





APPEARANCES: (Continued)

In Support of Continuation of Antidumping Order:

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P R O C E E D I N G S

(9:30 a.m.)

CHAIRMAN OKUN: Good morning. On behalf of the U.S. International Trade Commission, I welcome you to this hearing on Investigation No. 731-TA-718 (Third Review) involving Glycine from China.

The purpose of this five-year review investigation is to determine whether revocation of the anti-dumping duty order covering glycine from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Schedule setting forth the presentation of this hearing, notice of investigation, and transcript order forms are available at the public distribution table. All prepared testimony should be given to the Secretary. Please do not place testimony directly on the public distribution table.

All witnesses must be sworn in by the Secretary before presenting testimony. I understand the parties are aware of the time allocations, and any questions regarding time allocation should be directed to the Secretary.

Speakers are reminded not to refer in their remarks or answers to questions to business-

1 proprietary information.

2 Please speak clearly into the microphones,  
3 and state your name for the record, for the benefit of  
4 our court reporter.

5 If you will be submitting documents that  
6 contain information you wish classified as business  
7 confidential, your request should comply with  
8 Commission Rule 201.6.

9 Mr. Secretary, are there any preliminary  
10 matters?

11 THE SECRETARY: No, Madame Chairman.

12 CHAIRMAN OKUN: Very well. Let us begin  
13 with opening remarks.

14 THE SECRETARY: Opening remarks of those in  
15 support of continuation of the order will be by David  
16 S. Christy, Jr., Thompson Hine.

17 MR. CHRISTY: Good morning, Madame Chairman  
18 and Commissioners. I am David Christy of Thompson  
19 Hine. I'm appearing today on behalf of GEO Specialty  
20 Chemicals and Chattem Chemicals, with my colleagues,  
21 David Schwartz, Bill Matthews, David Townsend, all of  
22 Thompson Hine.

23 I know that you would rather hear from the  
24 industry than from the lawyers, so I'll keep my  
25 remarks short.

1           CHAIRMAN OKUN: And if you could just bring  
2 your mic a little closer, so we can hear you better.

3           MR. CHRISTY: Okay. The domestic industry  
4 asks today that the Commission vote to continue the  
5 order. We will show that the order has benefitted the  
6 U.S. industry, and provides discipline in the market  
7 that is critical if the industry is to survive. That  
8 the data collected by the Commission staff strongly  
9 support continuing the order. And that maintaining  
10 the order will not hurt U.S. purchasers, and will, in  
11 fact, help them, both by preserving the domestic  
12 industry as an important source of supply, and  
13 permitting the industry to follow through with plans  
14 to increase its capacity.

15           A few preliminary points on which my  
16 colleagues will expand. First, we do not seek to  
17 insulate the domestic market from competition, but  
18 only to ensure that the competition is fair, and not  
19 injurious. We understand that the domestic industry  
20 cannot supply all domestic demand. Non-subject  
21 imports and imports of Chinese glycine, subject to the  
22 discipline of the order, play a necessary role in the  
23 domestic market.

24           Second. A vote to continue the order will  
25 not bar imported glycine, even Chinese glycine, from

1 the U.S. market. The order applies only to imports of  
2 Chinese glycine, which means that non-subject imports  
3 produced in Japan, Korea, and India will continue.  
4 Also, even with the order in place, subject imports  
5 from China have a significant presence in the domestic  
6 market.

7 Third. The data strongly suggest that the  
8 vast majority of the glycine imported from India is  
9 actually trans-shipped Chinese glycine. This has two  
10 negative effects on domestic producers.

11 One. It forces them to police the order.  
12 They use various legal channels, circumvention  
13 inquiries, and the like to do so. This is expensive,  
14 time-consuming, and it diverts resources from their  
15 primary jobs of manufacturing glycine and servicing  
16 customers.

17 Two. By supplying a circumvention channel  
18 for unfairly low-priced Chinese glycine, trans-  
19 shipments through India suppress and depress domestic  
20 prices. Although the domestic producers benefit from  
21 the order, the trans-shipments preclude the domestic  
22 industry from enjoying the full discipline the order  
23 otherwise would provide.

24 Also, the trans-shipments tend to push  
25 legitimate non-subject imports out of the U.S. market.



1                   Finally, the domestic producers, GEO and  
2                   Chattem, have devoted significant resources to  
3                   strengthening production capabilities and customer  
4                   service on a variety of fronts. And we'll go into  
5                   detail on these issues. The salutary effects of these  
6                   efforts is borne out by the purchasing patterns of  
7                   significant U.S. purchasers.

8                   Mr. Eckman of GEO will speak next, followed  
9                   by Mr. Kedrowski and Chattem, Mr. Mahoney of GEO, Dr.  
10                  Button and ECS, and then finally, David Schwartz of  
11                  Thompson Hine. Thank you very much.

12                  CHAIRMAN OKUN: Thank you. Now we'll  
13                  proceed with the panel's presentation.

14                  THE SECRETARY: Madame Chairman, those in  
15                  support of continuation of the anti-dumping duty order  
16                  have been seated. All witnesses have been sworn.

17                  CHAIRMAN OKUN: Please proceed.

18                  MR. ECKMAN: Good morning. I am Bill  
19                  Eckman, Executive Vice President and Chief Financial  
20                  Officer of GEO Specialty Chemicals, the largest  
21                  glycine producer in the United States.

22                  I am here to tell you that if the order is  
23                  revoked, the domestic industry will not survive the  
24                  flood of cheap Chinese glycine that will occur within  
25                  a very short period.

1           GEO purchased DOW's Deer Park facility in  
2           November 2005, the month following the conclusion of  
3           the last sunset review of this order. Since then GEO  
4           has devoted significant resources to make the domestic  
5           glycine industry viable and vibrant again, but we  
6           still require the discipline of the order to continue  
7           the industry's recovery and growth.

8           When we purchased the Deer Park facility,  
9           the domestic glycine industry faced significant market  
10          challenges. First, glycine imports were surging from  
11          China and India. We have since learned that the  
12          imports from India were primarily Chinese trans-  
13          shipments, which Jim Kedrowski of Chattem will  
14          discuss. And second, prices were so low that neither  
15          producer could recover its production costs.

16          So we began taking steps to strengthen our  
17          business. Many of these measures have intensified in  
18          the period since GEO last appeared before the  
19          Commission in November 2007. Specifically, GEO has  
20          invested significantly in the glycine unit to improve  
21          production efficiencies; implemented new procedures to  
22          assure first-rate customer service, to guarantee all  
23          needs are met in a timely and responsive manner, as my  
24          colleague Bill Mahoney will discuss; and established a  
25          plan under which we will significantly increase our

1 production capacity, if the order remains in place.

2 We continue to face a challenge from  
3 imports. In response, we have taken measures to  
4 protect the integrity of the anti-dumping order  
5 through actions at Commerce, Customs, and the  
6 Commission, to assure that only fairly traded and non-  
7 circumventing imports participate in the U.S. market.

8 The data before the Commission provide  
9 substantial support for these actions, and for our  
10 request that the order be continued. They show that  
11 the Chinese glycine industry has enormous capacity and  
12 output, yet very low capacity utilization. The  
13 Chinese producers have already taken over other  
14 markets worldwide, and are poised to take over the  
15 U.S. market if the order is revoked.

16 What happened to the sole producer in  
17 Europe, Tercinderlo, scares us, and has discouraged us  
18 from investing more than we already have in our  
19 glycine business.

20 If the order is continued, we have a strong  
21 reason to invest and continue to compete. If the  
22 order is revoked, we will be swamped by Chinese  
23 glycine, and GEO's glycine business will cease to  
24 exist within a very short time.

