

DATE: July 14, 2008

MEMORANDUM TO: David M. Spooner
Assistant Secretary
for Import Administration

FROM: Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Final Results in the
Aligned Fifth Administrative Review and Tenth New Shipper
Review of Honey from the People’s Republic of China (“PRC”)

SUMMARY:

We have analyzed the case and rebuttal briefs from interested parties in the aligned fifth administrative review and tenth new shipper review of honey from the People’s Republic of China (“AR5 & NSR10”). As a result of our analysis, we have made certain changes from the preliminary results. *See Honey From the People's Republic of China: Aligned Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 2890 (January 16, 2008) (“*Aligned Aligned Preliminary Results*”). We recommend that you approve the positions described in the “Discussion of the Issues” section of this Issues and Decision Memorandum. Below is the complete list of the issues in this administrative review:

Company Specific Issues

- Comment 1: The *Bona Fides* of QHD Sanhai’s Single period of review (“POR”) Sale
- Comment 2: Selection of Mandatory Respondents—Zhejiang
- Comment 3: Selection of the Appropriate Separate Rate Applied to Zhejiang’s Sales

General Issues

- Comment 4: Selection of Appropriate Surrogate Value for Raw Honey
- Comment 5: Selection of Appropriate Surrogate Values—Coal, Labels, and Aluminum Seals

Background

On January 16, 2008, the Department of Commerce (the “Department”) published the *Aligned Aligned Preliminary Results* of the aligned fifth administrative review and tenth new shipper review in the *Federal Register*. See *Aligned Aligned Preliminary Results*. The period of review (“POR”) is December 1, 2005, through November 30, 2006. On April 25, 2008, the Department received one case brief from the American Honey Producers Association and the Sioux Honey Association (“petitioners”), one case brief from QHD Sanhai Honey Co. (“QHD Sanhai”), and one case brief from Zhejiang Native Produce & Animal By-Product Import and Export Group Corp. (“Zhejiang”). On May 6, 2008, the Department received a rebuttal brief from the petitioners and QHD Sanhai.

DISCUSSION OF THE ISSUES:

Comment 1:

The *Bona Fides* of QHD Sanhai’s single POR Sale

Given the proprietary nature of the comments submitted by interested parties, please see the QHD Sanhai Final *Bona Fides* Analysis Memo for a complete discussion and analysis of interested party comments.

In its April 25, 2008, case brief (“Petitioners Case Brief”), petitioners argue that, taken together, QHD Sanhai Honey Co., Ltd.’s (“QHD Sanhai”) behavior and the characteristics of the single sale under review demonstrates that the sale was not a *bona fide* transaction. Petitioners assert that, while the Department preliminarily found that the size of the sale in itself is neither dispositive nor indicative of a non-*bona fide* transaction, the Department mistakenly concluded the reasonableness of QHD Sanhai’s sale price using an incorrect Harmonized Tariff Schedule of the United States (“HTSUS”) category price comparison. Additionally, petitioners argue that QHD Sanhai’s sale was unrepresentative of honey sales from the PRC, inconsistent with the customer’s purchasing patterns, inconsistent with QHD Sanhai’s long term capabilities, sold in a quantity that is unusual for the retail market, and sold under an atypical circumstance and price. Petitioners assert that QHD Sanhai’s explanation of the unusual circumstances are inconsistent with the atypical nature of the sale and is not supported by substantial record evidence.¹ See Petitioners Case Brief at 3–5.

Petitioners state that in analyzing the *bona fides* of a sale, the Department considers the totality of circumstances² in order to determine whether the sale under review is atypical, commercially

¹ Citing *Tianjin Tiancheng Pharm. Co. v. United States*, 29 CIT ___, ___, 366 F. Supp. 2d 1246, 1263 (2005) (“*TTPC*”)

² Citing *TTPC*, 29 CIT ___, ___, 366 F. Supp. At 1249; *Glycine From the People’s Republic of China: Rescission of Antidumping Duty New Shipper Review of Hebei New Donghua Amino Acid Co., Ltd.*, 69 FR 47405 (August 5,

reasonable, or unrepresentative of normal business practices.³ Furthermore, petitioners argue that the Department must consider whether the transactions under review are indicative of a typical future transaction⁴ on a case-by-case basis.⁵ Petitioners claim that, given the Department's past application of the aforementioned standards, the record evidence in the instant review demonstrate that QHD Sanhai's single sale was not a *bona fide* transaction. *See* Petitioners Case Brief at 5–6.

Petitioners point out that in the honey industry, the minimum quantity of honey sold is a container-load and honey is commonly sold in multiple container-loads. Petitioners argue that during the POR QHD Sanhai's single sale of honey was for one of the smallest quantities, and is aberrational when compared to the industry standard. Petitioners point out that the value of the single sale was one of the highest values among comparable entries.

Furthermore, petitioners claim that QHD Sanhai's single sale of a small quantity and high value of retail packaged honey to its U.S. customer during the POR was inconsistent with the customer's POR purchasing patterns. Petitioners assert that the single sale to its U.S. customer was not commercially reasonable, was atypical, and was unrepresentative or extremely distortive, and thus is not a *bona fide* transaction.

Furthermore, petitioners argue that, for the purposes of the Department's *bona fides* analysis, QHD Sanhai sold honey to its U.S. customer at an aberrational price and quantity in comparison to other entries of honey. *See* Petitioners Case Brief at 6–9.

With respect to quantity, petitioners assert that, in its *bona fides* analysis for the *Aligned Preliminary Results*, the Department understated the atypical quantity of QHD Sanhai's single POR sale. Petitioners argue that, when compared to the appropriate category, the quantity of QHD Sanhai's single sale was substantially less than other comparable U.S. entries of honey. Petitioners assert that because the single POR sale was substantially less than a commercial quantity, and insufficient to support QHD Sanhai's claim that it was attempting to establish a new market.

In terms of price, petitioners claim that, in its *bona fides* analysis, the Department understated the average unit value ("AUV") of QHD Sanhai's single POR sale. Petitioners argue that QHD Sanhai's sale price appears aberrational in comparison to both the average unit value ("AUV") of all other entries of honey and the AUV of honey entries in the same harmonized tariff schedule

2004), as affirmed in *Hebei New Donghua Amino Acid Co. v. United States*, 29 CIT ___, ___, 374 F. Supp. 2d 1333, 1338–39 (2005).

