

MEMORANDUM TO: David M. Spooner
Assistant Secretary
for Import Administration

FROM: Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Antidumping Duty
Investigation of Glycine from India for the Period of Investigation
January 1, 2006, through December 31, 2006

Summary

We have analyzed the case and rebuttal briefs of interested parties in the antidumping duty investigation of glycine from India for the period January 1, 2006, through December 31, 2006. We recommend that you approve the positions described in the Discussion of the Issues section of this memorandum. Below is the complete list of the issues in this investigation for which we received comments and rebuttal comments by parties:

- Comment 1: Work-in-Process Inventories
- Comment 2: Recovery of Bad Debts
- Comment 3: Duty Drawback
- Comment 4: Interest Income Offset
- Comment 5: Appropriate Sales Database to Use

Background

On November 7, 2007, the Department of Commerce published its preliminary determination and amended preliminary determination, respectively, of the investigation of sales at less than fair value in the antidumping duty investigation of glycine from India. See Notice of Preliminary Determination of Sales at Less Than Fair Value: Glycine From India, 72 FR 62827 (November 7, 2007), and Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Glycine From India, 72 FR 62826 (November 7, 2007). Only one respondent, Paras Intermediates Pvt. Ltd. (Paras), participated fully in the investigation. The period of investigation (POI) is January 1, 2006, through December 31, 2006.

We released a sales verification report on January 23, 2008, and a cost verification report on February 20, 2008. See “Verification of the Sales Response of Paras Intermediates Pvt. Ltd., in the Antidumping Duty Investigation of Glycine from India” (Sales Verification Report) and “Verification of the Cost Response of Paras Intermediates Pvt. Ltd. in the Antidumping

Investigation of Glycine from India” (Cost Verification Report). On February 22, 2008, we also released a memorandum entitled “Proposed Adjustments to the Cost of Production and Constructed Value Data – Paras Intermediates Pvt. Ltd.” and notified all interested parties of the briefing schedule in the less-than-fair-value investigation of glycine from India. Case briefs were due on March 3, 2008, and rebuttal briefs on March 10, 2008. Paras filed a case brief on March 3, 2008, and the petitioner, GEO Specialty Chemicals, Inc. (GEO), filed a rebuttal brief on March 5, 2008. The only comment the petitioner made in its rebuttal brief pertains to Issue Number 5 below.

Discussion of the Issues

1. Work-in-Process Inventories

Comment 1: Paras stated it did not account for the change in work-in-process inventories in its calculation of the cost of manufacturing (COM) for the POI and cost of sales for the fiscal year. In order to adjust the COM for the POI accurately, Paras argues, the increase to COM should only be the change in work-in-process inventory for glycine, the merchandise under consideration. Additionally, Paras suggests that the Department adjust the cost of sales, which is used in the calculation of the general and administrative (G&A) and financial expense rates, to reflect total change in work-in-process inventories.

Department’s Position: We agree with the respondent. Under both U.S. and Indian generally accepted accounting principles (GAAP), changes in inventory balances, including raw materials, work-in-process, and finished goods, are integral elements of COM and cost of sales (COS). Paras recognized the change in raw materials and by-products inventories in COM appropriately and incorporated the change in finished-goods inventories in the COS figure for the 2006-2007 fiscal year. Paras did not fully recognize, however, the change in work-in-process inventories in the COM and COS calculations. See Cost Verification Report at p. 10-12 and corresponding cost verification exhibits (CVE) 8 and 17. Therefore, we have included the change in glycine work-in-process inventories in COM and the change in work-in-process inventories for all products in the COS used in the calculations of the G&A and financial expense rates. See Notice of Final Results of Antidumping Duty Administrative Review: Silicon Metal from Brazil, 71 FR 7517 (February 13, 2006), and accompanying Issues and Decision Memorandum at Comment 2. See Cost of Production and Constructed Value Adjustments for the Final Determination – Paras Intermediates Private Ltd. (Cost Calculation Memorandum - Final) dated March 21, 2008.