25 To close, look around this room. The

1 domestic industry is here pleading for its survival.  
2 Imports will continue to participate in the U.S.  
3 market with or without the order. We need the  
4 discipline of the order to allow us to compete with  
5 fairly traded and non-circumventing Chinese glycine.  
6 Please continue the order.

7 MR. KEDROWSKI: Good morning. I am Jim  
8 Kedrowski, Executive Vice President of Chattem  
9 Chemicals.

10 Since I joined Chattem Chemicals in 1997, I  
11 have been involved in all facets of glycine production  
12 and sales. I am here today to ask the Commission to  
13 continue the order.

14 It has been critical to the survival and  
15 recovery of our domestic industry. The order allows  
16 us to compete with fairly traded and non-circumventing  
17 Chinese glycine.

18 But we have been confronted during the last  
19 five years with a Chinese industry that more than  
20 tripled its production capacity, has had extremely low  
21 capacity utilization rates, even though its production  
22 has more than doubled, and has sold glycine at prices  
23 below the domestic industry's cost of production.

24 As Bill Eckman explained, the U.S. glycine  
25 market is so competitive that we are constantly

1 working to increase our efficiency, service, and  
2 supply. Since Chattem last appeared before the  
3 Commission in November 2007, we have taken specific  
4 steps to improve our operation.

5 For example, we have added two more  
6 employees to support and enhance customer service and  
7 marketing matters. We have actively sought raw  
8 material sourcing options to lower input costs and  
9 increase competitiveness. We have implemented a  
10 project to identify areas of yield loss, and implement  
11 improvements to increase yield and quality.

12 We have implemented packaging arrangements,  
13 enabling us to fill bulk IBC, to reduce packing costs.  
14 And we have obtained a HALAL certification to respond  
15 to feedback from potential customers. And we've  
16 implemented an additional purification step, or steps,  
17 to further provide the purity of product.

18 Our recovery has been hampered, however, by  
19 circumventing third-country trans-shipments of Chinese  
20 glycine. The trans-shipments have evaded duties  
21 subject to the order, and have undermined the order's  
22 integrity.

23 This is a battle I personally have been  
24 waging for more than 10 years. In 2001 I first  
25 observed trans-shipped Chinese glycine evading the

1 order. In 2004, Chattem sought format assistance from  
2 the Commerce Department to combat trans-shipments  
3 through the United Kingdom, Hungary, Korea, India, and  
4 Japan.

5 Chattem has been working alongside GEO in  
6 this effort, ever since GEO joined the industry in  
7 2005. We have achieved tangible results, but have yet  
8 to stop the trans-shipments, which continued during  
9 the review period.

10 After the 2007 anti-dumping investigation of  
11 glycine imports from India, Japan, and Korea, imports  
12 from the United Kingdom stopped cold, in no small part  
13 due to the Commission's exposure of that country as a  
14 trans-shipper of glycine. That investigation also  
15 publicized country-of-origin questions regarding  
16 glycine imports from Korea. Combined with a customs  
17 fraud investigation in 2008, the Commission's  
18 investigation appears to have brought an end to trans-  
19 shipments of Chinese glycine from Korea, as well.

20 Unfortunately, Chinese glycine found a new  
21 route to the U.S. market in 2008 and 2009: India.  
22 The rapid rise in cheap glycine imports from India  
23 triggered our anti-circumvention inquiry at Commerce  
24 in 2009 and 2010. That inquiry's public record shows  
25 that the vast majority of Indian glycine shipments to

1 the United States during the review period were either  
2 repackaged Chinese USP-grade glycine, or Chinese  
3 glycine that was further processed, but was still  
4 covered by the anti-dumping order on glycine from  
5 China.

6 Exposing Indian shippers as trans-shippers  
7 of Chinese glycine has strengthened the integrity of  
8 the anti-dumping order. Legitimate Indian producers  
9 exist, but they, too, have been negatively affected by  
10 the Chinese glycine trans-shipments.

11 Once Commerce formally acts to close the  
12 Indo route for Chinese trans-shipments, glycine from  
13 these legitimate producers can be exported. And we  
14 will be able to compete fairly with them in the U.S.  
15 market.

16 In short, we've had to play a 10-year game  
17 of Whack-A-Mole, and at a substantial cost. As soon  
18 as one country was exposed and stopped as a trans-  
19 shipper of Chinese glycine, another popped up to  
20 replace it.

21 Chinese glycine shippers and certain U.S.  
22 importers have been all too successful in identifying  
23 third countries without known glycine production  
24 facilities, or with glycine capacity willing to  
25 repackage Chinese glycine, or further purify grades of

1 Chinese glycine for shipment to the U.S. market.

2 If this order is revoked, all glycine  
3 shipments, glycine trans-shipments from these third  
4 countries will terminate, and glycine will ship  
5 directly from China in volumes large enough, and at  
6 prices low enough, to supply the entire U.S. market.  
7 Absent the discipline of the order, they will knock us  
8 out quickly.

9 Look at the EU. Tercinderlo, the lone EU  
10 glycine producer, was forced out of the market last  
11 year by the Chinese glycine onslaught. The Chinese  
12 glycine industry already had saturated all significant  
13 markets worldwide. The Chinese industry combines  
14 massive output and over-capacity with a demonstrated  
15 interest in the U.S. market. It is poised to take  
16 over the U.S. market if the order is revoked.

17 We have continued to invest in our industry,  
18 and shown that we can and will compete against Chinese  
19 imports, if they are fairly traded and non-  
20 circumventing. Please continue the order.

21 MR. MAHONEY: Good morning. I am Bill  
22 Mahoney, Marketing Manager of GEO Specialty Chemicals.  
23 I will discuss our commitment to our domestic  
24 customers, and describe what will occur in the U.S.  
25 market if the order on Chinese glycine is revoked.



1           First, the Commission should know that GEO's  
2 plan for marketplace success is straightforward and  
3 simple: produce a quality product as efficiently as  
4 possible, establish and strengthen partnerships with  
5 customers that will support distributors, and service  
6 our end users, contract with customers to sell as much  
7 of our capacity as possible, increase production  
8 capacity to better service our customers, and to  
9 maintain a price in the marketplace that supports the  
10 partnership and provides a reasonable return on our  
11 investment.

12           Glycine is a commodity product where price  
13 is king, and the market is dominated by a handful of  
14 purchasers. We recognize that we are in a very  
15 competitive marketplace. To be successful, we have  
16 reinvigorated our efforts to partner with our  
17 customers, and to give them greater confidence that we  
18 will deliver what we promised.

19           We believe that we have the best product on  
20 the market, and we are now reliably supporting and  
21 servicing our distributors and end users. I assume  
22 that Chattem feels the same way about its business.  
23 Our plants have been producing glycine for the U.S.  
24 market for nearly 30 years. We continually invest in  
25 our glycine unit to make sure that we can serve the

1 market.

2 We invest approximately \$1 million per year  
3 of capital into our plant. Recent investments include  
4 upgrades to both glycine purification equipment and  
5 the waste handling system, and enhancements to rail  
6 cars used for our raw material shipments.

7 We can compete with those offering fair  
8 prices: Chattem, the Japanese, legitimate Indian  
9 exporters, legitimate Korean exporters, Chinese  
10 exporters subject to the discipline of the order, and  
11 others. But without the discipline of the order, we  
12 can't compete with what appears to be an unlimited  
13 capacity in China, and a marketplace where prices for  
14 Chinese glycine have no bottom.

15 We have taken a number of significant  
16 initiatives to strengthen relationships with our  
17 distributors and end-user customers at all levels.