³ *Citing Freshwater Crawfish Tail Meat from the People's Republic of China; Notice of Final Results of Antidumping Duty New Shipper Review, and Final Rescission of Antidumping Duty New Shipper Review*, 68 FR 1439 (January 10, 2003) ("*Crawfish*"), and accompanying Issues and Decision Memorandum at Comment 1.

⁴ *Citing TTPC*, 366 F. Supp. 2d at 1250 (*citing Windmill Int'l Pte., Ltd. v. United States*, 26 CIT 221, 224–25, 193 F. Supp. 2d 1303, 1307 (2002)).

⁵ *Citing TTPC*, 366 F. Supp. 2d at 1263.

(“HTS”) subcategory, and therefore is not typical of a normal commercial transaction in the industry. *See* Petitioners Case Brief at 9–12.

Furthermore, petitioners maintain that, contrary to the Department’s preliminary findings, there were shipments of retail packed honey from the PRC during the POR, and that the Department, based on information provided by U.S. Customs and Border Protection (“CBP”), erred in concluding that there were no other retail packaged honey entries to compare QHD Sanhai’s single POR sale. Petitioners claim that data provided by the Port Import Export Reporting Service (“PIERS”) corroborates that honey packaged, in retail packaged containers, did in fact enter the United States under an updated HTS subcategory. Additionally, petitioners assert that, when compared to the proper HTS subcategory, QHD Sanhai’s single POR sale price of the subject merchandise appears aberrational when compared to other shipments of subject honey during the POR.

Petitioners claim that, in comparison to entries under the more appropriate HTS subcategory, QHD Sanhai’s third-country and post-POR sales were insufficient to substantially demonstrate that the single sale under review was a *bona fide* transaction. Petitioners assert that the Department’s comparison of QHD Sanhai’s third-country and post-POR sales was unnecessary⁶ and irrelevant, as QHD Sanhai’s price to its U.S. customer reflected U.S. market conditions that were specifically contemporaneous to the POR; therefore, petitioners claim that it is not relevant to use third-country and post-POR sales to determine the reasonableness of QHD Sanhai’s POR sales of subject honey sold to the United States. Furthermore, petitioners argue that because a more appropriate HTS subcategory exists for which the Department can examine the *bona fides* of QHD Sanhai’s single POR sales, the Department does not need to consider alternative comparisons. *Id.* at 6.

Petitioners acknowledge that in comparing the AUV, while data from a broader list of countries may have been reasonably objective, as established in *Saccharin* and *Pistachios*,⁷ the practice is less applicable for honey because, unlike pistachios and saccharin, the HTS category for subject honey is a basket category and includes different grades and packaging, and thus a comparison to the broader list of countries does not provide for an apples-to-apples comparison. Moreover, petitioners assert that, of the third country data provided in QHD Sanhai’s May 21, 2007, letter, the Department only considers two of the listed countries as appropriate surrogate countries, and QHD Sanhai’s POR sale price still appears aberrational when compared to either. *See* Petitioners Case Brief at 26–32.

⁶ Citing *Saccharin from the People’s Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 7515 (February 13, 2006) (“*Saccharin*”), at 6.

⁷ *See* QHD’s May 21, 2007, letter to the United States Department of Commerce (“May 21, 2007, letter”), citing *Certain In-Shell Raw Pistachios from Iran, Final Results of Administrative Review*, 70 FR 7470 (February 14, 2005) (“*Pistachios*”).

Petitioners point out that, while QHD Sanhai provided documentation as evidence of a post-POR sale of honey to the United States under terms consistent with the POR sales terms, there is no record evidence to substantiate that the sale was consummated. Petitioners argue that the Department cannot rely on alleged post-POR sales for consideration in a *bona fides* analysis, but rather must rely on substantial record evidence. *See* Petitioners Case Brief at 32–33.

Petitioners also argue that QHD Sanhai’s sale of honey in retail packaged form in itself is aberrational. Petitioners contend that because the majority of honey is packaged in bulk containers, there is no pre-existing U.S. market for retail packaged Chinese honey, and thus QHD Sanhai’s single POR sale of retail packaged honey is atypical or non-typical and unrepresentative of normal business practices for the honey industry.

Petitioners argue that QHD Sanhai’s explanation for the sale of retail packaged honey is inconsistent with commercial realities of the U.S. market, and state that neither QHD Sanhai nor its U.S. customer had ever established a viable market for retail packaged honey. Petitioners dispute the claims made in QHD Sanhai’s May 21, 2007, letter to the Department, and argue that the sale of honey in retail packaged containers does not allow exporters and customers to realize greater profits on sales and resale, and thus QHD Sanhai’s single POR sale was made at a price that was unrepresentative and unsustainably high, and thus was not a normal commercial transaction. Moreover, petitioners note that there is no record evidence to suggest that QHD Sanhai realized any profit on the sale of honey in retail containers. Furthermore, petitioners dismiss as illogical QHD Sanhai’s claim that the size of the shipment of the retail packaged honey sold during the POR was made to somehow attempt to minimize the possibility that the shipments would be subject to prohibitive antidumping duty deposits (“ADD”). *See* Petitioners Case Brief at 33–37.

Petitioners dismiss QHD Sanhai’s explanation of the sale as an attempt to enter the U.S. honey market. Petitioners point out that there is no record evidence, such as correspondence, research, marketing, or business plans, demonstrating that QHD Sanhai and its U.S. customer pursued a new niche market. Rather, petitioners argue that the record evidence suggests that QHD Sanhai planned to make a single aberrant sale that will be inconsistent with their future business practices. Petitioners assert that neither QHD Sanhai nor its U.S. customer had made any previous effort to enter the retail packaged honey market, but rather the U.S. customer aided QHD Sanhai in fabricating the single sale under review in order to obtain a lower ADD. Petitioners also contend that there is record evidence to suggest that QHD Sanhai’s POR customer had a history of manipulating the Department’s new shipper review process. Petitioners state that a prospective new shipper must objectively establish, through substantial record evidence, the *bona fides* of its sales.

Petitioners further assert that QHD Sanhai did not utilize its full production capacity during the POR, and thus it is inaccurate for the Department to characterize QHD Sanhai's POR production levels as commercially reasonable. *See* Petitioners Case Brief at 38–52.

In its May 6, 2008, reply case briefs (“QHD Sanhai Reply Brief”), QHD Sanhai disputes petitioners' characterization of QHD Sanhai's sale as aberrant or unrepresentative. QHD Sanhai argues that the Department has previously rejected similar claims in previous reviews,⁸ where the Department examined the totality of circumstances and established the *bona fide* nature of similar sales of honey to the U.S. market.

