

has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses. See *Silicon Carbide*, at 22586–87; 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).

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. See *Silicon Carbide*, at 22587. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

Groupstars reported that it determines prices for sales of the subject merchandise based on market principles, the cost of the merchandise, and profit. Moreover, Groupstars stated that it negotiates prices directly with its customers. Also, Groupstars claims that its prices are not subject to review or guidance from any governmental organization. In addition, the record indicates that Groupstars has the authority to negotiate and sign contracts and other agreements. Further, Groupstars claims that its negotiations are not subject to review or guidance from any governmental organization. Finally, there is no evidence on the record to suggest that there is any governmental involvement in the negotiation of Groupstars' contracts.

Furthermore, Groupstars reported that it has autonomy in making decisions regarding the selection of management. Groupstars indicated that its selection of management is not subject to review or guidance from any governmental organization and there is no evidence on the record to suggest that there is any governmental involvement in the selection of the management of Groupstars.

Finally, Groupstars reported that it retains the proceeds of its export sales, and its management determines how to use profits. Groupstars stated that it operates in accordance with market principles and calculates profits and losses in a normal commercial manner. There is no evidence on the record to suggest that there is any governmental involvement in Groupstars' decisions regarding the disposition of profits or financing of losses.

Therefore, we find that the evidence on the record, including the verification findings, which are consistent with the separate rates information reported by Groupstars, supports a preliminary finding of absence of *de facto* governmental control based on record statements and supporting documentation showing that: (1) Groupstars sets its own export prices independent of the government and without the approval of a government authority; (2) Groupstars has the authority to negotiate and sign contracts and other agreements; (3) Groupstars has adequate autonomy from the government regarding the selection of management; and (4) Groupstars retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses.

The evidence placed on the record of this review by Groupstars demonstrates an absence of government control, both in law and in fact, with respect to its exports of the merchandise under review, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Therefore, for the purposes of these preliminary results, we are granting a separate rate to Groupstars.

Fair Value Comparisons

To determine whether Groupstars' sales of subject merchandise were made at prices less than NV, we compared the constructed export price (CEP) to NV, as described in the *Constructed Export Price* and *Normal Value* sections of this notice, below.

Constructed Export Price

In accordance with section 772(b) of the Act, the Department calculated a CEP for all sales by Groupstars to the United States because the first sale to an unaffiliated purchaser occurred after the subject merchandise was imported into the United States. We calculated CEP based on the packed prices from Groupstars LLC to the first unaffiliated U.S. customer. In accordance with section 772(c) of the Act, we deducted from the starting price, where appropriate, movement charges including foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. Customs duties, U.S. brokerage and handling, U.S. inland freight, and U.S. warehousing charges. Foreign inland freight, foreign brokerage and handling, and ocean freight, were provided by NME vendors, and thus, we based the deductions for these movement charges on the surrogate values identified in the "Normal Value" section of this notice below. Groupstars' shipments of subject

merchandise were insured through a market-economy marine insurance provider and the provider was paid using a market-economy currency. Therefore, pursuant to 19 CFR 351.408(c)(1), we used the actual price paid for marine insurance as a deduction from the starting price. In accordance with 772(d)(1) of the Act, we deducted from the starting price those selling expenses that related to economic activity in the United States. In accordance with section 772(d)(3) of the Act, we deducted from the starting price an amount for profit. For additional information regarding these adjustments, see the calculation memorandum from Drew Jackson to the File dated January 31, 2003 which is in the CRU public file (Calculation Memorandum).

Normal Value

For exports from NME countries, section 773(c)(1) of the Act provides that the Department shall determine NV using a FOP methodology if: (1) the subject merchandise is exported from a NME country, and (2) available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value pursuant to section 773(a) of the Act. Section 351.408 of the Department's regulations sets forth the methodology used by the Department to calculate the NV of merchandise exported from NME countries. In every case conducted by the Department involving the PRC, the PRC has been treated as a NME. Because none of the parties to this proceeding contested such treatment, we calculated NV in accordance with section 773(c)(3) and (4) of the Act and section 351.408(c) of the Department's regulations.

In accordance with section 773(c)(3) of the Act, the FOP utilized in producing potassium permanganate include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs, including depreciation. In accordance with section 773(c)(4) of the Act, the Department valued the FOP, to the extent possible, using the costs of the FOP in a market economy that is (1) at a level of economic development comparable to the PRC, and (2) a significant producer of comparable merchandise. We determined that India is comparable to the PRC in terms of per capita gross national product and the national distribution of labor. Furthermore, India is a significant producer of comparable merchandise. See Memorandum from Jeffrey May,