18 Since GEO last appeared before the  
19 Commission in November 2007, GEO has, for example,  
20 hired a process engineer with over 25 years of  
21 chemical industry experience. They increased  
22 manufacturing efficiencies and improved our products.  
23 Hired a business manager in charge of sales. Hired a  
24 marketing assistant intended to improve communications  
25 to glycine customers. Hired a logistics manager to

1 improve carrier service levels. Initiated biweekly  
2 teleconferences between our Deer Park facility and  
3 marketing staff to improve on-time delivery. And  
4 enhanced our customer service feedback system,  
5 including quarterly communications with customers to  
6 assess our performance.

7 We believe that we have established good  
8 working relationships in which the customers can  
9 better provide to us the information that GEO needs to  
10 meet their needs. We now have stronger procedures  
11 through which our customers can tell us what they  
12 need, and when they need it, so that we can schedule  
13 our production, manage inventory, and arrange delivery  
14 to best serve them.

15 Coordination of the partnerships is  
16 particularly critical in times of increased demand and  
17 planned periodic maintenance. We believe that GEO's  
18 efforts have paid off, and that the communications  
19 with customers are working very well.

20 We believe that the marketplace will welcome  
21 capital expenditures to increase our capacity. As the  
22 Commission knows, we plan to expand capacity, and  
23 continue to make long-term investments to upgrade our  
24 facilities if the order is continued.

25 We do fear, however, that if we don't have

1 the order to discipline imported Chinese glycine, we  
2 will not be able to accomplish these goals. Indeed,  
3 we think that we will be hard-pressed to continue  
4 production at Deer Park without the order. This is  
5 because most of our customers consider Chinese-origin  
6 glycine to be interchangeable with ours.

7 In short, most of our customers place great  
8 importance on price in their purchasing decisions.  
9 Unfortunately, unfairly low-priced Chinese glycine  
10 still is making its way into the U.S. market. In the  
11 prehearing brief we have provided the Commission with  
12 information about three import offers to sell Chinese-  
13 origin glycine in the United States at before-duty  
14 prices, significantly below GEO's costs to produce  
15 glycine.

16 Absent the order, quotes or import values at  
17 these levels would have one of two effects in the  
18 marketplace for us. We would either lose the sale, or  
19 have to reduce our price to try to maintain market  
20 share. Neither choice is sustainable. We simply  
21 cannot compete against the Chinese prices.

22 The price quote suggests what will happen if  
23 the order is revoked. Excess Chinese capacity already  
24 is coming to the U.S. market at very low prices; but  
25 due to the order, we can compete. If the order is

1       revoked, our customer base will erode, and will not be  
2       sufficient to support a viable business.

3               Chinese glycine quantities will surge, and  
4       prices will drop further. We will be forced from the  
5       glycine business rather quickly, causing an inevitable  
6       loss of jobs for our employees, many of whom have been  
7       with out plant for over 20 years.

8               The Chinese producers have the excess  
9       production capacity. They are continuing to expand  
10      that capacity, and the United States is the only  
11      market they have yet to saturate with their imports.  
12      Their track record indicates that their low pricing  
13      will depress prices throughout the market, as they did  
14      last year across Europe.

15              We, as a domestic industry, will not survive  
16      if the order is revoked. Such a decision will lead to  
17      the irreversible loss of another domestic industry.

18              MR. BUTTON: Good morning. I am Kenneth  
19      Button, Senior Vice President of Economic Consulting  
20      Services, LLC. Accompanying me is my ECS colleague,  
21      Jim Dougan. During my testimony I will be addressing  
22      the following. The relevant conditions of competition  
23      in the U.S. and global glycine markets, the volume and  
24      price effects that would arise if the current anti-  
25      dumping order on Chinese glycine is revoked, and the

1 impact that these volume and price effects would have  
2 on the U.S. glycine industry.

3 The Commission should consider a number of  
4 significant conditions of competition in the U.S.  
5 glycine market. First I will begin with the demand  
6 conditions.

7 First. Since the prior investigations,  
8 there have been no significant changes in the various  
9 end uses for glycine in the U.S. market.

10 Second. Glycine is an intermediate product  
11 with no significant substitutes. Importers and  
12 purchasers are virtually unanimous in agreement on  
13 this point. Moreover, in most end uses in the United  
14 States market, glycine accounts for a small proportion  
15 of the total cost of producing the downstream product.  
16 Thus, demand for glycine is relatively inelastic as to  
17 price. Therefore, changes in price are unlikely to  
18 affect significantly the quantity of glycine demanded.

19 Third. Glycine purchasers in the U.S.  
20 market tend to be concentrated among a few purchasing  
21 companies, which places a substantial amount of  
22 bargaining power in the hands of these purchasers.

23 Fourth. Glycine is a commodity product, and  
24 virtually all parties agree that U.S. and Chinese  
25 glycine are highly substitutable.

1           Fifth. Given the high substitutability of  
2 U.S. and Chinese glycine, price is an extremely  
3 important factor in purchasing decisions. Price is  
4 one of the top three factors that U.S. purchasers  
5 consider when choosing a supplier of glycine.

6           As one purchaser summarized it, "Section of  
7 the producer is solely based on a bidding process,  
8 where the lowest-cost producer is awarded the  
9 business."

10           Together, these demand characteristics  
11 indicate that an additional supply of low-priced  
12 Chinese glycine following the revocation of the order  
13 would, one, decrease U.S. prices of glycine, and two,  
14 displace domestic producers' sales volumes.

15           Although the apparent U.S. consumption  
16 figures are confidential, the magnitude of the  
17 increase in total U.S. consumption in 2008, as  
18 indicated in the prehearing report, is surprising.  
19 Because no specific business developments appear to  
20 account for this increase in apparent demand, we  
21 believe that the figure should be viewed with caution.

22           Moreover, there is specific purchaser-  
23 questionnaire information which raises concern about  
24 these apparent consumption data.

25           With respect to supply considerations, the

1 U.S. glycine market is supplied from four sources:  
2 domestic producers, fairly traded non-subject imports,  
3 circumventing Chinese glycine trans-shipped through  
4 other countries, and subject material imported  
5 directly from China.

6 The U.S. producers' plant and equipment  
7 employed to produce glycine is not used to produce  
8 other products; and, because of their technical  
9 characteristics, cannot produce other products if  
10 glycine production becomes uneconomic.

11 The combined production of GEO and Chattem  
12 can satisfy a major portion of U.S. consumption, but  
13 not all of it. Additional supply must come from  
14 import sources. Non-subject producers in Japan,  
15 Korea, and India are capable of supplying glycine to  
16 the U.S. market. However, a substantial portion of  
17 the current U.S. import volume from India is Chinese  
18 glycine trans-shipped to circumvent the anti-dumping  
19 order.

20 The volume of excess Chinese glycine  
21 production capacity is staggering. An independent  
22 research report provided to the Commission indicates  
23 that in 2010, China had the capacity to produce 1.3  
24 billion pounds of glycine, while Chinese domestic  
25 consumption of glycine was merely 422 million pounds,



1 and China's exports were approximately 34 million  
2 pounds. China's excess glycine capacity thus was 855  
3 million pounds. This excess capacity is 68 percent of  
4 China's total capacity, and is many multiples of total  
5 U.S. consumption.

6           Moreover, Chinese glycine production  
7 capacity has more than tripled from 2005 to 2010, to a  
8 level far greater than during the second sunset review  
9 period. Chinese demand is so much smaller than  
10 Chinese capacity that the excess capacity gap is  
11 likely to remain large for the foreseeable future.

