

On March 1, 2002, the Department issued its antidumping questionnaire to Groupstars. Groupstars responded to the Department's questionnaire on April 3, 2002 and April 10, 2002. Additionally, Groupstars submitted responses to the Department's July, August, October, and November 2002 supplemental questionnaires during August, September, October, and November 2002, respectively. On March 7, 2002 and August 23, 2002, interested parties submitted publicly available information and comments for the Department's consideration in valuing factors of production (FOP) in this administrative review.

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the Department may extend the deadline for completion of the preliminary results of an administrative review if it determines that it is not practicable to complete the preliminary results of a review within the statutory time limit of 245 days. On August 16, 2002, in accordance with the Act, the Department extended the time limit for the preliminary results of this review until January 31, 2003. See Potassium Permanganate From the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review, 67 FR 54408 (August 22, 2002).

The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of the Review

Imports covered by this review are shipments of potassium permanganate, an inorganic chemical produced in free-flowing, technical, and pharmaceutical grades. During the review period, potassium permanganate was classifiable under item 2841.61.0000 of the Harmonized Tariff Schedule of the United States (HTSUS).²

Although the HTSUS subheading is provided for convenience and customs purposes our written description of the scope of the order is dispositive.

Verification

As provided in section 782(i) of the Act, we verified sales and FOP information provided by Groupstars using standard verification procedures, including on-site inspection of the manufacturer's facilities, examination of relevant sales and financial records, and

selection of relevant source documentation as exhibits. Our verification findings are detailed in the report. See Memorandum from John Conniff and Drew Jackson to the file regarding "Verification of Groupstars Chemical Co. Ltd's responses in the Antidumping Duty Administrative Review of Potassium Permanganate from the People's Republic of China," dated January 31, 2003 (Verification Report), the public version of which is on file in the Central Records Unit (CRU), room B-099 of the main Commerce building.

Separate Rates Determination

In proceedings involving nonmarket economy (NME) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to investigation in a NME country this single rate, unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Groupstars provided the separate rates information requested by the Department and reported that its export activities are not subject to government control.

We examined the separate rates information provided by Groupstars in order to determine whether it is eligible for a separate rate. The Department's separate rates test, which is used to determine whether an exporter is independent from government control, does not consider, in general, macroeconomic/border-type controls, e.g., export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. See *Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value*, 62 FR 61754, 61757 (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997).

To establish whether a firm is sufficiently independent from government control of its export activities so as to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising out of 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 by 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 accordance with the separate rates criteria, the Department assigns separate rates in NME cases only if the respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (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 20508 (May 6, 1991).

Groupstars submitted a copy of its business licenses in its questionnaire response. We examined Groupstars' business license at verification and found no inconsistencies with its statement regarding the absence of restrictive stipulations associated with its business license. See memorandum from John Conniff and Drew Jackson to the file regarding PRC Verification of Groupstars Chemical Co. Ltd's responses in the Antidumping Duty Administrative Review of Potassium Permanganate from the People's Republic of China (PRC Verification Report). Furthermore, Groupstars submitted copies of PRC legislation demonstrating the statutory authority for establishing the *de jure* absence of government control over companies. Thus, we believe that the evidence on the record supports a preliminary finding of absence of *de jure* governmental control based on: (1) an absence of restrictive stipulations associated with the business licenses of Groupstars; and (2) the applicable legislative enactments decentralizing control of PRC companies.

2. Absence of De Facto Control

The Department typically considers four factors in evaluating whether a respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by, or are subject to, the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent

importer of subject merchandise while Groupstars Chemical Co. Ltd. is the PRC exporter of the subject merchandise.

² The scope reflects the correct HTSUS subheading currently in effect. The HTSUS number in the Department's two previous reviews was incorrect.