

issued questionnaires to them in July 2003. See 68 FR 39055 (July 1, 2003).

Branco Peres, Citrovita, CTM, and Sucorrico notified the Department that neither they nor any of their affiliates had any sales or exports of subject merchandise during the period of review (POR). The Department confirmed these companies' statements with the Bureau of Customs and Border Protection (BCBP). Accordingly, we notified the petitioners that we intended to rescind this administrative review with respect to all four respondents and they did not object. See July 21, 2003, memorandum from Alice Gibbons to the file entitled, "Intent to Rescind the Antidumping Duty Administrative Review on Frozen Concentrated Orange Juice from Brazil."

#### Rescission of Review

Because Branco Peres, CTM, Citrovita, and Sucorrico had no shipments of subject merchandise during the POR, in accordance with 19 CFR 351.213(d)(3) and consistent with our practice, we are rescinding this review of the antidumping duty order on frozen concentrated orange juice from Brazil for the period of May 1, 2002, through April 30, 2003. This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: August 12, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-836]

#### Notice of Rescission of Antidumping Duty New Shipper Review: Glycine from the People's Republic of China

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce

**SUMMARY:** On May 24, 2002 the Department published the notice of initiation of the new shipper review of the antidumping duty order on glycine from the People's Republic of China (PRC) covering the period March 1, 2001, through February 28, 2002. The new shipper review covered exports by Tianjin Tiancheng Pharmaceutical Co. Ltd. (TTPC). See *Glycine from the People's Republic of China: Initiation of Antidumping New Shipper Review*, 67 FR 36572 (May 24, 2002) (*New Shipper Initiation*). For the reasons discussed

below, we are rescinding the review of TTPC.

**EFFECTIVE DATE:** August 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** Scot Fullerton or Matthew Renkey at (202) 482-1386 and (202) 482-2312, respectively; AD/CVD Enforcement, Office 7, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 29, 1995, the Department published in the **Federal Register** an antidumping duty order on glycine from the PRC. See *Antidumping Duty Order: Glycine from the People's Republic of China*, 60 FR 16116, (March 29, 1995). On March 29, 2002, the Department received a request for a new shipper review from TTPC; however, this request was not filed in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act) and section 351.214(c) of the Department's regulations. On April 29, 2002, the Department sent a letter to TTPC asking them to properly refile their request with the Department by May 1, 2002. The Department allowed TTPC to correct its business proprietary information (BPI) as it had done with a concurrent request for a new shipper review in another case. See *Memorandum to the File through Maureen Flannery from Matthew Renkey, Initiation of New Shipper Review of Glycine from the People's Republic of China* (May 17, 2002). On May 1, 2002, the Department received a properly filed request for a new shipper review from TTPC for the antidumping duty order on glycine from the People's Republic of China. On May 24, 2002, the Department published its initiation of this new shipper review for the period March 1, 2001, through February 28, 2002. See *New Shipper Initiation*.

On May 24, 2002, the Department issued a questionnaire to TTPC. On July 11, 2002, TTPC responded to section A of the questionnaire, and on July 12, 2002, TTPC responded to sections C and D. On November 13, 2002, the Department issued a supplemental questionnaire to TTPC, and we received TTPC's supplemental response on December 9, 2002. Department officials conducted verification of TTPC and its producer/supplier, Baoding Mancheng Eastern Chemical Plant (Eastern Chemical), from January 20 through January 23, 2003. The results of the Department's verification can be found in *New Shipper Review of Glycine from*

*the People's Republic of China: Sales and Factors Verification Report for Tianjin Tiancheng Pharmaceutical Co. Ltd. (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 (Eastern Chemical Verification Report)*, both dated March 6, 2003. Public versions of these reports are on file in the Central Records Unit located in room B-099 of the Main Commerce Building. On February 26, 2003, we issued a questionnaire to TTPC's U.S. importer. We published the preliminary results of this new shipper review on March 20, 2003. See *Notice of Preliminary Results of Antidumping Duty New Shipper Reviews: Glycine from the People's Republic of China*, 68 FR 13669 (March 20, 2003) (*Preliminary Results*). In the *Preliminary Results*, we made no determination regarding the *bona fides* of TTPC's sales. In the *Preliminary Results*, we noted that any response to the questionnaire we sent to the U.S. importer would be evaluated for the purposes of the final results of this review.

On March 12, 2003, we received TTPC's importer's response to our questionnaire. On April 18, 2003, and July 3, 2003 the Department issued additional questionnaires to TTPC's importer. Responses to these questionnaires were received on April 28, 2003, and July 21, 2003, respectively. Both the petitioners (Chattem Chemicals, Inc. and Dow Chemical Company) and respondent filed case and rebuttal briefs.<sup>1</sup> On June 13, 2003, the Department published a notice extending the time limit for the final results of this new shipper review to no later than August 8, 2003. See *Notice of Extension of Time Limit of Final Results of New Shipper Review: Glycine from the People's Republic of China*, 68 FR 35383 (June 13, 2003) (*Final Extension Notice*). In the *Final Extension Notice*, one of the reasons given for extending the time limit was to allow the Department more time to evaluate the *bona fides* of TTPC's U.S. sales.