12           Like the U.S. industry, China's industry  
13 produces all grades of glycine, which are chemically  
14 equivalent, and differ only as to purity. Even the  
15 Chinese capacity for just its higher purity grades,  
16 which include USP, is many times larger than U.S.  
17 production or consumption of all grades of glycine.

18           A critical condition of competition with  
19 respect to supply is the prominent and injurious role  
20 that circumventing Chinese glycine trans-shipped  
21 through India plays in the U.S. market. The official  
22 Census Bureau statistics for U.S. imports from glycine  
23 appear to understate the actual volume of glycine  
24 physically originating in China that enters the United  
25 States, because they do not incorporate Chinese

1 glycine trans-shipped through India.

2           For the Commission's use during our  
3 testimony, we have provided a confidential exhibit,  
4 based on Exhibit 4 in the prehearing brief. The  
5 confidential exhibit provides a specific estimate of  
6 the trans-shipment volumes, and a recalculated U.S.  
7 apparent consumption table, that, one, identifies  
8 these trans-shippments separately; and two, provides  
9 calculations of the actual levels of total subject  
10 imports -- that is, Chinese-origin glycine either  
11 exported directly from China or trans-shipped through  
12 India -- and actual non-subject imports -- that is,  
13 glycine imported from all other sources, including  
14 glycine from India that is not trans-shipped Chinese-  
15 origin glycine.

16           The exhibit conveys two messages. The first  
17 is that the U.S. market remains so important to  
18 Chinese glycine producers that they resort to trans-  
19 shipping their glycine through India in order to gain  
20 access to the U.S. market.

21           The second is that, while the commercial  
22 presence of glycine imported directly from China gives  
23 the appearance of having declined over the review  
24 period, the expansion of the trans-shipment import  
25 volumes have been so great that the combined total of

1 Chinese presence in the U.S. market has remained very  
2 substantial. Trans-shipments of Chinese glycine  
3 through India have become a primary channel for the  
4 Chinese producers to gain access to the U.S. market.

5 The Census Bureau import statistics in the  
6 staff report give a similar misimpression that imports  
7 of glycine actually produced in non-subject countries,  
8 like India, increased very substantially over the  
9 review period. But, as the adjusted apparent  
10 consumption data in the confidential exhibit show,  
11 real non-subject imports have been a relatively  
12 steady, non-injurious presence in the U.S. market.

13 I should note that a significant development  
14 affecting real subject import supply globally was the  
15 2010 withdrawal from the global glycine market of the  
16 Tercinderlo Group, the only European glycine producer.  
17 Tercinderlo itself indicates that it left the market  
18 due, in significant measure, to import competition  
19 from China in the European market.

20 Witnesses from GEO and Chattem have  
21 described the various steps that have been taken  
22 during the last three years to increase their ability  
23 to serve their U.S. customers with consistent,  
24 predictable supplies of glycine. These steps were a  
25 response to the supply situations that developed in

1 2007 and 2008, when increases in global and U.S.  
2 demand coincided with short-term constraints on U.S.  
3 production.

4           Outside the United States there was a  
5 temporary reduction in global supply in 2008, when the  
6 Chinese Government forced Chinese glycine producers to  
7 shut down for part of the year to reduce air pollution  
8 in advance of the 2008 Beijing Olympics. This  
9 resulted in an unexpected and unlikely-to-be-repeated  
10 drop in Chinese glycine export volume that created a  
11 temporary tightness in global supply.

12           However, as you have heard, any supply  
13 tightness that the U.S. glycine purchasers reported in  
14 2008 cannot be attributed to any failure by the U.S.  
15 industry. While there was tightness in supply in 2008  
16 caused by the shutdown of the Chinese production, U.S.  
17 producers maximized output in 2008, operating at an  
18 extremely high level of past utilization, and  
19 increasing shipments by a substantial amount.

20           In short, the domestic industry did  
21 everything technically possible to satisfy the short-  
22 term increase in demand.

23           You have also heard GEO and Chattem describe  
24 how they believe that they have been successful in  
25 meeting their delivery commitments to their customers

1 during the last three years. I would note that one  
2 purchaser stated in its questionnaire, "Since 2009,  
3 GEO improved lead times, and pricing improved."

4 Another purchaser stated, "Our customers  
5 prefer GEO Specialty Chemical-produced glycine because  
6 of prompt delivery."

7 Revocation of the order is likely to lead to  
8 a very significant increase in the volume of subject  
9 imports from China, for the following reasons.

10 First. As noted, China has massive glycine  
11 production capacity.

12 Second. The Chinese capacity has grown  
13 rapidly; it tripled over the review period.

14 Third. Approximately two thirds of this  
15 Chinese capacity is excess capacity.

16 Fourth. In absolute terms, volume of excess  
17 Chinese glycine capacity is manyfold greater than  
18 total apparent U.S. consumption. Moreover, even the  
19 volume of the excess Chinese capacity to make just the  
20 high-purity glycine is also a significant multiple of  
21 total apparent U.S. consumption.

22 Fifth. There is no information suggesting  
23 that Chinese domestic demand will increase  
24 sufficiently in the foreseeable future to absorb such  
25 excess capacity.

1           Sixth. Trans-shipment of Chinese glycine  
2 through India to the United States is an indication  
3 that the U.S. market remains a high-priority export  
4 destination for the Chinese glycine industry. IF the  
5 order is revoked, the Chinese producers would no  
6 longer need to trans-ship through India, and would, no  
7 doubt, export directly to the United States.

8           We estimate that at least four million  
9 pounds of Chinese glycine enters the United States as  
10 trans-shipments through India in 2010. This volume is  
11 four times the volume of direct imports from China in  
12 2010. Therefore, there is clearly a high probability  
13 that there would be a very large increase of at least  
14 four million pounds in direct imports of glycine from  
15 China if the order were revoked.

16           Seventh. The U.S. market remains the last  
17 major world market for glycine the Chinese producers  
18 have not yet saturated.

19           Eighth. U.S. consumers are clearly willing  
20 to purchase Chinese glycine, both as direct exports  
21 from China and as Chinese product trans-shipped  
22 through India.

23           Finally, the current U.S. importers of  
24 glycine have themselves stated, in their questionnaire  
25 responses, that they believe that revocation will

1 result in an increased volume of imports from China,  
2 as indicated by the exemplary quotes shown in Slides  
3 15 and 16.

4 The first quote reads, "We currently buy  
5 from the U.S. producer because of the anti-dumping  
6 order. Before the order, we were an importer; now we  
7 buy from the U.S. If the duties are removed, we will  
8 immediately begin importing material directly from  
9 China."

10 In the remaining quotes, which I won't read,  
11 the message is the same: The volume of imports from  
12 China will increase.

13 Revocation of the order is also likely to  
14 have price effects that would harm the U.S. producers.  
15 First. In the original investigation, the Chinese  
16 subject imports undersold the U.S. producers in 72  
17 percent of the quarterly comparisons.

18 Second. During this sunset review, even  
19 with the order in place, direct imports from China  
20 undersold the U.S. producers in more than half of the  
21 quarterly price comparisons.

22 Third. The domestic industry's prehearing  
23 brief provides recent price quotes for imported  
24 Chinese glycine, which indicates the very low levels  
25 at which the Chinese direct imports are available.

1           Fourth. The Commerce Department determined  
2 that termination of the order would likely lead to  
3 continuation or recurrence of dumping at a margin of  
4 155.89 percent.

5           Fifth. Given the high degree of  
6 substitutability between U.S. and Chinese glycine, new  
7 flows of low-priced Chinese glycine likely would have  
8 a depressing effect on U.S. producer prices.

9           And sixth. Trans-shipments of Chinese  
10 glycine through India have themselves been exerting a  
11 negative impact on U.S. prices.

