

rate that was calculated based on information contained in the petition. When using a previously calculated margin as facts available, for purposes of corroboration the Department will consider, in the context of the current review, whether that margin is both reliable and relevant. With respect to the relevancy aspect of corroboration, the Department stated in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996) ("TRBs"), that it will "consider information reasonably at its disposal as to whether there are circumstances that would render a margin irrelevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin." See also *Fresh Cut Flowers from Mexico; Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (disregarding the highest margin in the case as best information available because the margin was based on another company's uncharacteristic business expense resulting in an extremely high margin).

We corroborated the petition information, and found that we had not received any information that warranted revisiting the issue. See *Notice of Preliminary Determination of Sales at Less-Than-Fair-Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 41794, 417988 (August 5, 1998). Similarly, no information has been presented in the current review that calls into question the reliability or the relevance of the information contained in the petition. Therefore, we have applied, as adverse facts available, the PRC-wide rate from prior administrative reviews of this order and have satisfied the corroboration requirements under section 776 of the Act. See *Persulfates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 66 FR 18439, 18441 (April 9, 2001) (employing a petition rate used as adverse facts available in a previous segment as the adverse facts available in the current review). We have determined that this rate has probative value and, therefore, is an appropriate rate to be applied in this review to exports of subject merchandise by

Gerber and Green Fresh as facts otherwise available.

Partial Rescission of New Shipper Review

A. Zhangzhou Jingxiang

We have rescinded this new shipper review with respect to Zhangzhou Jingxiang because it failed to provide us with the necessary documentation for determining which entity or entities own it and because it was unable to explain whether or not its owner was affiliated with any PRC exporters or producers of the subject merchandise (see *Preliminary Results*, 67 FR at 10696).

B. Shenzhen Qunxingyuan

In the preliminary results, we determined that the sole U.S. sale of subject merchandise made by Shenzhen Qunxingyuan during the POR was not *bona fide* primarily because it was made at an aberrationally high price and an unreasonably low quantity relative to other commercial transactions involving comparable merchandise during the POR. In addition, Shenzhen Qunxingyuan did not have any other business activity or income beyond this sale during the POR or after the POR (at least until the date of verification). We also noted other questionable factors with respect to Shenzhen Qunxingyuan's customer. Based on the totality of the circumstances, we found that the quantity and value reported by Shenzhen Qunxingyuan did not provide a reasonable or reliable basis for the Department to calculate a dumping margin and we rescinded the new shipper review with respect to Shenzhen Qunxingyuan. See Memorandum from Louis Apple, Office Director, to Susan Kuhbach, Acting Deputy Assistant Secretary for Import Administration, Fourth New Shipper Review of Certain Preserved Mushrooms from the People's Republic of China: Whether the Sale Made by Shenzhen Qunxingyuan Trading Co., Ltd. Is *Bona Fide* (February 28, 2003) ("Preliminary Price and Quantity Analysis Memorandum").

We are also rescinding the new shipper review with respect to Shenzhen Qunxingyuan because we find that it did not have a *bona fide* U.S. sale during the POR, as required by 19 CFR 351.214(b)(2)(iv)(c), based on the totality of the facts on the record. In determining whether a sale was *bona fide*, the Department normally considers factors such as, *inter alia*: (1) The timing of the sale, (2) the sale price and quantity, (3) the expenses arising from the sales transaction, (4) whether the

sale was sold to the customer at a loss, and (5) whether the sales transaction between the exporter and importer was executed on an arm's-length basis. See *American Silicon Technologies v. United States*, 110 F. Supp. 2d 992, 996 (CIT 2000); see also *Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 31204 (June 11, 2001) and the accompanying issues and decision memorandum. An examination of whether a sale is a *bona fide* transaction may be extensive and thus, may include a variety of these factors and others given the nature and circumstances of each company and its corresponding sales practices. In Shenzhen Qunxingyuan's case, we focused on the commercial income and viability of the company, the profitability of the sale in question, and its sale price relative to AUVs.

In this case, we find that the price of its single reported sale was aberrationally high relative to the average unit value of all U.S. imports of comparable canned mushroom imports during the POR. More importantly, with respect to the commercial legitimacy of the one reported U.S. sale, we continue to find that Shenzhen Qunxingyuan had no other sales of any merchandise, subject or non-subject, during or after the POR and therefore, had no commercial income during this period. In addition, it appears that Shenzhen Qunxingyuan's reported U.S. sale incurred a loss. Therefore, we determine that the record evidence does not support a finding that this company is a *bona fide* commercial entity. Consequently, for the reasons discussed above, the Department finds that Shenzhen Qunxingyuan's sole U.S. sale during the POR was *not* a *bona fide* commercial transaction and does not provide a reasonable or reliable basis for the Department to calculate a dumping margin. See *Decision Memo* at Comment 2 for additional discussion.

Non-Adverse Facts Available

For the final results of these reviews, we have determined it appropriate to treat water as a factor of production separate from factory overhead consistent with the Department's current practice (see *Fresh Garlic From the People's Republic of China: Final Results of Antidumping New Shipper Review*, 67 FR 72139 (December 4, 2002) and accompanying Issues and Decision Memorandum at Comment 7 ("Garlic")).

Shantou Hongda and Shenxian Dongxing reported water consumption data which appeared to be erroneous