In addition to commenting on the *bona fides* of TTPC's U.S. sales, the

<sup>1</sup> On April 30, 2003, the Department received a properly filed case brief from TTPC. Petitioners also filed their case brief on April 30, 2003. On May 6, 2003 both parties filed their rebuttal briefs. Due to the fact that new factual information was submitted in the original versions of petitioners' case and rebuttal briefs and respondent's rebuttal brief, the Department instructed parties to refile these briefs without the new factual information on May 16, 2003. The Department received properly filed versions of petitioners' case and rebuttal briefs and respondent's rebuttal brief on May 16, 2003.

parties addressed, in their case and rebuttal briefs, two surrogate valuation issues: (1) what to use as the surrogate for the financial ratios, and (2) what to use as the surrogate for the drums into which TTPC packed its shipment of glycine. With regard to the financial ratios issue, respondent argued that we should use ratios based upon information from Indian aspirin and sweetener producers it submitted during the course of the review. Petitioners argued that we should not change the ratios we used in the *Preliminary Results*, or that if we were to decide to use a different surrogate, that we should use information from Indian pharmaceutical companies they had submitted during the course of the review. With regard to the packing material issue, respondent argued that we used the incorrect Indian HTS number to value the drums into which the glycine was packed. Petitioners argued that we used the correct Indian HTS number to value the drums. Since, as discussed below, we are rescinding this review, we need not address the parties' comments on these issues.

#### Rescission of Review

Concurrent with this notice, we are issuing our memorandum detailing our analysis of the *bona fides* of TTPC's U.S. sales and our decision to rescind based on the totality of the circumstances. See *Memorandum from Joseph A. Spetrini to James J. Jochum; Glycine from The People's Republic of China: the Bona Fide Issue in the New Shipper Review of Tianjin Tiancheng Pharmaceutical Co., Ltd. (Rescission Memo)*. The Department has determined that the new shipper sales made by TTPC were not *bona fide* because (1) the prices for TTPC's sales of glycine were not commercially reasonable, (2) the sales were made outside TTPC's normal U.S. sales channels, (3) the extent to which late payment was made by TTPC's importer, and (4) there were inconsistencies in the import documentation for the sales. *Id.* at 7.

Although sales involving small quantities are not inherently commercially unreasonable, the quantity, taken together with other aspects of a transaction, may support a conclusion that a transaction is not *bona fide*. For example, in *Certain Cut-to-Length Carbon Steel Plate From Romania: Notice of Rescission of Antidumping Duty Administrative Review*, 63 FR 47232, 47234 (September 4, 1998) (*Romanian Plate*), the Department excluded the respondent's U.S. sale from its analysis based on the cumulative weight of numerous factors indicating that the sale involved

atypical selling procedures, including the extremely small quantity, the extraordinarily high transportation costs incurred by the importer combined with other expenses borne by the importer, and the fact that the merchandise was subsequently resold at a significant loss. See generally *Romanian Plate*, 63 FR at 47233; see also *Windmill Int'l Pte., Ltd. v. United States*, 193 F. Supp.2d 1303, 1313 (February 21, 2002). The Department takes its responsibility to review the *bona fides* of new shipper sales very seriously. Therefore, we examine a number of factors, all of which may speak to the commercial realities surrounding the sale of subject merchandise.

As discussed in detail in the Department's *Rescission Memo*, TTPC's new shipper sales to the United States fell outside of its normal business practice. See *Rescission Memo* at 4. In addition, the value of the sales as well as the practices surrounding the sales were atypical of normal, commercial transactions in the industry. *Id.* at pages 3-6. Taken as a whole, these facts lead the Department to conclude that the sales were not commercially reasonable or *bona fide*. As a result, this new shipper review should be rescinded.

#### Notification

The Department will notify the U.S. Bureau of Customs and Border Protection that bonding is no longer permitted to fulfill security requirements for shipments by TTPC of glycine from the PRC entered, or withdrawn from warehouse, for consumption in the United States on or after the publication of this rescission notice in the **Federal Register**, and that a cash deposit of 155.89 percent *ad valorem* should be collected for any entries exported by TTPC.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO material or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanctions.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(2)(B) and 777(i) of the Act.

Dated: August 8, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-813]

#### Certain Preserved Mushrooms From India: Notice of Partial Rescission of Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of partial rescission of antidumping duty administrative review.

**EFFECTIVE DATE:** August 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** David J. Goldberger or Kate Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4136 or (202) 482-4929, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On February 3, 2003, the Department published in the **Federal Register** (68 FR 5272) a notice of "Opportunity To Request Administrative Review" of the antidumping duty order on certain preserved mushrooms from India for the period February 1, 2002, through January 31, 2003. On February 21, 2003, Agro Dutch Foods, Ltd. (Agro Dutch), requested an administrative review of its sales. On February 27, 2003, Weikfield Agro Products, Ltd. (Weikfield), requested an administrative review of its sales. On February 28, 2003, Saptarishi Agro Industries, Ltd. (Saptarishi Agro), requested an administrative review of its sales. Also, on February 28, 2003, the petitioner<sup>1</sup> requested an administrative review of the antidumping duty order for the following companies: Agro Dutch, Alpine Biotech, Ltd. (Alpine Biotech), Dinesh Agro Products, Ltd. (Dinesh Agro), Flex Foods, Ltd. (Flex Foods),

<sup>1</sup> The petitioner is the Coalition for Fair Preserved Mushroom Trade which includes the American Mushroom Institute and the following domestic companies: L.K. Bowman, Inc., Modern Mushroom Farms, Inc., Monterey Mushrooms, Inc., Mount Laurel Canning Corp., Mushroom Canning Company, Southwood Farms, Sunny Dell Foods, Inc., and United Canning Corp.