12           And seventh. The current importers and  
13 purchasers of glycine have stated that they believe  
14 that revocation of the order will result in  
15 significant price effects, as indicated by the  
16 exemplary quotes shown in Slides 19 and 20.

17           The first quote reads, "We will probably buy  
18 more Chinese material because they will be lower in  
19 price."

20           The second quote reads, "I would expect  
21 price reduction due to increased availability of  
22 Chinese material in the U.S. market."

23           In the remaining quotes, the message is the  
24 same: Price would be expected to fall.

25           Given the concentration of glycine purchases



1 among a few U.S. purchasers, such comments bode poorly  
2 for the domestic producer prices if the order is  
3 revoked. Considering the volume and price effects  
4 that would likely follow a revocation of the order,  
5 and considering as well the demand and supply  
6 conditions of competition described earlier, it is  
7 probable that the revocation of the order will result  
8 in a significant adverse impact on the domestic  
9 industry. The logic is straightforward.

10 Increased imports of low-priced, technically  
11 comparable Chinese glycine would be very attractive to  
12 U.S. purchasers, as their cited quotes clearly  
13 indicate. The U.S. producers would either lose sales  
14 volume directly, or be forced to cut prices to  
15 maintain their customers.

16 The lower volume of shipments would result  
17 in reduced production volume and reduced rates of  
18 capacity utilization. Per-unit production costs would  
19 increase, which, in conjunction with reduced prices,  
20 would reduce or eliminate profit margins.

21 Considering the massive size of the Chinese  
22 excess capacity which would be directed to the U.S.  
23 market, and the historical willingness of the Chinese  
24 producers to sell their direct exports and their  
25 trans-shipped exports into the U.S. market at low

1 prices, revocation of the order would likely force the  
2 cessation of production of glycine within a reasonably  
3 foreseeable period.

4           Given that the U.S. glycine facilities  
5 cannot make other products, the jobs associated with  
6 glycine manufacture would ultimately be lost. The  
7 excess capacity of the Chinese industry and the  
8 various conditions of competition in the U.S. market  
9 make the U.S. producers highly vulnerable to this  
10 unfortunate scenario. Thank you.

11           MR. SCHWARTZ: Good morning. I am David  
12 Schwartz of Thompson Hine, LLP. I'll be discussing  
13 why the market data and events of this review period  
14 support continuation of the order.

15           To understand the current state of the  
16 domestic glycine market and what will happen if the  
17 order is revoked, it's helpful to briefly consider the  
18 history of the order.

19           In March 1995, the order was issued, based  
20 on the Commission's affirmative determination. A  
21 rapid surge in 1993 and 1994 of imports of Chinese  
22 glycine led to the Commission's decision.

23           During the 1995-2000 period, imports of  
24 Chinese glycine slowed considerably. During the 2001-  
25 2004 period, imports of Chinese glycine returned in

1 significant volumes, after Commerce lowered the anti-  
2 dumping margin rate of a new shipper, Nantung, in  
3 2001.

4 During the 2005-2009 period, Baoding joined  
5 Nantung as a presence in the U.S. market after  
6 Commerce lowered Baoding's anti-dumping margin rate in  
7 late 2005.

8 During the 2006-2008 period, these two  
9 Chinese shippers contributed to a significant increase  
10 in imports of Chinese glycine in the U.S. market, at  
11 prices still much higher than if there had been no  
12 order.

13 In late 2008, however, Baoding's dumping  
14 margin rate rose to 52 percent, and Nantung's to 156  
15 percent. This contributed to a significant decrease  
16 in imports of Chinese glycine.

17 In late 2009, Commerce lowered Baoding's  
18 margin to 37 percent. This led to an increase in U.S.  
19 imports of Chinese glycine in 2010 and 2011.

20 Taken together, these facts indicate that,  
21 one, the Chinese producers remain intensely interested  
22 in exporting to the U.S. market; and two, the anti-  
23 dumping order is still placing a very important  
24 discipline on the pricing behavior of these Chinese  
25 shippers.

1 Overall, in the 1995 original investigation,  
2 the 2000 sunset review, and the 2005 sunset review,  
3 the Commission found each time that, absent the order,  
4 import volumes of Chinese glycine into the United  
5 States would likely increase significantly because of  
6 under-utilized Chinese capacity and expressed Chinese  
7 interest in the market, imports of Chinese glycine  
8 would enter the U.S. market at prices that would  
9 depress or suppress prices significantly because of  
10 its substitutability with domestic glycine, and import  
11 volumes of low-priced Chinese glycine into the United  
12 States would have a significant adverse impact on the  
13 domestic industry by triggering a steep decline in the  
14 industry's financial performance.

15 This historical snapshot of the anti-dumping  
16 order also shows how the factors supporting the  
17 Commission's findings in the original investigation,  
18 and in the prior sunset reviews, still exist today.  
19 Without the discipline of the order, a surge of  
20 extremely low-price glycine imports from China will  
21 take market share away from the domestic industry,  
22 causing a steep decline in the domestic industry's  
23 financial performance.

24 As you just heard, the industry is convinced  
25 that revocation will lead to its demise.

1           What this snapshot doesn't show is how the  
2           significant changes in the glycine industry since the  
3           last review also support continuation of the order.

4           Since the last review, China's production  
5           capacity has more than tripled. Its output has more  
6           than doubled. And yet, its capacity utilization has  
7           remained exceedingly low, at 33 percent for 2010.

8           Relevant glycine markets outside of the  
9           United States are already feeling the impact of this  
10          massive buildup and output of Chinese glycine.

11          In 2009 and 2010, cheap Chinese glycine  
12          effectively knocked out the only producer in the EU  
13          market: Tercinderlo. Chinese glycine has now taken  
14          over that market.

15          During this review period, according to an  
16          independent market research report the domestic  
17          industry provided to the Commission, China established  
18          itself as a significant presence in all other major  
19          glycine-consuming markets: Japan, Korea, Thailand,  
20          and India. Markets that do not have trade remedy  
21          measures in place to discipline imports of Chinese  
22          glycine.

23          With its remaining unused capacity, China  
24          could easily supply the U.S. market many times over,  
25          but for the discipline of this anti-dumping order.

1 The order serves as the domestic industry's life  
2 preserver in a world flooded with Chinese glycine.

3 The domestic industry isn't the only party  
4 telling this story to the Commission. The Commission  
5 has already heard from a number of purchasers and  
6 importers who, as reported by the public version of  
7 the staff report, expect cheap Chinese glycine to  
8 replace U.S. glycine if the order is revoked.

9 Moreover, we have already seen trans-  
10 shipments of cheap Chinese glycine from third  
11 countries, especially India, skyrocket during this  
12 review period, brazenly circumventing the order. Mr.  
13 Kedrowski of Chattem raised this problem at the last  
14 sunset review, and with Commerce in 2004.

15 The problems became so serious and so  
16 pervasive during this particular review period that  
17 the domestic industry was compelled to file customs  
18 fraud allegations with Customs and request initiation  
19 of an anti-circumvention inquiry at Commerce. All of  
20 these actions have helped to protect the integrity of  
21 the order.

22 Finally, one of the most significant events  
23 to occur during this past review period has been GEO's  
24 purchase of DOW's glycine unit in November 2005.  
25 GEO's presence now as the largest U.S. producer has

1 energized the industry.

2           You have heard today about the time and  
3 resources the domestic industry has devoted to  
4 strengthen production, customer service, and the  
5 discipline of the anti-dumping order. Since November  
6 2005, GEO and Chattem have materially improved  
7 marketplace conditions for the domestic industry and  
8 domestic customers. Both GEO and Chattem are  
9 continuing to focus on further improvements.