QHD Sanhai dismisses petitioners' claim that the mere fact that subject honey was sold in retail packaging calls into question the *bona fides* of QHD Sanhai's POR sale, and argue that it is the Department's practice to examine the totality of circumstances to establish the *bona fides* of similar honey sales. Furthermore, QHD Sanhai rebuts petitioners' claim and argues that Chinese exporters are undeniably capable of producing retail packaged honey, and well-established U.S. importers, such as QHD Sanhai's U.S. customer during the POR, have the resources to sell retail packaged honey. QHD Sanhai states that while QHD Sanhai may lack the experience of other Chinese exporters of retail packaged honey, it is illogical to conclude that honey from the PRC is not commercially viable, considering other Chinese producers of honey continue to export retail packaged honey to the U.S. market.

Furthermore, QHD Sanhai argues that it is appropriate for the Department to examine the commercial reasonableness of QHD Sanhai's shipment of retail packaged honey with third-country imports to the United States of similar merchandise. QHD Sanhai contends that the record evidence of the instant review reveals that many countries worldwide have sold retail packed honey to the U.S. market, and therefore the U.S. market clearly has a viable market for retail packed honey. QHD Sanhai argues that, when compared to third-country imports of similar merchandise, QHD Sanhai's POR sale is not aberrant or unrepresentative of normal commercial practices. Furthermore, in response to petitioners' assertion that the Department should only compare QHD Sanhai's POR sale of retail packaged honey to other similar imports from the PRC, QHD Sanhai argues that the petitioners provide no evidence to suggest that customers of retail packaged honey differentiate Chinese honey from honey from other countries, and therefore, it is appropriate for the Department to compare QHD Sanhai's POR sale with third-country imports. *See* QHD Sanhai Reply Brief at 4–6.

QHD Sanhai rebuts petitioners' claim that QHD Sanhai's sale size was inconsistent with commercial realities, and notes that, considering the current prohibitive ADD margin on honey

⁸ *Citing Honey from the People's Republic of China: Intent to Rescind and Aligned Preliminary Results of Antidumping Duty New Shipper Reviews*, 71 FR 32923 (June 7, 2006), and *Honey from the People's Republic of China: Intent to Rescind, In Part, and Aligned Preliminary Results of Antidumping Duty New Shipper Reviews*, 72 FR 111 (January 2, 2006).

from the PRC, it is reasonable for U.S. importers of honey to limit the size of their purchases, as recognized by the Department in previous reviews.⁹ Therefore, QHD Sanhai asserts that it and its U.S. customer's future practices will depend on the outcome of the instant review. QHD Sanhai rejects petitioners' supposition that simply because Chinese exporters have not previously exported significant quantities of retail packaged honey, such packaged honey is aberrational and therefore not a *bona fide* sale, as given the current prohibitive ADD rates, such logic leads to the conclusion that imports of retail packaged honey from the PRC could never be *bona fide* transactions, and thus retailed packaged honey can never become a viable product form in the U.S. market. *See* QHD Sanhai Reply Brief at 6–8.

QHD Sanhai rebuts petitioners' claim that QHD Sanhai's POR sale of retail packed honey was not commercially reasonable and that QHD Sanhai was not constituted to sell retail packaged honey. QHD Sanhai points out that, as verified by the Department, and in addition to bulk packaged honey, QHD Sanhai also made several domestic and international sales of retail packed honey long before its POR U.S. sale to the U.S. market. *See* QHD Sanhai Reply Brief at 8–10.

QHD Sanhai rebuts petitioners' assertion that the POR sale under review did not conform to normal commercial practices, and argues that QHD Sanhai's U.S. customer is an unaffiliated party with extensive experience in purchasing honey. QHD Sanhai asserts that QHD Sanhai's U.S. customer's purchases of bulk honey bear no relevance to the *bona fides* of QHD Sanhai's POR sale. Furthermore, QHD Sanhai rejects petitioners' claim that QHD Sanhai sought to manipulate the review process in order to obtain a lower ADD rate, and argues that, given the current prohibitively high ADD rates, QHD Sanhai's POR sale was commercially reasonable. *See* QHD Sanhai Reply Brief at 10–11.

In response to petitioners' argument that there exists no substantial record evidence of price negotiation between QHD Sanhai and its U.S. customer, in support of the non *bona fide* nature of sale under review, QHD Sanhai argues that the lack of documented sales negotiation is irrelevant to the *bona fide* nature of the sale. QHD Sanhai further argues that the terms of the POR sale under review were standard for honey shipments from China, and that the delay in payment from QHD Sanhai's U.S. customer was administrative in nature. QHD Sanhai points out that QHD Sanhai provided all standard documents consistent with a commercial transaction, and the record of the instant review contains evidence that the U.S. customer tested the honey in the PRC prior to shipment. QHD Sanhai argues that QHD Sanhai's U.S. customer was an experienced importer of honey that understood the Department's antidumping duty review process, and was willing to act as the importer of record. QHD Sanhai argues that QHD Sanhai's U.S. customer

⁹ *Citing Saccharin*, and quoting from *Pistachios*, where the Department stated that a “purchaser’s decision to order small quantities in order to limit its exposure to high dumping liabilities, {is a} commercially reasonable business decision... for a company participating in an antidumping proceeding;” and *Floor-standing, Metal-top Ironing Tables and Certain Parts Thereof from the People’s Republic of China: Final Results and Final Rescission, In Part, of Antidumping Administrative Review*, 72 FR 13239 (March 21, 2007).

during the POR acted in a commercially reasonable manner, and the any adverse inference by the Department based on QHD Sanhai's U.S. customer's business practices would be in direct contravention of U.S. law and U.S. international obligations.

QHD Sanhai dismisses petitioners' claim that, while QHD Sanhai reported an additional sale of subject honey subsequent to the POR to its U.S. customer, the sale had not yet been consummated, and thus is indicative of an aberrant sale. QHD Sanhai explains that it is commercially reasonable for QHD Sanhai's U.S. customer to wait until the results of the instant review, prior to committing to undertake additional ADD liability. QHD Sanhai further explains that the quantity of sales of retail packaged honey is correlated to the dumping assessment deposit rate, and while, in the instant review, the amount of the sale is smaller than bulk honey quantities, the prices are significantly higher than bulk honey. QHD Sanhai asserts that, depending on the outcome of the instant review, QHD Sanhai may be able to continue to sell retail packaged honey at the same price, but in greater quantity, and those sales would be eligible to be reviewed in subsequent segments of the proceeding. *See* QHD Sanhai Reply Brief at 10–16.

