

including on-site inspection of the production and sales facilities, and an examination of relevant sales and financial records. Our verification results are outlined in the *New Shipper Review of Glycine from the People's Republic of China: Sales and Factors Verification Report for Tianjin Tiancheng Pharmaceutical Co. Ltd.*, dated March 6, 2003. (TTPC Verification Report), and *New Shipper Review of Glycine from the People's Republic of China: Factors Verification Report for Baoding Mancheng Eastern Chemical Plant*, dated March 6, 2003 (*Eastern Chemical Verification Report*). A public version of this report is on file in the Central Records Unit located in room B-099 of the Main Commerce Building.

### Separate Rates

TTPC requested a separate, company-specific rate. In its questionnaire response, the company stated that it is an independent legal entity.

To establish whether a company operating in a non-market economy (NME) country is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994). Under this policy, exporters in NME countries are entitled to separate, company-specific margins when they can demonstrate an absence of government control, in law and in fact, with respect to export activities. Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control over exports is based on four factors: (1) Whether each exporter sets its own export prices independently of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and (4) whether each exporter has autonomy from the

government regarding the selection of management.

### De Jure Control

With respect to the absence of *de jure* government control over the export activities of the company reviewed, evidence on the record supports the claim made by TTPC that its export activities are not controlled by the government. TTPC submitted evidence of its legal right to set prices independently of all government oversight. The business license of TTPC indicates that the company is permitted to engage in the exportation of glycine. We found no evidence of *de jure* government control restricting this company's exportation of glycine.

In general, no export quotas apply to glycine. *The Administrative Regulations of the People's Republic of China for Controlling the Registration of Enterprises as Legal Persons (Legal Persons Law)*, issued on June 13, 1988 by the State Administration for Industry and Commerce of the PRC, the *Company Law of the People's Republic of China (Company Law)*, adopted by the National People's Congress and promulgated by the President on December 29, 1993 and effective on July 1, 1994, and the *Foreign Trade Law of the People's Republic of China (Foreign Trade Law)*, adopted by the National People's Congress and promulgated by the President on May 12, 1994 and effective on July 1, 1994, provided in the record of this review, all indicate a lack of *de jure* government control over privately-owned companies, such as TTPC. They demonstrate that control over the company rests with the enterprise itself. The *Legal Persons Law*, *Company Law*, and *Foreign Trade Law* provide that, to qualify as legal entities, companies must have the "ability to bear civil liability independently" and the right to control and manage their businesses. These laws also state that, as an independent legal entity, a company is responsible for its own profits and losses. (See *Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People's Republic of China*, 60 FR 56045 (November 6, 1995) (*Manganese Metal*).) At verification, we saw that the business license for TTPC was granted in accordance with these laws. The results of verification support the information provided regarding these laws. See *TTPC Verification Report* at 2. Compliance with these laws supports a finding of *de jure* absence of central control. Therefore, we preliminarily determine that there is an absence of *de jure* control with respect to TTPC.

### De Facto Control

With respect to the absence of *de facto* control over export activities, the information submitted on the record and reviewed at verification, indicates that the management of TTPC is responsible for the determination of export prices, profit distribution, marketing strategy, and contract negotiations. Our analysis indicates that there is no government involvement in the daily operations or the selection of management for this company. In addition, we have found that the respondent's pricing and export strategy decisions are not subject to the review or approval of any outside entity, and that there are no governmental policy directives that affect these decisions.

There are no restrictions on the use of export earnings. The general manager of TTPC has the right to negotiate and enter into contracts, and may delegate this authority to employees within the company. There is no evidence that this authority is subject to any level of governmental approval. TTPC stated that its management is selected by a board of directors and there is no government involvement in the selection process. Finally, decisions made by the respondent concerning purchases of subject merchandise from suppliers are not subject to government approval. Consequently, because evidence on the record indicates an absence of government control, both in law and in fact, over the company's activities, we preliminarily determine that a separate rate should be applied to TTPC.

### Normal Value Comparisons

To determine whether the respondent's sale of the subject merchandise to the United States was made at a price below normal value (NV), we compared its United States price to NV, as described in the "United States Price" and "Normal Value" sections of this notice.

### United States Price

We based the United States price on export price (EP) in accordance with section 772(a) of the Act, because the first sale to an unaffiliated purchaser was made prior to importation, and constructed export price (CEP) was not otherwise warranted by the facts on the record. We calculated EP based on the packed price from the exporter to the first unaffiliated purchaser in the United States. We deducted foreign inland freight, foreign brokerage and handling, international freight, and marine insurance expenses from the starting