10           That work can only be done, however, with an  
11 order in place to discipline the massive volumes of  
12 cheap Chinese glycine ready to enter the U.S. market.  
13 Without the order, the evidence indicates that the  
14 domestic industry will not survive the onslaught of  
15 Chinese glycine following revocation.

16           We ask the Commission to continue the order.  
17 And we're happy to answer questions at this time.  
18 Would you please reserve the rest of our time for  
19 rebuttal?

20           CHAIRMAN OKUN: Thank you. The rest of your  
21 time will be reserved for rebuttal. And before we  
22 begin our questioning this morning, I would like to  
23 take this opportunity to thank this panel of  
24 witnesses, in particular those from the industry, who  
25 have taken the time from your daily jobs to travel to

1 Washington to answer our questions and help us better  
2 understand the state of the industry.

3 And we will begin our questions this morning  
4 with Commissioner Pearson.

5 COMMISSIONER PEARSON: Thank you, Madame  
6 Chairman. I also would extend my welcome to all  
7 witnesses.

8 This morning we have heard a number of  
9 statements regarding the vulnerability of the domestic  
10 industry if the order should be revoked. You know,  
11 predictions of its imminent demise.

12 Permit me to go back to the transcript from  
13 the November 2007 hearing and offer a quote, this one  
14 from Mr. Eckman. "Unfortunately, if anti-dumping  
15 duties are not imposed, GEO would return to an  
16 environment where it's impossible to sell at a profit.  
17 Rather than talking about expanding capacity, we will  
18 be talking again about whether glycine can be a viable  
19 business. If that becomes the topic, more is at stake  
20 than just glycine production jobs; the entire Deer  
21 Park plant would be in jeopardy, risking the jobs of  
22 approximately 70 employees and contractors."

23 Separately, Mr. Schwartz, at that statement,  
24 at that hearing, stated, "This investigation and its  
25 provisional measures so far have offered a glimpse of



1       how the domestic industry can improve if imports from  
2       India, Japan, and Korea are no longer offered at  
3       dumped prices. Without this relief, however, the  
4       domestic industry will not survive."

5               From the confidential staff report that I  
6       know some of you can't see, we observe that since the  
7       Commission made the decision not to impose an order on  
8       India, Korea, and Japan, that the domestic industry  
9       has had an extraordinarily successful time  
10      financially, earning what could be described, without  
11      mentioning any specific numbers, as a really big pile  
12      of money.

13              So tell me, what should I make of this? If  
14      I was to infer causation here, it would almost suggest  
15      that we should not extend this order on China, because  
16      we didn't do what you asked last time and it turned  
17      out really well for you. Any comments on that? Mr.  
18      Schwartz.

19              MR. SCHWARTZ: Since I was mentioned, I'll  
20      start, and then I'll likely hand it off to our  
21      economist, Mr. Button.

22              We are looking forward, as I think is the  
23      requirement under the sunset review. And what we know  
24      to be the case now is during this last review period,  
25      the last five years, actually the last three years,

1 Chinese glycine capacity has more than tripled. Their  
2 production has more than doubled, and their capacity  
3 utilization still remains incredibly low, at 33  
4 percent for the past year.

5 What we also known is that the Chinese  
6 before duties are offering prices well below our cost  
7 of production. In fact, we reference three price  
8 quotes that we provide in our prehearing brief. But  
9 at the time we filed that prehearing brief, we found  
10 out something even more alarming; that the largest  
11 glycine producer in China, Hebei Donghua, is offering  
12 glycine at 91 cents per pound.

13 If the order were revoked, there is no way  
14 we could compete, going forward.

15 COMMISSIONER PEARSON: Okay. But you have  
16 made arguments that the order is effectively being  
17 undermined now, due to the substantial, allegations of  
18 substantial trans-shipment through India. So is there  
19 going to be some huge change in the pricing of the  
20 product from China trans-shipped through India, if it  
21 no longer has to be trans-shipped? I mean, isn't  
22 there meaningful price competition out there in the  
23 market now?

24 MR. SCHWARTZ: If I understand your question  
25 correctly, you are suggesting that we're still

1 experiencing difficulty with Indian trans-shipments.

2 I would posit that in the evidence that we  
3 provided from the public record of the anti-  
4 circumvention inquiry, we've actually been very  
5 successful in seeing it change, just during the course  
6 of this inquiry, the anti-circumvention inquiry, of a  
7 reduction, a significant reduction, in Indian trans-  
8 shipments.

9 COMMISSIONER PEARSON: Okay. Mr. Eckman,  
10 did you have observations? I mean, you understand  
11 it's not every hearing where we have people come in  
12 front of us, and there's kind of a sense that there  
13 might be crying wolf going on here.

14 MR. ECKMAN: Yes, I understand. And in our  
15 testimony, I believe we referenced that the impact of  
16 the JIK case did have an effect of reducing imports  
17 from Korea, trans-shipped imports from Korea. It did  
18 create some uncertainty in the market.

19 What the industry did not anticipate at that  
20 time was the fact that the glycine would overall  
21 become short because of the shutdown in China of the  
22 glycine industry prior to the 2008 Olympics.

23 You will notice that our, the change from  
24 2008 to 2009 was very good for the industry. All the  
25 contracts for the 2009 period were set in the third

1 quarter of 2008, when glycine was short, so there was  
2 sort of a unique advantageous point there. That  
3 reversed itself in 2010. And I would say that the  
4 profitability of the industry dropped dramatically in  
5 2010 because of that price increase, as well as I  
6 believe imports increased.

7 Then in 2011, with the anti-circumvention,  
8 there has been another change, where the industry is  
9 getting back on its feet now, after taking a very  
10 strong hit in 2009, or 2010. Going from 2009 to 2010  
11 we took a very strong hit.

12 So there were some, I guess at the time of  
13 our, last November of 2007. To me, the major thing  
14 was the shutdown of Chinese glycine for a period in  
15 advance of the Olympics that we didn't, I don't think  
16 anybody anticipated.

17 COMMISSIONER PEARSON: Right. And no one  
18 has a crystal ball. So when we're projecting  
19 forward --

20 MR. ECKMAN: And had things continued as  
21 they were in 2007, we would have been as we were in  
22 2009. Or 2010, I'm sorry.

23 COMMISSIONER PEARSON: Okay.

24 MR. ECKMAN: As we were last year. That  
25 would have been the, the anomaly was the year 2009.

1                   COMMISSIONER PEARSON: Okay. Well, let me -  
2                   - oh, Mr. Button.

3                   MR. BUTTON: Thank you, Commissioner  
4                   Pearson. I wasn't here in the 2007 proceeding, but  
5                   the focus of my testimony here today has to do with  
6                   what I understand is the question for this sunset  
7                   review, is what would happen if, in the future. And  
8                   that after that specific question, there are a couple  
9                   of fundamental pieces of the economics.

10                   You know, what would happen on the export  
11                   side from China, and what would happen on the import  
12                   side from the U.S. purchasers, and then what would  
13                   that mean for the domestic industry.

14                   And I think the basics have shown that the  
15                   Chinese have major excess capacity that we have  
16                   described as rather staggering amounts.

17                   Do the Chinese producers view the U.S.  
18                   market as a continuing high priority? Well, they do,  
19                   indeed, and the trans-shipments through India I  
20                   believe are an exquisite indication of that. And that  
21                   the, you know, there has been certainly some reason  
22                   for concern about India.

23                   So that volume would likely come here.  
24                   Would the U.S. consumers welcome it? Yes, they would.  
25                   They would look forward to having it. Would it have

1 an effect on the price and the volume of such, you  
2 know, the volume of imports and the prices, the volume  
3 of U.S. sales? Yes, I think that's all clear.