QHD Sanhai dismisses petitioners' claim that its sale was hurried in order to fall within the instant review period. QHD Sanhai cites *Pistachios From Iran* and insists that there is nothing unusual about the timing of QHD Sanhai's POR sale. QHD Sanhai explains that, after the establishment of the company, QHD Sanhai constructed a factory and warehouse, and installed equipment prior to purchasing, processing, and packaging, and conducted several export sales prior to the POR sale under review. *See* QHD Sanhai Reply Brief at 16–17.

In response to petitioners' claim that the sale of honey in retail packaged containers does not allow exporters or customers greater profits on the sale/resale of the merchandise, QHD Sanhai argues the record shows that QHD Sanhai's U.S. customer invoiced the resale of the retail packaged honey for a profit. *See* QHD Sanhai Reply Brief at 17–18.

In its May 2, 2008, case brief (“QHD Sanhai Case Brief”) QHD Sanhai argues that, irrespective of the Department's error in comparing QHD Sanhai's sale to a defunct HTS category, the Department correctly concluded that QHD Sanhai's POR sales were *bona fide*. QHD Sanhai points out that, when compared to the total U.S. imports of similarly packaged merchandise under the correct HTS category, the quantity and value of QHD Sanhai's POR sale was not aberrational. *See* QHD Sanhai Case Briefs at 2–4.

Department's Position:

Based on the totality of the circumstances discussed below, for these final results, the Department has determined that QHD Sanhai's single POR sale is not a *bona fide* transaction, and subsequently has rescinded the new shipper review with respect to QHD Sanhai. Due to the business proprietary nature of much of the information relied on in the Department's *bona fides*

analysis, for a more detailed discussion, *see* the Department’s QHD Sanhai Final *Bona Fides* Analysis Memo.

With respect to the Department’s analysis of HTSUS subcategory 0409.00.0020: “NATURAL HONEY PACKAGED FOR RETAIL SALE,” the Department agrees with petitioners that the Department erred: 1) in comparing QHD Sanhai’s single POR sale to a HTSUS subcategory that is no longer used; and 2) in stating that there were no other U.S. entries of retail packaged honey from the PRC. Therefore, in light of the above, the Department has reevaluated the circumstances surrounding QHD Sanhai’s sale with respect to the comparison of the price and quantity of QHD Sanhai’s single U.S. sale to other U.S. imports of honey packaged for retail sale, and whether the single sale under review was a *bona fide* transaction.¹⁰

The Department agrees with petitioners, in part, that a comparison to the quantity and value of other U.S. imports of retail packaged honey from the PRC represents a more reliable basis of comparison than QHD Sanhai’s sales to third countries, in evaluating the price of QHD Sanhai’s single POR sale for the purposes of the *bona fides* analysis. In the *Aligned Preliminary Results* of this review, the Department found that there was no CBP data available during the POR that would provide a reliable benchmark to compare with merchandise entered by QHD Sanhai. Thus, the Department analyzed only QHD Sanhai’s POR sales price in comparison with QHD Sanhai’s sales to other markets, both during and after the POR, to determine whether its POR sale price was in any way atypical of its own sales practices. However, for these final results, consistent with the Department’s practice, the Department has compared QHD Sanhai’s single POR sale of subject merchandise to all U.S. entries from the appropriate HTSUS subcategory.

In conducting a review, particularly a review where a company’s margin would be based on a single sale, the Department examines the price associated with the sale under review. The Department must determine if the price was determined based on normal commercial considerations and whether it presents an accurate representation of the company’s normal business practices. If the Department determines that the price was not based on normal commercial considerations, or is atypical of the respondent’s subsequent sales of comparable merchandise, the sale may be considered non-*bona fide*. *See Windmill International Pte., Ltd. v. United States*, 193 F. Supp. 2d, at 224; *Silicon Techs*, 110 F. Supp. 2d, at 616.

For these final results, the Department compared the per-unit price for QHD Sanhai’s single POR sale with the AUV for all entries under HTSUS 0409.00.0025: COMB HONEY AND HONEY PACKAGED FOR RETAIL SALE, and found that the price of QHD Sanhai’s single POR sale was unusually high when compared to the weighted AUV of all other entries under this HTSUS subcategory. With regard to petitioners’ argument that the Department should disregard CBP entry information for certain other PRC producer/exporters of subject honey from the PRC,

¹⁰ The Department has not relied on all the new information placed on the record after the *Aligned Preliminary Results*. *See* the Department’s QHD *Bona Fides* Analysis Memo for greater detail.

the Department finds no basis upon which to disregard average price and quantity information for other exporters/producers. Furthermore, the Department finds that regardless of whether such sales are excluded from the *bona fide* analysis, when compared to the AUV of all entries under the HTSUS subcategory, the Department finds that QHD Sanhai's sale price was unusually high in relation to average U.S. import prices. For further discussion, *see* the Department's Final *Bona Fides* Memo.

Given the facts noted above, the Department also considered whether the single POR sale was representative of QHD Sanhai's normal business practices or whether, based upon the circumstances surrounding the single sale, the sale was constructed solely for the purpose of obtaining a favorable dumping margin. Consistent with the Department's practice, and as affirmed by the CIT, the Department must evaluate the circumstances surrounding the sale, such that QHD Sanhai does not unfairly benefit from an atypical sale, and obtain a lower dumping margin than the producer's usual commercial practice would dictate. *See Hebei New Donghua Amino Acid Co., Ltd. v. United States*, 374 F. Supp. 2d, at 1337 (2005) ("*Hebei New Donghua*") citing *Windmill International Pte., Ltd. v. United States*, 26 CIT 221, 224–25, 193 F. Supp. 2d, at 1303, 1307 (2002) ("*Windmill*"), and *American Silicon Technologies v. United States*, 110 F. Supp. 2d, at 992, 995 (2000) ("*American Silicon*"). In examining whether the sale was commercially reasonable, in addition to price, the Department also may consider, *inter alia*, other factors such as the timing of the sale, quantity, and other circumstances. *See Crawfish*, 68 FR 1439, 1440 (January 10, 2003). In the instant review, the Department finds that the quantity of QHD Sanhai's sale was unusual, given that the POR quantity fell substantially below the average U.S. import quantities (which are subject to the same ADD rate as QHD Sanhai's sale) for both the specific category for retail packaged honey as well as the basket category for honey. While the Department is not basing its determination on QHD Sanhai's third country sales, it notes that QHD Sanhai's POR sale subject to this review was the smallest sale to any market at any time. Thus, the Department finds that the quantity of the transaction as a whole was atypical.

