2007).

Furthermore, based on our examination of the sales data submitted by Seylinco, we preliminarily determine that it sold subject merchandise in the United States in commercial quantities in each of the three consecutive years cited to support its request for revocation. See Memorandum to Richard Weible, Director, Office 7, “Request by Seylinco S.A. (Seylinco) for Revocation in the Antidumping Duty Administrative Review of Honey from Argentina,” dated December 19, 2008 (Revocation Memorandum). Thus, we preliminarily find Seylinco had zero or *de minimis* dumping margins for three consecutive years and sold subject merchandise in commercial quantities in each of these years. See 19 CFR 351.222(b)(2)(A). As indicated above, Seylinco agreed to immediate reinstatement of the order, if the Department concludes that Seylinco sold the subject merchandise at less than normal value subsequent to revocation. See 19 CFR 351.222(b)(2)(B). Finally, we preliminarily determine that the application of the antidumping duty order with respect to honey exported by Seylinco is no longer warranted for the following reasons: (1) the company had zero or *de minimis* margins for a period of at least three consecutive years; (2) the company has agreed to immediate reinstatement of the order if the Department finds that it has resumed making sales at less than NV; and (3) the continued application of the order is not otherwise necessary to offset dumping. See 19 CFR 351.222(b)(2)(C). Therefore, we preliminarily find Seylinco qualifies for revocation of the order pursuant to 19 CFR 351.222(b)(2). See Revocation Memorandum. If these preliminary findings are affirmed in our final results, we will revoke the order in part with respect to honey exported by Seylinco and, in accordance with 19 CFR 351.222(f)(3), terminate the suspension of liquidation for any merchandise in question that is entered, or withdrawn

from warehouse, for consumption on or after December 1, 2007, and instruct CBP to refund any cash deposits for such entries.

#### Verification

As provided in section 782(i) of the Act and 19 CFR 351.222(f)(2)(ii), from September 23, 2008, through September 27, 2008, we verified sales information provided by Seylinco, using standard procedures such as the examination of company sales and financial records. Our verification results are outlined in the public and proprietary versions of our verification reports, which are on file in the Central Records Unit (CRU) in room 1117 of the main Commerce Department building. See Memorandum to the File, “Verification of the Sales Response of Seylinco S.A. (Argentina) in the Antidumping Review of Honey from Argentina,” dated December 10, 2008.

#### Product Comparison

In accordance with section 771(16) of the Act, we considered all sales of honey covered by the description in the “Scope of the Review” section of this notice, *supra*, which were sold in the appropriate third-country markets during the POR to be the foreign like product for the purpose of determining appropriate product comparisons to honey sold in the United States. For our discussion of market viability and selection of comparison market, see the “Normal Value” section of this notice, *infra*. We matched products based on the physical characteristics reported by ACA, Patagonik and Seylinco. Where there were no sales of identical merchandise in the third-country market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the antidumping duty questionnaire and instructions, or to constructed value (CV), as appropriate.

#### Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the home market at the same level of trade (LOT) as export price (EP) or the constructed export price (CEP). The NV LOT is based on the starting price of the sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative expenses and profit. See also 19 CFR 351.412(c)(1)(iii). For CEP, it is the level of the constructed sale from the exporter to an affiliated importer after the

deductions required under section 772(d) of the Act. See 19 CFR 351.412(c)(1)(ii). For EP, it is the starting price. See 19 CFR 351.412(c)(1)(i). In this review, ACA, Patagonik and Seylinco claimed only EP sales.