2. Recovery of Bad Debts

Comment 2: Paras requests that the Department reconsider excluding its bad-debt recovery income from the calculation of the G&A expense rate. Paras explains that it records bad-debt expenses when it writes off doubtful accounts and considers those expenses to be general in nature. When Paras recovers any bad debts, it explains, it treats the recovery as normal business income. Thus, Paras requests the Department classify the bad-debt expense as a G&A expense and treat the related bad-debt recovery income as an offset to G&A expenses. Furthermore, Paras argues that, if the Department does not allow the bad-debt recovery income as an offset to

G&A expenses, the amount should be allowed as an offset to indirect selling expenses.

Department's Position: We disagree with Paras that bad-debt expenses and bad-debt recovery income should be included in the calculation of the G&A expense rate. The Department normally classifies bad-debt expense as indirect selling expenses because those expenses relate to the sales of a company. See Notice of Final Determination of Sales at Less than Fair Value: Coated Free Sheet Paper from the Republic of Korea, 72 FR 60630 (October 25, 2007) (CFS Paper from Korea), and accompanying Issues and Decision Memorandum at Comment 14. In regard to the treatment of bad-debt recovery income in the calculation of the rate for indirect selling expenses, however, the facts of this case differ from those in CFS Paper from Korea. The respondent in CFS Paper from Korea used the allowance method to establish an annual bad-debt provision (*i.e.*, an estimate of uncollectible accounts), while Paras employed the direct write-off method for its doubtful accounts (*i.e.*, it recognizes bad-debt expenses only when accounts are deemed uncollectible). In CFS Paper from Korea, the Department determined that the bad-debt recovery should not be included as an offset in the reported costs because, in accordance with the allowance method for recording bad-debt expenses, the recovery was not recognized on the income statement but was recorded in the allowance account on the balance sheet. In this case, however, the direct write-off method Paras uses in its normal course of business recognizes the bad-debt recovery on the income statement. Thus, we are reclassifying the bad-debt expenses and the bad-debt recovery income from G&A expenses and including them in the calculation of the rate for indirect selling expenses. See Glycine from India - Final Determination of Sales at Less Than Fair Value Analysis Memorandum for Paras, dated March 21, 2008, at Attachment A.

3. *Duty Drawback*

Comment 3: Paras states that the Department should make an adjustment for its Advance License program duty drawback in the final determination. Paras argues that the Department has already applied its two-pronged test to determine that Paras has fulfilled the statutory requirement that would allow for a duty-drawback adjustment pursuant to section 772(c)(1)(b) of the Tariff Act of 1930, as amended (the Act), and that it has provided sufficient documents to demonstrate that the claimed duty drawback related to actual imports of inputs used to manufacture glycine. Paras also states that, at verification, it explained further the Advance License program and its administration by the Government of India. Paras states that, under the scheme, the importer has an obligation to export against inputs imported free of duty. Paras states that, on completion of the requisite export obligation, the importer has to submit the necessary export documents to the Government of India, which are verified, and then the importer is issued an Export Obligation Discharge Certificate (EODC). Paras asserts that, until the time the export obligation is fulfilled and an EODC is obtained from the Government, the importer is liable to pay the saved import duties in addition to interest and penalty in case of failure to export within the stipulated period. Paras also contends that the Advance License program works similar to substitution drawback schemes as described in 19 CFR 351.519(a)(2) in which the importer has the right to substitute duty-paid inputs or even domestic inputs for the duty-free inputs as long as it fulfills the obligation within the time period stipulated.