The Department disagrees with petitioners' assertion that a sale of less than a container load of subject merchandise in and of itself is indicative of a non-*bona fide* transaction. The Department finds that there is no substantive evidence on the record of the instant review to indicate that, by itself, a shipment of less than a container load of subject honey packaged in retail containers is not a reasonable commercial transaction. *See Allied Tube & Conduit Corp., Ipsco Tubulars Inc., And Wheatland Tube Company, v. United States*, 29 Int'l Trade Rep. (BNA) 2132; SLIP OP. 2007-107 (2007); 2007 Ct. Intl. Trade LEXIS 109 at 22; citing *Windmill International Pte., Ltd., v. United States And Bethlehem Steel Corporation And U.S. Steel Group, A Unit Of Usx Corporation*, 26 C.I.T. 221; 193 F. Supp. 2d 1303; 24 Int'l Trade Rep. (BNA) 1241; 2002 Ct. Intl. Trade LEXIS 14; SLIP OP. 2002-16, at 1313. However, as discussed throughout the

Department's QHD Sanhai Final *Bona Fides* Analysis Memo, the Department finds that, when compared to other entries of PRC honey, the quantity of QHD Sanhai's single sale is aberrantly low. Furthermore, in the instant review, the Department finds that QHD Sanhai's sale to the United States during the POR was atypical for the U.S. customer. For further discussion, see the Department's QHD Sanhai Final *Bona Fides* Analysis Memo.

In sum, in the instant review, given the atypical price and quantity of QHD Sanhai's single U.S. sale, the fact that the purchase was atypical for the U.S. customer, and other circumstances further elaborated in the above-referenced decision memorandum regarding *bona fides*, the Department finds that QHD Sanhai's single POR sale is not a *bona fide* commercial transaction. Because the record evidence sufficiently demonstrates that QHD Sanhai's single POR sale is atypical of its own normal business practices, the practices of other PRC exporters of retail packaged honey, and the practices of the U.S. purchaser, the Department finds that other speculative arguments raised by petitioners with respect to *bona fides* including those related to the U.S. honey market conditions, the validity of the importer's reselling efforts, the completeness of the negotiation record, and QHD Sanhai's productive capabilities, do not need to be reached in this review.

Comment 2:

Selection of Mandatory Respondents—Zhejiang

In its April 25, 2008, case brief ("Zhejiang Case Brief"), Zhejiang disagrees with the Department's decision to deny Zhejiang's request for review as a full respondent. Zhejiang asserts that the Department can limit the number of mandatory respondents only after properly determining that there exists "a large number of exporters or producers involved."¹¹ Zhejiang disagrees with the Department's position that the four companies participating can be considered large. See Zhejiang Case Brief at 6.

Moreover, Zhejiang contends that the Department did not properly justify its decision to examine only two mandatory respondents. Specifically, Zhejiang argues that the Department's claim of limited resources was without basis and that the Department did have access to sufficient resources if it utilized other offices from within the Department. In addition, Zhejiang claims, an analysis for Zhejiang would have been relatively simple based on 1) the Department's previous experience with honey, 2) the lack of a home market price analysis, 3) the similarity in factors of production, 4) the few factors of production, 5) the minimal sales quantity, and 6) Zhejiang's previous involvement in other reviews and an on-site verification. As a result, Zhejiang argues that including it as a full respondent would not have been unduly burdensome and would not

¹¹ See Section 777A(c)(2), Tariff Act of 1930, as amended.

have inhibited the timely completion of the investigation.¹² *See* Zhejiang Case Brief at 7–8. Zhejiang argues that the withdrawal of both mandatory respondents would have decreased the Department’s workload and time constraints, thus alleviating any burdens previously stated by the Department. Accordingly, Zhejiang argues that it could have been added as a full respondent. *See* Zhejiang Case Brief at 9.

Petitioners disagree with Zhejiang’s claim that four exporters are not a large number of exporters,¹³ and rebut Zhejiang’s assertion by pointing out that the quantity of fully reviewed respondents is decided at the discretion of the Department and contingent to the circumstances of each segment of a proceeding on the administrative circumstances in question.¹⁴ *See* Petitioners’ Case Brief at 7.

Additionally, petitioners rebut Zhejiang’s claim that the Department did not properly justify its decision to review no more than two mandatory respondents. Petitioners contend that the Department’s claim of a “significant workload” and the fact that additional resources were not anticipated is ample reasoning to not examine more than two respondents.¹⁵ *See* Petitioner Reply Brief at 8.

With regard to Zhejiang’s claim that the Department’s experience with honey reviews, the lack of home market price analysis, and the similarity of the factors of production would make a review of Zhejiang simple, petitioners argue that such logic would prevent the Department from ever limiting the number of respondents it chooses in a review of this order. Furthermore, petitioners argue that Zhejiang’s argument for application of similar surrogate values is inaccurate because the types of honey shipped by the mandatory respondents were different from those shipped by Zhejiang; hence, may require different surrogate values. Moreover, petitioners rebut the contention that minimal sales volumes would contribute to an easier review, since the Department’s resource expenditures in a review do not vary in accordance to size of shipment volumes. Further, petitioners point out that, if the Department were to review Zhejiang as a full respondent, it would have to perform a *bona fide* analysis, which petitioners contend is more complex to perform for exporters whose sales volumes are minimal. *See* Petitioners’ Reply Brief at 8-10.

Petitioners go on to state that Zhejiang did not file a timely request to be chosen as a fully reviewed respondent since such a request was filed by Zhejiang six days following the Department’s issuance of the Department’s November 30, 2007, Respondent Selection Memo (“RSM”). As a result, the Department was not given ample time to consider the request. Moreover, the mandatory respondents Inner Mongolia Altin Bee-Keeping (“IMA”) and

¹² *Citing Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27,295, 27,310 (May 19, 1997).

¹³ *See* Zhejiang’s April 25, 2008, Case Brief at pages 6-7.

¹⁴ *See* Section 777A(c)(2), Tariff Act of 1930, as amended.

¹⁵ *See* the Department’s November 30, 2006, Respondent Selection Memo, at 3.