To determine whether NV sales are at a different LOT than EP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

ACA reported that all of its third-country sales were made to packers and all of its U.S. sales were made to importers, and that the LOT for each market corresponded to these two channels of distribution. The Department has determined that differing channels of distribution, alone, do not qualify as separate LOTs when selling functions performed for each customer class are sufficiently similar. See *Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Ninth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy*, 71 FR 45017 (August 8, 2006) (unchanged in *Notice of Final Results of the Antidumping Duty Order on Certain Pasta from Italy*, 72 FR 7061 (February 14, 2007); see also 19 CFR 351.412(c)(2). We find the selling functions ACA provided to packer customers in the third-country market and importer customers in the U.S. market were virtually the same, varying only by the degree to which testing and warranty services were provided. We do not find the varying degree of testing and warranty services alone sufficient to determine the existence of different marketing stages. Thus, we have preliminarily determined there is only one LOT for ACA’s sales in both the comparison and U.S. markets, and have not made an LOT adjustment. See Memorandum to the File, “Analysis Memorandum for Preliminary Results of the Antidumping Duty Review on Honey from Argentina for Asociacion de Cooperativas Argentinas” (ACA Preliminary Analysis Memorandum), dated December 19, 2008.

Patagonik reported a single LOT for all U.S. and third-country sales. Patagonik claimed that its selling activities in both markets are essentially identical, and nothing on the record

appears to suggest otherwise. For Patagonik, we preliminarily determine that all reported sales are made at the same LOT, and we have not made an LOT adjustment. See Memorandum to the File, "Analysis Memorandum for Patagonik S.A." (Patagonik Preliminary Analysis Memorandum), dated December 19, 2008.

Seylinco reported a single LOT for all U.S. and third-country sales. Seylinco claimed its sales were made directly to unaffiliated customers in both the United States and Germany and that the selling activities offered in both markets are identical. For Seylinco, we preliminarily determine that all reported sales are made at the same LOT, and therefore we have not made an LOT adjustment. See Memorandum to the File, "Analysis Memorandum for Preliminary Results of the Antidumping Duty Review on Honey from Argentina for Seylinco S.A." (Seylinco Preliminary Analysis Memorandum), dated December 19, 2008.

#### Affiliation

For purposes of this review, as we have done in prior segments of the proceeding, we determine that CSR and Patagonik are affiliated within the meaning of section 771(33) of the Act. As we have done in prior segments of the proceeding we also determine the two companies should be treated as a single entity for the purposes of this administrative review and that the companies should receive a single antidumping duty rate. See *New Shipper Preliminary Results and New Shipper Final Results* for our analysis regarding the treatment of CSR and Patagonik. In the instant review, we find there continues to be a significant overlap of management positions, an intertwining of Patagonik and CSR's operations, and a close supplier relationship-ownership structure. See Patagonik's April 22, 2008, section A response at A-4 to A-7 and Exhibit A.2. See also Patagonik's June 6, 2008, response at A1-2 through 8, and Patagonik's July 24, 2008, response at A2-1, 2, and 7. Therefore, there are no facts in this segment of the proceeding that warrant reconsideration of our decision to treat CSR and Patagonik as a single entity for the purposes of this administrative review.

#### Transactions Reviewed

19 CFR 351.401(i) states the Department normally will use the date of invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business, as the date of sale, but may use a date other than the date of invoice if it better reflects the

date on which the material terms of sale are established. For ACA, the Department used the reported shipment date as the date of sale for both the third-country and U.S. market.<sup>3</sup> In the original investigation of honey from Argentina, we thoroughly examined the date of sale issue for ACA and found that changes to the essential terms of sale can and did occur between the contract date and the time of the actual shipment by ACA. The same was true for each subsequent POR, and we continued to use the date of shipment for ACA as the date of sale.

Furthermore, in the instant POR, we found changes did, in fact, occur between contract date and shipment date with respect to the type of honey sold to the customer. Consequently, we preliminarily find that shipment date continues to be the appropriate date of sale with respect to ACA's sales in the U.S. and comparison markets.

For both Patagonik and Seylinco, the Department used the invoice date as the date of sale for both its comparison and U.S. market sales for these preliminary results. With respect to Patagonik, we found that during the POR, there were rare occasions when discussions took place on the product not being delivered in the quantity, color, or timing that was originally ordered. See Patagonik's July 24, 2008, supplemental questionnaire response at B1-5. Moreover, Patagonik asserts that changes in ordered terms have occurred in the past and Patagonik's customers know they can request changes to an order prior to shipment. The petitioners asserted the terms of sale are set at the time of order and that all sales be reported based on the order date because there is no indication that any material terms of sale change after the date of order. See the petitioners' comments, dated June 13, 2008. As in past segments of this proceeding, we determine that there is potential for change to the essential terms of sale between the contract date and invoice date and therefore invoice date continues to be the appropriate