Department's Position: While Paras has provided documentation to show the link between the export and the input, at our verifications we found that Paras imported the input it used to qualify

for the drawback adjustment in 2004, more than one year prior to the start of the POI, and, therefore, received the duty exemption in 2004. We also found that Paras did not import inputs under the Advance License program during the POI for use in the production of glycine. See Cost Verification report at 18. In order to be eligible for a duty-drawback adjustment, the importation of the input used in the production of the exported subject merchandise must occur during the same POI. That did not happen in this instance. Consequently, we are not making an adjustment to U.S. price for duty drawback in the final determination. See, e.g., Certain Polyester Staple Fiber From Korea; Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review and Preliminary Notice of Intent To Revoke, in Part, 69 FR 32497, 32499 (June 10, 2004) (unchanged in final; 69 FR 61341, October 18, 2004). Therefore, we conclude that Paras does not qualify for a duty-drawback adjustment.

With respect to substitution drawback schemes as described in 19 CFR 351.519(a)(2), the description cited provides explanatory language for how “benefit” is determined for countervailing purposes and is not intended to provide criteria for qualification for duty-drawback adjustments in antidumping investigations. Thus, this regulation is not relevant to this issue.

4. *Interest Income Offset*

Comment 4: Paras argues that the Department should allow its reported interest income to offset its financial expenses. Paras states that the interest income was generated from deposits with government agencies and banking institutions that are necessary to run its current operations (e.g., methanol license, electricity supply). Paras contends that these deposits are not long-term investments and that they are necessary to maintain its ongoing operations.

Department’s Position: We agree with the respondent. At verification, Paras demonstrated that the interest income was generated from deposits which are related to its current operations. Therefore, for the final determination we have allowed this interest income to offset Paras’ financial expenses. See, e.g., Hyundai Elec. Indus. Co., Ltd. v. United States, 342 F. Supp. 2d 1141, 1161 (CIT 2004).

5. *Appropriate Sales Database to Use*

Comment 5: Paras reported home-market sales of technical-grade glycine that it imported from China and further processed. Paras contends that the Department should base its final determination on home-market sales of further-processed imported technical-grade glycine. Paras states that there is substantial value added to the imported technical-grade glycine and that this is reflected in the processing costs involved for technical-grade glycine. Paras also states that it does not maintain records which would enable accurate identification of costs separately, that an exact one-to-one “co-relation” cannot be established for the source of the glycine in the final product, and that there is some amount of mingling of the products which may result in inappropriate consideration of some home-market sales. Finally, Paras contends that the sales price of glycine by Paras in the home market is independent of whether the glycine is self-produced or is obtained by further processing of imported glycine; Paras provides examples of such situations to support its argument that it would be inappropriate to exclude any home-

market sales in making cost comparisons. Paras requests that the Department include all home-market sales of glycine in calculating normal value and use the weighted-average cost-of-production database that includes self-produced glycine as well as glycine that includes imported technical-grade glycine.

GEO rebuts that Paras's analysis is at odds with the antidumping duty statute and the Department's normal practice. GEO contends the issue is not whether there is a substantial amount of processing in India but, rather, whether the processing that does occur in India is sufficient to transform the glycine from a Chinese product to an Indian product, citing Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from the United Kingdom, 64 FR 30677, 30704 (June 8, 1999). GEO states that glycine is a basic amino acid with a set chemical structure and that the only physical difference between technical- and USP-grade glycine is that the USP-grade glycine has been filtered so that the level of impurities is diminished compared to those of the technical-grade glycine. GEO adds that both technical- and USP-grade glycine are covered by the scope of the investigation and the only change that has occurred is from one form of subject merchandise to another.

With respect to processing costs, GEO contends that, even if processing costs were relevant, it would not alter the conclusion that Chinese-origin glycine has not been substantially transformed. GEO states that, by Paras's own estimates, the cost of processing Chinese-origin, technical-grade glycine for sale as USP-grade glycine is substantially less than half of producing USP-grade glycine using new inputs. According to GEO, this demonstrates the distortive impact that including the technical-grade Chinese glycine in Paras's cost-of-production calculations would have.