Qinghuangdao Municipal Dafeng Industrial Co., Ltd. (“QMD”) did not withdraw from this review until August 15, 2007, and October 18, 2007, respectively, at which point Zhejiang did not file a request to be chosen as a full respondent at the time of the change in circumstances. Additionally, petitioners argue that requiring any voluntary respondent to participate in a full review following a mandatory respondent’s withdrawal would have been unreasonable, given the closeness of the *Aligned Preliminary Results* due date. See Petitioners’ Reply Brief at 10-13.

Department’s Position:

The Department agrees with petitioners that the Department properly limited the number of mandatory respondents in this review to two companies. To select the additional respondents in addition to the two companies initially selected would have been wholly impracticable, given the Department’s resources. Moreover, the Department notes that Zhejiang did not file responses to the Department’s questionnaire as a voluntary respondent.¹⁶ See August 21, 2007, Memorandum to the File, from Catherine Bertrand, senior international trade compliance analyst, regarding the Administrative Review on Honey from the People’s Republic of China, for the period December 1, 2005, through November 30, 2006.

Section 777A(c)(2) of the Tariff Act of 1930, as amended (“the Act”) allows the Department to limit its examination of exporters and producers when calculating dumping margins if it is not practicable to make individual weighted average dumping margin determinations for each exporter or producer. The Department disagrees with Zhejiang’s claim that a pool of four companies is not a large pool of respondents to review. In determining the number of respondents that the Department could reasonably examine in this review, the Department carefully considered its available resources, significant workload, and numerous concurrent antidumping proceedings within Antidumping/Countervailing Duty (“AD/CVD”) Operations Office 9, as well as throughout Import Administration, and found that it was not practicable to examine more than two companies.¹⁷ The Department agrees with petitioners that the Department has discretion in defining what constitutes a “large” number of respondents pursuant to section 777A(c)(2) of the Act, and that this decision is contingent on the various administrative circumstances confronted during a particular segment.¹⁸

Specifically, the office responsible for conducting the review is conducting numerous concurrent antidumping proceedings which place a constraint on the number of analysts that can be assigned

¹⁶ The Department notes that, in the *Aligned Preliminary Results* of the instant review, we erred in stating that we received voluntary questionnaire responses from Zhejiang, but had not examined these submissions due to resource constraints. See Preliminary Results, 73 FR 2890 (January 16, 2008). Rather, while the Department did receive a timely separate rate questionnaire response from Zhejiang, we did not receive Zhejiang’s response to questionnaire sections C (U.S. sales) or D (factors of production), which include data that are necessary to the Department’s calculation of an ADD.

¹⁷ See the Department’s November 30, 2006, Respondent Selection Memo, at 3.

¹⁸ See *Torrington Co. v. United States*, 68 F.3d 1347 (Fed. Cir. 1995) (noting that agencies with statutory enforcement responsibilities enjoy broad discretion in allocating investigative and enforcement resources).

to this case.¹⁹ Not only do these cases present a significant workload, but the deadlines for a number of the cases coincide and/or overlap with deadlines in this proceeding. In addition, because of the significant workload throughout Import Administration, this office could not anticipate receiving additional resources to devote to this antidumping proceeding. Commerce has limited the number of companies it examines individually in a number of cases, including those where the total number of potential respondents was comparable to the number in this review of honey from the PRC.²⁰

The Department disagrees with Zhejiang that the Department failed to properly justify its decision to examine no more than two mandatory respondents in this antidumping proceeding. When deciding to limit the number of mandatory respondents, the Department has the statutory discretion to choose respondents by either sampling or selecting the largest respondents.²¹ Pursuant to Section 777A(c)(2)(B) of the Act, the Department chose to examine the exporters/producers accounting for the largest volume of the subject merchandise exported/supplied to the U.S. during the POR.²² This allows the Department to cover a larger portion of actual exports during the POR. Further, selecting a statistically valid sample would require the Department to collect additional sales and production information. Collecting this information would have delayed respondent selection and compromised the Department's ability to complete the review within the statutory deadline. Thus, the Department determined that it would use the respondent selection methodology allowing it to cover the largest volume of exports that it had the resources to examine.

The Department disagrees with Zhejiang that a review of its sales and production data would have been relatively simple considering its past participation. Despite Zhejiang's previous experience participating in antidumping proceedings, the Department finds that the facts of each review are distinct and independent from one another and that the Department must evaluate the specific circumstances surrounding the production and sales of each transaction in the context of the contemporaneous review. Furthermore, the extent of the Department's examination of a

¹⁹ Examples include but are not limited to: Honey from the PRC; Silicon Metal from the PRC; Glycine from the PRC; Floor-Standing, Metal-Top Ironing Tables and Parts Thereof from the PRC; Certain Frozen Warmwater Shrimp from the PRC; Uncovered Innersprings from the PRC; and Steel Threaded Rod from the PRC.

²⁰ See e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 Fed. Reg. 55792 (August 30, 2002) (petitioners identified four producers and Commerce selected one of two producers that had shipments to the United States as mandatory respondents); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Carbazole Violet Pigment 23 From India*, 69 Fed. Reg. 35293 (June 24, 2004) (petitioners identified twelve producers and Commerce selected two of the four producers that had shipments to the United States as mandatory respondents); *Certain Frozen Warmwater Shrimp From the People's Republic of China: Aligned Preliminary Results and Partial Rescission of the 2004/2006 Administrative Review and Preliminary Intent to Rescind 2004/2006 New Shipper Review*, 72 Fed. Reg. 10645 (March 9, 2007) (Commerce selected three of the nine companies/corporate groupings that had shipments to the United States as mandatory respondents).

²¹ See 777A(2)(c)(2) of the Act.

²² See the Department's November 30, 2006, Respondent Selection Memo, at 3.

respondent is irrespective of a respondent's previous participation, just as the complexity of the Department's calculation methodology is uncorrelated with a respondent's previous data. Therefore, in the conduct of a review, the Department finds that when considering its available resources in selecting respondents, a specific respondent's past participation is irrelevant to the Department's decision process.