<sup>3</sup> When shipment occurs prior to invoice date, as in the case of ACA's sales in both the U.S. and third-country markets, it is the Department's practice to use the shipment date as the date of sale rather than the invoice date. See, e.g., *Honey from Argentina: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Intent Not to Revoke in Part*, 70 FR 76766, 76768 (December 28, 2005), unchanged in *Honey from Argentina: Final Results, Partial Rescission of Antidumping Duty Administrative Review and Determination Not to Revoke in Part*, 71 FR 26333 (May 4, 2006); see also *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Durum Wheat and Hard Red Spring Wheat from Canada*, 68 FR 52741 (September 5, 2003) and the accompanying Issues and Decision Memorandum at Comment 3.

date of sale with respect to Patagonik's sales in the U.S. and comparison markets. However, in some instances shipment occurred prior to invoice, and consistent with past segments of this proceeding and the Department's practice, we used the shipment date as the date of sale for those sales.

Concerning Seylinco, we find that changes to price were made between order date and invoice date and determine invoice date as the appropriate date of sale because the commercial invoice reflected final price and quantity. Also, Seylinco stated it usually invoices customers soon after shipment of the merchandise from the warehouse; however, in some circumstances invoicing occurs before shipment. For situations where shipment occurred before invoicing we set the date of sale to shipment date which is consistent with previous reviews of this case.

#### Export Price and Constructed Export Price

Section 772(a) of the Act defines EP as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)." Section 772(b) of the Act defines CEP as "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter," as adjusted under sections 772(c) and (d). ACA, Patagonik and Seylinco have classified their U.S. sales as EP because all of their sales were made before the date of importation directly to unaffiliated purchasers in the U.S. market. For purposes of these preliminary results, we have accepted these classifications. For ACA, Patagonik and Seylinco, we based EP on prices to unaffiliated customers in the United States and made adjustments for movement expenses.

#### Normal Value

##### 1. Selection of Comparison Market

In accordance with section 773(a)(1)(C) of the Act, to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*,

the aggregate volume of home market sales of the foreign like product is greater than or equal to five percent of the aggregate volume of U.S. sales), we compared each company's aggregate volume of home market sales of the foreign like product to its aggregate volume of U.S. sales of subject merchandise. Although ACA made some sales in the home market, the volume of ACA's home market sales was less than five percent of the aggregate volume of U.S. sales. As a result, we preliminarily find that ACA's home market does not provide a viable basis for calculating NV. Patagonik and Seylinco did not have any home market sales and, therefore, we preliminarily find the home market does not provide a viable basis for calculating NV for either Patagonik or Seylinco.

When sales in the home market are not suitable to serve as the basis for NV, section 773(a)(1)(B)(ii) of the Act provides that sales to a third-country market may be utilized if: (i) the prices in such market are representative; (ii) the aggregate quantity of the foreign like product sold by the producer or exporter in the third-country market is five percent or more of the aggregate quantity of the subject merchandise sold in or to the United States; and (iii) the Department does not determine that a particular market situation in the third-country market prevents a proper comparison with the U.S. price. In addition to looking at volume, we also examined product similarity and found that for each respondent, product similarity with respect to the largest market was equal to that of other third country markets. Thus, the Department determines that for each respondent it is appropriate to select the largest third-country market for comparison purposes.

ACA reported its sales to the United Kingdom, the largest third-country market in terms of sales volume. The record shows the aggregate quantity of ACA's sales to the United Kingdom is greater than five percent of ACA's sales to the United States. In addition, the Department preliminarily determines there is no evidence on the record to demonstrate that ACA's prices in the United Kingdom are not representative. Further, we find there is no particular market situation that would prevent a proper comparison to EP. As a result, we preliminarily find ACA's sales to the United Kingdom serve as the most appropriate basis for NV.