4 When we talk about the order of magnitude of  
5 the volumes that could come in, and the prices at  
6 which they would sell, I think there is clear evidence  
7 that there will be great displacement of the U.S.  
8 producers, and cut their prices.

9 So as a forward-looking issue, I believe  
10 there's very strong economics that there would be a  
11 recurrence of injury without the order.

12 COMMISSIONER PEARSON: Okay, thank you.  
13 Madame Chairman, my yellow light is on, so I will pass  
14 there. Thank you.

15 CHAIRMAN OKUN: Commissioner Aranoff.

16 COMMISSIONER ARANOFF: Thank you, Madame  
17 Chairman. I want to join my colleagues in welcoming  
18 you all to the Commission this morning.

19 In the investigation of glycine from Japan,  
20 Korea, and India back in 2007 and 2008, the Commission  
21 was able to document numerous instances where GEO, or  
22 principally its predecessor, was not able to supply  
23 needed, and even contracted-for, product volume to its  
24 customers in a timely fashion.

25 Can you tell us what the reliability of

1 supply from GEO or from the domestic industry as a  
2 whole has been between 2008 and the present?

3 MR. SCHWARTZ: Before I have the  
4 representatives from the industry speak on that issue,  
5 I just want to I guess frame the discussion by saying  
6 that we learned a lot from that 2007 proceeding. And  
7 I think one of the major lessons we learned was we  
8 needed to rededicate ourselves to that very issue that  
9 you're addressing in that question.

10 Much time and resources have been spent in  
11 the last few years to make sure that we provide first-  
12 rate service and supply and availability.

13 I also I guess would like to make a point at  
14 this time of distinguishing for everyone here that  
15 when we talk about customers, I think throughout our  
16 discussion here, we're going to be talking about  
17 contract customers and non-contract spot customers.

18 These businesses cannot survive without  
19 having a solid base of contract customers. And I  
20 think that there is going to be a certain level of  
21 clarity that is going to be provided today from the  
22 industry, that will explain to you what they do for  
23 their contract customers, and what they do for non-  
24 contract spot customers.

25 COMMISSIONER ARANOFF: Okay. And as you

1 answer, I guess I would say I did, of course, hear  
2 your testimony about 2008 and what was going on in  
3 China, so you don't need to repeat that part.

4 MR. SCHWARTZ: Bill Mahoney?

5 MR. MAHONEY: Thank you for the question.  
6 As I testified, and as David has clarified, our goal  
7 is to sell out our plant; is to have contract  
8 customers equaling our plant capacity. And that's how  
9 we've been behaving, and we provide service to our  
10 contract customers, with all the lists that I have  
11 shown, that I offered earlier. That we've hired  
12 additional people, we have additional teleconferences,  
13 we are working to maintain a delivery that satisfies  
14 our customer, our contracted customer base.

15 As David alluded to the non-contract  
16 customers, we try to fill up our plant after we've  
17 serviced our contracted customers. So the service  
18 level is not the same as we're filling out our plant,  
19 after we've already provided material and scheduled  
20 material for our contracted customers.

21 COMMISSIONER ARANOFF: Okay. That leaves  
22 the question of what happens if a contracted customer  
23 wants more volume than what they were able to project  
24 to you in advance.

25 MR. MAHONEY: Obviously, they come first.



1 We've been clear. We have a constant communication  
2 system now with our customers. We've made it clear to  
3 our contract customers that we plan our production on  
4 a monthly basis, so that we outreach to our customers  
5 well before we're doing our monthly planning.

6 We get information from them. Obviously,  
7 their demands do change, and we accommodate our  
8 contract customers as best as we can within that  
9 month.

10 COMMISSIONER ARANOFF: And do you keep  
11 timeliness statistics in the normal course of  
12 business? That you would be able to supply to us?

13 MR. MAHONEY: Yes, we do.

14 COMMISSIONER ARANOFF: Okay, I think that  
15 would be helpful to see. Mr. Button, did you want to  
16 add something?

17 MR. BUTTON: Commissioner, I guess a sense  
18 that the industry would like to convey is there was a,  
19 that was then and this is now; that there has been a  
20 change. That being here with you in 2007, and hearing  
21 perspectives that they didn't necessarily hear from  
22 their customers at that time, the industry has done a  
23 lot, from its point of view, to improve  
24 communications, customer relations, partnerships, and  
25 timeliness of delivery. And they believe that they

1 have been successful in that, and they believe their  
2 customers, a number of them, have responded in terms  
3 of new contracts with them, and some of the comments  
4 that we've quoted here today.

5 I think there's a sense here that, you know,  
6 they got the message. And that they are now providing  
7 very reliably. And that, as noted, there is no  
8 pretense that they can fill the entirety of U.S.  
9 consumption. But what they can do is provide  
10 everything that they can. And if they've got a  
11 contract, they sure as heck better fulfill that  
12 contract.

13 And I know from the purchaser  
14 questionnaires, the confidential data, there were some  
15 suggestions that, I know in one particular case, that  
16 they might not have done it. Where I think the facts  
17 actually showed that they did. And we'll certainly  
18 address those in the post-hearing brief.

19 COMMISSIONER ARANOFF: Okay. Yes, in  
20 particular I was going to ask if you could address,  
21 there were some purchasers who reported domestic  
22 supply constraints in 2011.

23 MR. BUTTON: That one specifically we have a  
24 story about, that we can tell you about.

25 COMMISSIONER ARANOFF: Okay. At the current

1 time, do most large U.S. purchasers purchase glycine  
2 from a single supplier? Or do they tend to split  
3 their purchases between multiple suppliers?

4 MR. MAHONEY: It is our belief that the  
5 majority of the large customers do split their  
6 purchases across multiple suppliers.

7 COMMISSIONER ARANOFF: So when you get a  
8 contract, is that for a specific volume? Or a percent  
9 of requirements? Or how would that work?

10 MR. MAHONEY: Both of your examples are  
11 correct. It varies by customer, and some contracts in  
12 fact mention both the volume and the percent.

13 COMMISSIONER ARANOFF: Is there a range of  
14 patterns? Do purchasers tend to split their purchases  
15 evenly between two suppliers? Do they have a dominant  
16 supplier and a backup supplier? What's your  
17 experience in that regard?

18 MR. MAHONEY: I think of the two of the  
19 majors, one tends to assign suppliers by plants, so  
20 that they have multiple locations. And one single  
21 supplier will supply one location, and another  
22 supplier will supply a different location.

23 And then the second major customer, it is a  
24 share award, so we are expected to supply X percent of  
25 their annual demand.

1                   COMMISSIONER ARANOFF: Mr. Kedrowski, I know  
2 that your company has a somewhat different customer  
3 base. Is it your experience as well, that customers  
4 tend to split their purchases between multiple  
5 suppliers? Or do smaller customers act differently?

6                   MR. KEDROWSKI: Commissioner, I don't think  
7 you can use the differentiation of just smaller. It  
8 might be a specific industry. If we're serving a  
9 particular industry that has to have complete control  
10 over their raw material supply, then there's some  
11 times where they do go completely with us, or with  
12 somebody else.

13                   So it really is an individual customer  
14 decision. I can share with you at the moment now, and  
15 back into 2010 and into 2009, we're operating at less  
16 than half of our capacity. Because we can't get  
17 enough customers. And we tried hard.

18                   COMMISSIONER ARANOFF: Okay. Are purchasers  
19 of USP or pharmaceutical-grade glycine concerned about  
20 the safety of the Chinese product? Have there been  
21 any reports of quality or safety problems associated  
22 with Chinese glycine?