Comment 3:

Selection of Appropriate Separate Rate—Zhejiang

In its April 25, 2008, case brief, Zhejiang argues that, during the course of the review, Zhejiang fully cooperated with the Department's requests, and thus should be assigned the rate that it should have received as a mandatory respondent. Zhejiang argues that the Department's proposed separate rates are excessive considering the circumstances of Zhejiang's sales during the POR. Zhejiang argues that, had the Department selected it as a mandatory respondent in the administrative review, the Department would not have found that its sales price to the United States was significantly greater than the rate calculated for QHD Sanhai in the *Aligned Preliminary Results* of the instant review. Zhejiang argues that the Department cannot penalize Zhejiang for not being selected as a mandatory respondent. Accordingly, Zhejiang argues that the Department should apply a *de minimis* margin as a separate rate to Zhejiang's subject merchandise. See Zhejiang Case Brief at 9–12.

Petitioners disagree with Zhejiang's claim that it should receive a *de minimis* separate rate based on QHD Sanhai's calculated *de minimis* margin.²³ Petitioners state that doing so would violate the Department's practice of not utilizing *de minimis* rates and total adverse facts available ("AFA") rates for calculating separate rate margins. Further, petitioners state that Zhejiang's argument for a *de minimis* rate is incomplete as the main issues taken into consideration were Zhejiang's similarities to QHD Sanhai, whereas Dongtai Peak's characteristics were not included. Given that any separate rate applied to Zhejiang would also be applied to Dongtai Peak, petitioners conclude that Zhejiang's argument for a *de minimis* rate is incomplete. See Petitioners' Case Brief at 15-17.

Moreover, petitioners contend that the Department has the discretion to "use any reasonable method" to calculate a separate rate margin.²⁴ Petitioners state that Zhejiang's proposed methodology to calculate a separate rate margin based on the rate preliminarily given to QHD Sanhai for a new shipper rate is unreasonable since it includes a *de minimis* rate, which is in contrast to the Department's practice of excluding *de minimis* and total AFA rates from the separate rate margin calculation. Additionally, petitioners contend that Zhejiang should not

²³ Citing Zhejiang's April 25, 2008, Case Briefs at 10.

²⁴ Citing *Honey from the People's Republic of China: Aligned Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 2893 (January 16, 2008).

receive a *de minimis* rate because it is not a new shipper, like QHD Sanhai. See Petitioners' Rebuttal Brief at 17-19.

Department's Position:

The Department disagrees with Zhejiang that the proposed cash deposit/assessment rate is excessive. While the statute does not specifically address this particular set of circumstances, section 735(c)(5)(B) of the Act does specify the methodology to be followed when a similar fact pattern arises in the context of the all-others rate established in an investigation. While not entirely analogous to the determination of a rate to be applied to responsive separate rate respondents in the context of an NME review, we find it to be instructive in these circumstances.

Section 735(c)(5)(B) of the Act states that in situations where the estimated weighted-average dumping margins established for exporters and producers individually investigated are zero or *de minimis*, or are determined entirely under section 776 (facts available section), "the administering authority may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the weighted-average dumping margins determined for the exporters and producers individually investigated." In the instant review, the only rate determined for entities other than Zhejiang and Dongtai Peak is the rate assigned to the PRC-wide entity. As that rate is based entirely on AFA, the Department finds it reasonable to look to other rates established over the course of the proceeding to determine a rate to apply to the non-selected separate rate entities Zhejiang and Dongtai Peak.

With respect to Zhejiang's argument that the Department should base its margin on the new shipper QHD Sanhai's rate from the *Aligned Preliminary Results*, we note that in these final results, the Department has found QHD Sanhai's single sale to the U.S. to be a non-*bona fide* transaction; thus, the Department is rescinding this review with respect to QHD Sanhai. For a detailed discussion of the Department's *bona fides* analysis, see the Department position in Comment 1, above, and the QHD Sanhai Final *Bona Fides* Analysis Memo. Thus, there is no basis upon which to assign Zhejiang a *de minimis* margin for purposes of this review. As noted above, the only other rate assigned to any entity for purposes of these final results is the PRC-wide rate. As that rate is based entirely on AFA, the Department finds it reasonable to look to other rates established over the course of the proceeding to determine a rate for Zhejiang and Dongtai Peak.

In the preliminary results of this review, the Department applied an *ad valorem* rate to Zhejiang and Dongtai Peak based on the separate rate calculated in the less than fair value ("LTFV") phase of this proceeding. However, as noted in the Department's April 18, 2008, letter to all interested parties, we believe a per-kilogram rather than *ad valorem* rate is warranted in this proceeding. In calculating a per-kilogram rate, the Department has applied the proposed methodology laid out in its April 18, 2008, letter. In essence, the Department first determined an

appropriate *ad valorem* rate to be applied to Zhejiang and Dongtai Peak. Although in the *Aligned Preliminary Results*, the Department applied an *ad valorem* rate of 45.46 percent to these entities, based on the separate rate from the LTFV phase of the investigation, for these final results, and as specified in the April 18, 2008, letter, the Department has determined that a rate more contemporaneous with the POR is appropriate. Thus, the Department calculated a simple average of all the calculated rates for all respondents from the most recently completed review period (excluding rates based on AFA and *de minimis*) to arrive at an *ad valorem* rate of 104.88 percent. Next the Department obtained CBP data of all “type 3” entries of subject merchandise under the relevant subheadings classifiable under 0409.00.00, 1702.90.90, and 2106.90.99, as referenced in the scope of the order, which entered the United States during the instant POR. Exclusive of imports from mandatory respondents in the instant administrative review, the Department used the total quantity and total value of entries to derive a weighted average AUV. The AUV was then multiplied by the *ad valorem* rate of 104.88%, and the resulting figure, representing total antidumping duties owed, was divided by the relevant quantity of imports to arrive at a per-kilogram rate of \$0.98 per-kilogram to be applied to Zhejiang and Dongtai Peak. With respect to QHD Sanhai’s reference to *Nippon Steel Corporation v. United States*, 25 CIT 1192; Slip Op. 01-122 (2001) at n 5, to suggest that the Department’s separate rate methodology is unreasonable and therefore impermissible, we disagree. In the instant case, the Department’s proposed methodology is reasonable because it is both relevant, as it is consistent with our practice of using calculated rates to determine a rate for non-selected separate rate entities in NME cases, and because the quantity and value information used in converting the *ad valorem* rate to a per-kilogram rate is based on actual import activity for PRC exporters of subject merchandise during the POR.