Patagonik also reported its sales to the United Kingdom, the largest third-country market on the basis of sales volume. The petitioners have claimed the Department should select one of

Patagonik's other reported third-country markets as the comparison market, claiming the merchandise sold in the other third-country market was more similar to the U.S. product in terms of product standards (*i.e.*, permissible levels of contamination) and not homogenized. *See, e.g.*, the petitioners' letters dated June 13, 2008 and September 11, 2008. However, the Department does not consider homogenization in determining matches of such or similar merchandise and does not include homogenization amongst the product characteristics in its model matching. Furthermore, no party has suggested that the product matching criteria be changed for this segment of the proceeding to include homogenization.

The record shows the aggregate quantity of Patagonik's sales to the United Kingdom is greater than five percent of Patagonik's sales to the United States. In addition, the Department preliminarily determines there is no evidence on the record to demonstrate that Patagonik's prices in the United Kingdom are not representative. Further, we find there is no particular market situation that would prevent a proper comparison to EP. Therefore, in accordance with section 773(a)(1)(B)(ii) of the Act, we preliminarily determine that Patagonik's sales to the United Kingdom serve as the most appropriate basis for NV.

Seylinco reported its sales to Germany, the largest third-country market in terms of sales volume. The record shows the aggregate quantity of Seylinco's sales to Germany is greater than five percent of Seylinco's sales to the United States. In addition, the Department preliminarily determines there is no evidence on the record to demonstrate that Seylinco's prices in Germany are not representative. Further, we find there is no particular market situation that would prevent a proper comparison to EP. As a result, we preliminarily find Seylinco's sales to Germany serve as the most appropriate basis for NV.

In summary, therefore, NV for ACA, Patagonik and Seylinco is based on each exporter's third-country sales to unaffiliated purchasers made in commercial quantities and in the ordinary course of trade. For NV, we used the prices at which the foreign like product was first sold for consumption in the usual commercial quantities, in the ordinary course of trade, and, to the extent possible, at the same LOT as the EP. We calculated NV as noted in the "Price-to-Price Comparisons" section of this notice, *infra*.

## 2. Cost of Production

The petitioners alleged that both ACA and Seylinco made comparison market sales of honey at prices less than the COP during the POR. *See* the petitioners' letters dated June 20, 2008 and June 11, 2008, respectively. However, the Department determined that the petitioners did not provide a reasonable basis on which to believe or suspect either ACA or Seylinco had sold honey in the comparison market at prices below the COP during the POR. As a result, the Department did not initiate a sales-below-cost investigation for ACA or Seylinco. *See* ACA Cost Allegation Memorandum and Seylinco Cost Allegation Memorandum.

With respect to Patagonik, because we found sales below cost in the most recently completed segment of this proceeding, the Department automatically initiated a sales-below-cost investigation in this administrative review.

### A. Cost of Production Analysis

To calculate a COP and CV for the merchandise under consideration, the Department selected the two largest beekeepers by volume and the largest middleman, all of whom provided honey to Patagonik during the POR. *See* COP Respondents Memorandum and COP Respondent Selection Addendum.

### B. Calculation of COP

We relied on the COP data submitted by the two beekeeper respondents and the middleman in their cost questionnaire responses, except as follows:

1. We adjusted Beekeeper 2's costs to include a market value for bartered rent.
2. We adjusted the middleman's costs to exclude income taxes.
3. We reallocated the middleman's collector costs based on production quantities.

For additional details, *see* Memoranda to Neal M. Halper, Director of Office of Accounting, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results Patagonik S.A.'s Beekeeper Respondents/ Collector of Honey," dated December 19, 2008.

### C. Test of Third-Country Prices and Results of the Cost of Production Test

We calculated a simple average COP using the COP of Patagonik's two respondent suppliers (Beekeeper 1 and Beekeeper 2) and the costs of the middleman supplier. This average COP which was applied to these beekeepers as well as all other beekeeper suppliers from whom information was not

requested. In determining whether to disregard third-country market sales made at prices below the COP, in accordance with sections 773(b)(1)(A) and (B) of the Act, we examined: (1) whether, within an extended period of time, such sales were made in substantial quantities; and (2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. Where less than 20 percent of the respondent's third-country market sales of a given model (*i.e.*, control number, or CONNUM) were at prices below the COP during the POR, we did not disregard any below-cost sales of that model because we determined that the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of the respondent's third-country market sales of a given model were at prices less than COP during the POR, we disregarded the below-cost sales because: (1) they were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on our comparison of prices to the COP for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

We found Patagonik did not have any models for which 20 percent or more of sales volume (by weight) were below cost during the POR. Therefore we did not disregard any of Patagonik's third-country sales and included all such sales in our calculation of NV.