Department's Position: We disagree with Paras that we should use all of its home-market sales of glycine in calculating normal value and use the weighted-average cost-of-production database that includes self-produced glycine as well as further-processed imported technical-grade glycine. We are not excluding these sales based on whether Paras priced purer grades of glycine differently depending on the source of the glycine or whether slight traces of imported technical-grade glycine could have been incorporated into other home-market sales that Paras did not identify in its sales database as being traced to technical-grade glycine. We are excluding the home-market sales that include technical-grade glycine from China because there was no substantial transformation in the production of purer grades of glycine.

In examining country of origin, it is a long-standing practice for the Department to include only sales of the foreign like product and to exclude non-foreign like product based on the country of origin unless a substantial transformation has taken place. The Court of International Trade has upheld the Department's substantial-transformation test. See E.I. DuPont De Nemours & Company. v. United States, 22 CIT 370, 374, 8 F. Supp. 2d 854, 858 (1998).

The Department applies, as appropriate, the following criteria in determining whether substantial transformation occurs, thereby changing a product's country of origin: 1) whether the processed downstream product falls into a different class or kind of product when compared to the

upstream product,¹ 2) whether the essential component of the merchandise is substantially transformed in the country of exportation,² and 3) the extent of processing.³ With respect to class or kind, both technical-grade and the purer grades that Paras sells, whether produced from imported technical-grade or from its self-produced materials, are the same class of merchandise and each is covered by the scope of the investigation. With respect to whether the essential component of the merchandise is substantially transformed in the country of exportation, we examined this question during the investigation, including during the verifications. The essential component, technical-grade glycine, is simply refined and sieved until it reaches a more pure grade of glycine. The chemical structure does not change as a result of this refinement. In fact, the glycine produced by Paras undergoes the identical refining process as imported glycine. In its response to the Department's November 8, 2007, supplemental questionnaire, Paras stated that "...common labor, facilities, equipments are used to process imported technical glycine as that is used for processing own manufactured glycine." See "Response to Third Supplemental Questionnaire of Section A to C in Case of Anti Dumping Duty Investigation Against India" dated November 19, 2007, at 1.

With respect to the extent of processing, the processing steps to produce purer grades of glycine using the imported technical-grade glycine are less substantial than those for producing purer grades using the raw material inputs. See, *e.g.*, the Cost Verification Report at 21 where we found that "{a}ll imported technical glycine bypassed the reactor, washing and centrifuge steps. As a result, the plant and machinery at those steps are completely inactive and less depreciation, fuel, and electricity costs are assigned."

Finally, in a previous scope ruling involving imported glycine we found that the further processing of technical-grade glycine into purer grades is minimal.⁴ Therefore, because the further processing incurred in India with respect to imported technical-grade glycine is not substantial enough to change its country of origin, the technical-grade glycine produced in China is not foreign like product for the subject merchandise Paras shipped to the United States. As a result, we have not used such sales in the determination of the dumping margin for Paras.

¹ See Notice of Final Determination of Sales at Not Less Than Fair Value: Wax and Wax/Resin Thermal Transfer Ribbon from the Republic of Korea, 69 FR 17645, 17647 (April 5, 2004) (TTR from Korea).

² See Erasable Programmable Read Only Memories (EPROMs) From Japan; Final Determination of Sales at Less Than Fair Value, 51 FR 39680, 39692 (October 30, 1986) (EPROMs).

³ See TTR from Korea, 69 FR 17645, 17647 (April 5, 2004).

⁴ See, *e.g.*, Notice of Scope Rulings and Anticircumvention Inquiries, 68 FR 7772, 7773 (February 18, 2003), and accompanying Final Scope Ruling Memorandum from Barbara E. Tillman to Joseph A. Spetrini dated May 3, 2002, stating that the further manufacturing of glycine of Chinese origin performed in South Korea did not change the country of origin or its treatment in the antidumping duty order on glycine from the People's Republic of China.

Recommendation

Based on our analysis of the comments received, we recommend adopting all of the above positions for the final determination. If these recommendations are accepted, we will publish the final determination in the Federal Register.

Agree _____ Disagree _____

David M. Spooner
Assistant Secretary
for Import Administration

Date