Comment 4:

Selection of Appropriate Surrogate Value for Raw Honey

In the instant review, petitioners assert that the Department’s deflated surrogate value for raw honey from the Regional Centre for Development Cooperation (“RCDC”) data published by the Banajata website (“Banajata”), as applied in the *Aligned Preliminary Results*, represents the best available information. However, in applying the Banajata data, petitioners state that the Department should disregard the updated raw honey prices, as it is further from the POR. Furthermore, petitioners assert that it is unclear from the record evidence whether the type, quality, time of year, or sales region may have influenced the price for the same date. Petitioners argue that because there is insufficient additional data explaining the wide price variations, the Department has no reason to use the less contemporaneous, additional data points as published by Banajata. Petitioners acknowledge that while the additional data would provide more data points, including the less contemporaneous data would not increase the reliability or accuracy of the outcome. Should the Department include the less contemporaneous, additional Banajata data, petitioners argue the Department should disregard the January 2008 data, as the prices

appear to be outliers, and would skew the calculation of the Department simple average calculation. *See* Petitioners Case Brief at 53–55.

QHD Sanhai and Zhejiang²⁵ (“respondents”) argue that the Department’s selection of the Banajata data is contrary to record evidence, the Department’s past practice, and the law. Respondents state that the Department is required to select the best available information to produce the most accurate calculations possible.²⁶ Respondents further assert that the Department is required to discard unreliable and aberrational surrogate market values which may lead to anomalous results.²⁷ Respondents assert that in previous segments of the instant review, the Department recognized that the price of honey declined in 2005 based on the “Nosedive” article published in the *Financial Express*,²⁸ and that the Department adjusted its value of raw honey accordingly. However, respondents argue that the Department should have used the price reported in the “Nosedive” article, as it represents the best available information on the record of the instant review. Respondents contend that the Department previously found that the “Nosedive” article represented reliable information, which was corroborated by other data on the record of the instant review. Furthermore, respondents call into question the reliability of the Banajata data, as the data represent isolated spot honey prices months after the POR. *See* QHD Sanhai Case Brief at 9–13; and Zhejiang Case Brief at 13–18.

In their May 6, 2008, reply brief (“Petitioners’ Reply Brief”), petitioners rebut respondents’ assertion that the “Nosedive” article is the most reliable information on the record of the review, and assert that the Department applied the correct standard in the *Aligned Preliminary Results* of the instant review. Petitioners claim that the Department, as upheld by the CIT, is responsible for discerning more reliable information from less reliable information to provide for a more accurate calculation. Petitioners argue that, in the instant review, the Department carefully reviewed the record data and found that the Banajata data were the most reliable information on the record to value raw honey, in terms of quality, specificity, and in representing broad-based national prices. Furthermore, petitioners assert that the Department had previously rejected the “Nosedive” article, finding that the information was not reliable and not specific enough to value raw honey. *See* Petitioner Reply Brief at 20–24.

Department’s Position:

²⁵ *See* April 25, 2008, Zhejiang’s Case Briefs: *Fifth Administrative Review of Honey from the People’s Republic of China* (A-570-863) (“Zhejiang Case Brief”).

²⁶ *Citing Shakeproof*, 268 F.3d 1376, 1382 (Fed. Cir. 2001); and *CITIC Trading Co., Ltd. v. United States*, 25 Int’l Trade Rep. (BNA) 1292; 2003 Ct. Intl. Trade Lexis 33 at n.12 (CIT 2003).

²⁷ *Citing Shanghai Foreign Trade Enterprises Co., Ltd. v. United States*, 318 F. Supp. 2d 1339, 1350 (CIT 2004); *Zhejiang Native Produce & Animal By-Products Import & Export Corp. v. United States*, 2003 WL 23015952 (2003); and *Dorbest Ltd. v. United States*, 462 F. Supp. 2d 1262, 1281 (CIT 2006).

²⁸ “Honey prices nosedive as supply exceeds demand,” Commodities Bureau, *The Final Express*, January 23, 2006 (“Nosedive article”).

For these final results, the Department has determined that QHD Sanhai's single POR sale was not a *bona fide* transaction and will rescind this review with respect to QHD Sanhai; therefore, the discussion of using Banajata data as a surrogate value for honey is no longer at issue. For a detailed discussion of the Department's *bona fides* analysis, see the Department's position in Comment 1, above, and the QHD Sanhai Final *Bona Fides* Analysis Memo.

Comment 5:

Selection of Appropriate Surrogate Values—Steam Coal, Labels, and Aluminum Seals

Respondents argue that, for the final results, the Department should revise its source of various surrogate values, including coal, labels, and aluminum seals.

With respect to coal, respondents argue that the Department should value coal using Tata Energy Resource Institute ("TERI") data. Moreover, respondents contend that Grade C steam coal value should be used because it is more specific than the HTS 28011920. *See* Zhejiang's Case Briefs at 34-35 and QHD Sanhai Case Brief at 25-27.

Petitioners argue that the TERI data is not contemporaneous with the POR. Additionally, neither Zhejiang nor QHD Sanhai reported Grade C steam coal as an input in any of the questionnaire responses submitted. *See* Petitioners' Reply Brief at 45-47.

With respect to labels, respondents contend that the Department misclassified labels using an incorrect HTS category to and should be changed to a HTS category more specific to the input. *See* Zhejiang Case Brief at 36-37 and QHD Sanhai's Case Brief at 27-28.

Petitioners rebut and state that the HTS category suggested by respondents is not more specific but a generic classification for labels. Furthermore, the HTS used for the *Aligned Preliminary Results* by the Department has a variety of subcategories specific to printed labels, which allows for a more appropriate value to be used. *See* Petitioners' Reply Brief at 49.

With respect to aluminum seals, respondents argue that aluminum seals should be valued using a different HTS heading that is more specific to the input and contemporaneous to the period of review. *See* Zhejiang Case Brief at 27 and Sanhai Case Brief at 36.

Petitioners rebut and contend that the Department relied on the category of safety sealing directly applicable to the temper-proofing of honey bottles. Moreover, petitioners state that this HTS category should be used for the final results of the review. *See* Petitioners Case Brief at 48-49.

Department's Position:

For these final results, the Department has determined that QHD Sanhai's single POR sale was not a *bona fide* transaction and will rescind this review with respect to QHD Sanhai; therefore, the discussion of which surrogate values to use for steam, coal, labels, and aluminum seals is no

longer at issue. For a detailed discussion of the Department's *bona fides* analysis, see the Department's position in Comment 1, above, and the QHD Sanhai Final *Bona Fides* Analysis Memo.

AGREE_____ DISAGREE_____

David M. Spooner
Assistant Secretary
for Import Administration

Date