### Price-to-Price Comparisons

#### ACA

We based NV on the third-country prices to unaffiliated purchasers. We made adjustments, where applicable, for movement expenses in accordance with section 773(a)(6)(B) of the Act. Where appropriate, we made circumstance-of-sale adjustments for credit pursuant to section 773(a)(6)(C) of the Act. We also made adjustments, where applicable, for other direct selling expenses, in accordance with section 773(a)(6)(C) of the Act. We preliminarily reclassified some of ACA's reported direct selling expenses (namely, certain of its expenses related to testing) as indirect selling expenses, consistent with our treatment of testing expenses in the 2005–2006 administrative review. *See 2005–2006 Final Results* and the accompanying Issues and Decision Memorandum at Comment 1. Thus, we

have not included certain of ACA's testing expenses among the direct selling expenses for which we made adjustments in these preliminary results. For more information, *see* ACA Preliminary Analysis Memorandum.

#### Patagonik

We based NV on the third-country prices to unaffiliated purchasers. We made adjustments, where applicable, for movement expenses in accordance with section 773(a)(6)(B) of the Act. Where appropriate, we made circumstance-of-sale adjustments for credit pursuant to section 773(a)(6)(C) of the Act. We also made adjustments, where applicable, for other direct selling expenses, in accordance with section 773(a)(6)(C) of the Act. Additionally, we adjusted gross unit price for billing adjustments, where applicable. *See* 19 CFR 351.401(c).

We preliminarily reclassified some of Patagonik's reported direct selling expenses (namely, certain testing expenses) as indirect selling expenses, consistent with our treatment of testing expenses in the 2004–2005 new shipper review. *See New Shipper Preliminary Results*, unchanged in *New Shipper Final Results*. Thus, we have not included certain of Patagonik's testing expenses among the direct selling expenses for which we made adjustments in these preliminary results. Furthermore, we have also preliminarily determined Patagonik has failed to support its warranty claims with respect to the third-country market. For more information, *see* Patagonik Preliminary Analysis Memorandum.

#### Seylinco

We based NV on the third-country prices to unaffiliated purchasers. We made adjustments, where applicable, for movement expenses in accordance with section 773(a)(6)(B) of the Act. Where appropriate, we made circumstance-of-sale adjustments for credit pursuant to section 773(a)(6)(C) of the Act. We also made adjustments, where applicable, for other direct selling expenses, in accordance with section 773(a)(6)(C) of the Act. *See Seylinco Preliminary Analysis Memorandum*. Additionally, we adjusted gross unit price for billing adjustments, where applicable. *See* 19 CFR 351.401(c).

#### Currency Conversions

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. *See Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from France*, 68 FR 47049, 47055 (August 7, 2003), unchanged in

*Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils From France*, 68 FR 69379 (December 12, 2003). However, the Federal Reserve Bank does not track or publish exchange rates for the Argentine peso. Therefore, we made currency conversions from Argentine pesos to U.S. dollars based on the daily exchange rates from Factiva, a Dow Jones & Reuters Retrieval Service. Factiva publishes exchange rates for Monday through Friday only. We used the rate of exchange on the most recent Friday for conversion dates involving Saturday through Sunday where necessary. For prices and expenses that ACA reported in pounds sterling or euros, we made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank, in accordance with section 773A(a) of the Act.

