

monohydrate produced and exported by Suzhou Sanjian Nutrient and Health Products Co., Ltd., without regard to antidumping duties.

We invite interested parties to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: November 6, 2003.

FOR FURTHER INFORMATION CONTACT:

Blanche Ziv, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4207.

SUPPLEMENTARY INFORMATION:

Background

On February 4, 2000, the Department published an antidumping order on creatine monohydrate from the People's Republic of China ("PRC"). See *Notice of Antidumping Duty Order: Creatine Monohydrate from the People's Republic of China*, 65 FR 5583 (February 4, 2000). On February 3, 2003, the Department published in the *Federal Register* an *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 68 FR 5272 (February 3, 2003).

On February 28, 2003, in accordance with 19 CFR 351.213(b), a manufacturer/exporter of the subject merchandise, Suzhou Sanjian Nutrient & Health Products Co., Ltd. ("Sanjian"), requested that the Department conduct an administrative review of this order. On March 25, 2003, we published a notice of initiation of this review. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part*, 68 FR 14394 (March 25, 2003). The period of this review ("POR") is February 1, 2002, through January 31, 2003.

On April 14, 2003, we issued an antidumping questionnaire to Sanjian. We issued a supplemental questionnaire on July 18, 2003. We received responses to the original and supplemental questionnaires on May 21 and August 1, 2003, respectively.

Scope of the Review

Imports covered by this review are creatine monohydrate, which is commonly referred to as "creatine." The chemical name for creatine monohydrate is N-(aminoiminomethyl)-N-methylglycine monohydrate. The Chemical Abstracts Service ("CAS") registry number for this product is 6020-87-7. Creatine monohydrate in its

pure form is a white, tasteless, odorless powder, that is a naturally occurring metabolite found in muscle tissue. Creatine monohydrate is provided for in subheading 2925.20.90 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheading and the CAS registry number are provided for convenience and customs purposes, the written description of the merchandise under review is dispositive.

Separate Rates

The Department has treated the PRC as a nonmarket economy ("NME") country in all previous antidumping cases. See, e.g., *Notice of Final Determination of Sales at Less than Fair Value: Refined Brown Aluminum Oxide (Otherwise known as Refined Brown Artificial Corundum or Brown Fused Alumina) from the People's Republic of China*, 68 FR 55589 (September 26, 2003). It is the Department's standard policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can demonstrate an absence of government control, both in law (de jure) and in fact (de facto), with respect to exports. To establish whether an exporter is sufficiently independent of government control to be entitled to a separate rate, the Department analyzes the exporter in light of the criteria established in the *Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("Sparklers"), as amplified in the *Final Determination of Sales at Less than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("Silicon Carbide"). In this review, the sole respondent, Sanjian, is a PRC company; therefore, a separate rates analysis is necessary to determine whether its export activities are independent of government control.

Absence of De Jure Control

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. See *Sparklers*, 56 FR at 20589.

Absence of De Facto Control

A *de facto* analysis of absence of government control over exports is based on four factors—whether the

respondent: (1) Sets its own export prices independent of the government and other exporters; (2) retains the proceeds from its export sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) has the authority to negotiate and sign contracts and other agreements; and (4) has autonomy from the government regarding the selection of management. See *Silicon Carbide*, 59 FR at 22587; see also *Notice of Final Determination of Sales at Less than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995) ("Furfuryl Alcohol").

In the *Notice of Final Determination of Sales at Less than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104, 71105 (December 20, 1999) ("LTFV Investigation"), we determined that there was *de jure* and *de facto* absence of government control of Suzhou Sanjian Fine Chemical Co. Ltd.'s ("Suzhou Chemical") export activities and determined that Suzhou Chemical warranted a company-specific dumping margin. On April 18, 2003, we determined that Sanjian was the successor-in-interest to Suzhou Chemical. See *Creatine Monohydrate from the People's Republic of China: Final Results of Changed Circumstances Review*, 68 FR 19189 (April 18, 2003) ("Changed Circumstances Review"). For the POR, Sanjian responded to the Department's request for information regarding separate rates. We have found that the evidence on the record is consistent with the final determination in the *LTFV Investigation* and the *Changed Circumstances Review*, and Sanjian continues to demonstrate an absence of government control, both in law and in fact, with respect to its exports, in accordance with the criteria identified in *Sparklers*, *Silicon Carbide*, and *Furfuryl Alcohol*.

Export Price

For U.S. sales made by Sanjian, we calculated export price ("EP"), in accordance with section 772(a) of the Tariff Act of 1930, as amended ("the Act"), because the subject merchandise was sold to unaffiliated purchasers in the United States prior to importation into the United States and the facts did not otherwise warrant use of constructed export price.

We calculated EP based on the price to unaffiliated purchasers in the United States. In accordance with section 772(c) of the Act, as appropriate, we deducted from the starting price foreign inland freight, international freight, marine insurance, U.S. inland freight,