#### Preliminary Results of Review

As a result of our review, we preliminarily determine the following weighted-average dumping margins exist for the period December 1, 2006 through November 30, 2007:

Exporter	Weighted-Average Margin (percentage)
Asociacion de Cooperativas Argentinas .....	0.00
Compania Inversora Platense S.A. ....	0.72 <sup>4</sup>
Patagonik S.A. / Colmenares Santa Rosa S.R.L .....	0.72
Seylinco, S.A. ....	0.00

<sup>4</sup> This rate is normally based on the weighted average of the margins calculated for those companies selected for individual review, excluding *de minimis* margins or margins based entirely on AFA. We preliminarily determine to assign to the non-selected respondent in this review the margin calculated for Patagonik, which is the only margin in this review that is neither *de minimis* nor based entirely on AFA. *See Certain Frozen Warmwater Shrimp From India: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 40492 (July 15, 2008).

The Department will disclose calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within thirty days of publication. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date pursuant to 19 CFR 351.310(d). Interested parties may submit case briefs or written comments no later than 30 days after the

date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 35 days after the date of publication of this notice. Parties who submit arguments in these proceedings are requested to submit with the argument: (1) a statement of the issues, (2) a brief summary of the argument, and (3) a table of authorities. Further, parties submitting case briefs, rebuttal briefs, and written comments should provide the Department with an additional copy of the public version of any such argument on diskette. The Department will issue final results of this administrative review, including the results of our analysis of the issues in any such case briefs, rebuttal briefs, and written comments or at a hearing, within 120 days of publication of these preliminary results.

#### Assessment

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), where entered values were reported, we calculated importer-specific *ad valorem* assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. Where entered values were not reported, we calculated importer-specific per-unit assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total quantity of the sales used to calculate those duties. These rates will be assessed uniformly on all ACA, Patagonik and Seylinco entries made during the POR. For entries made during the POR from the non-reviewed company, *i.e.*, CIPSA, we will assess duties based on the weighted-average dumping margin calculated for Patagonik. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the period of review produced by companies included in these final results of review for which the reviewed companies did not know their merchandise was

destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of honey from Argentina entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for all companies covered by this review (*i.e.*, ACA, Seylinco, Patagonik, and CIPSA) will be the rates established in the final results of review; (2) for any previously-reviewed or investigated company not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review or the less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be the all-others rate from the investigation (30.24 percent). See *Notice of Antidumping Duty Order: Honey From Argentina*, 66 FR 63672 (December 10, 2001). These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. 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 notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 19, 2008.

**David M. Spooner**,  
Assistant Secretary for Import  
Administration.

[FR Doc. E8-30996 Filed 12-29-08; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-549-817]

#### Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Preliminary Results of Changed Circumstances Review and Intent To Reinstate Sahaviriya Steel Industries Public Company Limited in the Antidumping Duty Order

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

**SUMMARY:** On May 17, 2006, the Department of Commerce ("the Department") revoked in part the antidumping duty order on certain hot-rolled carbon steel flat products ("hot-rolled steel") from Thailand with respect to Sahaviriya Steel Industries Public Company Limited ("SSI") after having determined that SSI sold the merchandise at not less than normal value ("NV") for a period of at least three consecutive years. See *Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Final Results of Antidumping Duty Administrative Review, Partial Revocation of Antidumping Duty Order and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 28659 (May 17, 2006) ("Revocation"). As the result of an adequate allegation from a domestic interested party in this proceeding, the Department, pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended ("the Act"), is now conducting a changed circumstances review to determine whether SSI has resumed dumping hot-rolled steel and whether the antidumping order should be reinstated for hot-rolled steel from Thailand manufactured and exported by SSI. See *Initiation of Antidumping Duty Changed Circumstances Review: Certain Hot-Rolled Carbon Steel Flat Products from Thailand*, 73 FR 18766 (April 7, 2008) ("Initiation Notice"). We preliminarily determine that SSI has sold hot-rolled steel at less than NV and that hot-rolled steel produced and exported by SSI should be reinstated in the antidumping duty order on hot-rolled steel from Thailand. We will instruct U.S. Customs and Border Protection ("CBP") to suspend liquidation of all entries of hot-rolled steel manufactured and exported by SSI and entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** John Drury or Angelica Mendoza, AD/CVD Operations, Office 7, Import