23                   MR. MAHONEY: Again, Commissioner, that  
24 varies by customer, so that yes, there are some  
25 comments that they are concerned about material, but

1 usually within one spec. The material is viewed as  
2 interchangeable. So once a supplier is qualified,  
3 then the material is considered interchangeable.

4 COMMISSIONER ARANOFF: Okay. And I know  
5 that in the market there is both, you know, instances  
6 with certain Chinese products where there is actual  
7 evidence of safety problems, and then there's a  
8 broader perception about ingredients, particularly  
9 ingredients that go into food.

10 So as I understand your testimony, it's that  
11 with respect to the actual safety of the product,  
12 there's no reported concern. And any perception  
13 that's out there, you don't see that affecting  
14 purchasing patterns at all, with any of your  
15 customers?

16 MR. MAHONEY: That is correct.

17 COMMISSIONER ARANOFF: Mr. Kedrowski, would  
18 you agree with that?

19 MR. KEDROWSKI: In fairness, Commissioner, I  
20 think there is a very small percentage where that is a  
21 factor, but they typically buy very small volumes, and  
22 have very specific parental uses for the product. And  
23 they're looking for other guarantees of the entire  
24 process.

25 COMMISSIONER ARANOFF: Okay. All right.

1 Well, I appreciate those answers, and my time is up,  
2 so thank you.

3 CHAIRMAN OKUN: Commissioner Pinkert.

4 COMMISSIONER PINKERT: Thank you, Madame  
5 Chairman. And I thank all of you for being here today  
6 to help us understand what's likely to happen in this  
7 industry in the event of revocation.

8 I want to begin with a series of questions  
9 about, well, they're related directly or indirectly to  
10 whether or not the order has been effective thus far.  
11 And I want to begin with the change in Chinese market  
12 share in the United States from 2009 to 2010.

13 Assuming that China prefers to funnel  
14 subject goods through non-subject countries, what  
15 accounts for the change in market share for the  
16 Chinese imports from 2009 to 2010?

17 MR. BUTTON: Commissioner, one of the  
18 impacts from 2009 to 2010, at least the industry  
19 believes, has arisen because of shall we say the  
20 vigorous pursuit of the anti-circumvention effort. To  
21 the extent that the circumvention through India is  
22 starting to be constrained, that option is reduced, so  
23 greater volumes are then shipped directly to the  
24 United States. And the foreign producers are forced  
25 to go ahead and face the discipline of the order with

1 respect to pricing.

2 COMMISSIONER PINKERT: Thank you. I'm just  
3 wondering, from the company witnesses, we also saw a  
4 movement from 2009 to 2010 in non-subject import  
5 market share in the United States.

6 So just from the perspective of the  
7 marketplace, what accounts for the movement, both in  
8 the Chinese market share from 2009 to 2010, and in the  
9 non-subject market share?

10 MR. MAHONEY: As I mentioned in a previous  
11 question, major suppliers do tend to have multiple --  
12 I'm sorry. Major customers, consumers of glycine, do  
13 tend to have multiple suppliers of glycine. And they  
14 award shares to different suppliers from outside of  
15 the United States.

16 And it's my understanding that awards have  
17 been made, changing from year to year, to different  
18 countries.

19 COMMISSIONER PINKERT: Mr. Button.

20 MR. BUTTON: Commissioner, thank you. I  
21 believe I misstated a moment ago, when I talked about  
22 that the trend there. I was thinking of a different  
23 year. And from 2009 to 2010, what we saw is  
24 substantial increase, in fact, in the circumvention  
25 through the trans-shipments. And I think that volume

1 is a response significantly to the changing of the  
2 dumping margin strictly for, you know, for Baoding. I  
3 think that had a critical effect on redirecting some  
4 of the volume that way. I apologize for that  
5 misstatement.

6 COMMISSIONER PINKERT: I appreciate the  
7 correction. But I guess what I'm leading toward is a  
8 hypothetical question that may not be answerable here  
9 at the hearing, but may perhaps be better answered in  
10 post-hearing.

11 And that is, let's assume that the order is  
12 continued. And let's assume that, that the trans-  
13 shipments are stopped. I'm not making an assumption  
14 about how much trans-shipment is going on, but let's  
15 just assume that there is no trans-shipment going  
16 forward.

17 Why wouldn't the subject imports simply  
18 increase to offset whatever decline in non-subject  
19 imports would be the case in those circumstances?

20 MR. BUTTON: Well, Commissioner, they might  
21 well increase, but they would do so at a higher price.  
22 And the price benefit would be a significant one. If  
23 they came in subject to the duties, then you know, the  
24 industry feels that they can take it on, in terms of  
25 the competitive forces.



1           Absent the order, the volumes would come in  
2 without either volume or price discipline.

3           MR. DOUGAN: If I may add to that,  
4 Commissioner. This is Jim Dougan from ECS. One of  
5 the things that we believe is going on, and we know of  
6 at least one legitimate Indian producer who has exited  
7 the market because of the trans-shipments through  
8 China to the United States, they aren't able to  
9 produce and sell to the United States at prices that  
10 can compete with that.

11           If the trans-shipment channel was closed,  
12 there are legitimate producers of glycine in India who  
13 would then be able to resume production, and sell to  
14 the United States. And then that would, so not only  
15 then would you have the direct Chinese imports coming  
16 in at a higher, fairly traded price, but then you  
17 would have legitimate non-subject imports coming in  
18 from India at a fairly traded price.

19           COMMISSIONER PINKERT: Backing away from  
20 hypothetical analysis for a moment, is there a way to  
21 compare actual Chinese prices of shipments that are  
22 subject to the order with the allegedly trans-shipped  
23 prices from the non-subject countries?

24           MR. DOUGAN: Sir, could you repeat the  
25 question?

1                   COMMISSIONER PINKERT: Certainly. Is there  
2 a way to compare current Chinese prices of shipments  
3 that are subject to the order, with the prices of the  
4 allegedly trans-shipped non-subject shipments?

5                   MR. BUTTON: With certain assumptions, using  
6 the staff report, the prehearing report data, we can  
7 do that. And we'd be happy to comment on that in the  
8 brief.

9                   COMMISSIONER PINKERT: I think that would be  
10 very helpful. I certainly wouldn't ask you to  
11 quantify any of this in a public hearing.

12                   MR. BUTTON: Yes.

13                   COMMISSIONER PINKERT: But I think it would  
14 be very helpful. Again, I'm trying to get at a  
15 hypothetical question, but here I'm asking a non-  
16 hypothetical comparison question so that I can  
17 understand what the answer to the hypothetical  
18 question might be.

19                   MR. BUTTON: Certainly.

20                   COMMISSIONER PINKERT: Thank you. Now,  
21 again backing away from hypotheticals, and focusing on  
22 what's actually occurred. Is there a case for price  
23 suppression from 2009 to 2010? And I'm interested  
24 both in the quantitative analysis, but also from the  
25 company witnesses, how the actual experience in the

1 marketplace has worked from that, during that period.

2 Again, this is during the life or the  
3 existence of the order, from 2009 to 2010.

4 MR. MAHONEY: Building on what Mr. Eckman  
5 has commented already, the contracts are typically  
6 annual basis. So 2009, when we were able to push the  
7 prices up, were negotiated primarily during 2008. So  
8 that we had high prices, but the market dynamics  
9 worked, the volumes suffered, as the prices went up.

10 In 2010 we lowered the prices, and again,  
11 the volumes were not, were not there. So the market  
12 dynamics were in play. And I believe the information  
13 on the, on the confidential information reveals that  
14 to you.

15 COMMISSIONER PINKERT: Thank you. I'd ask  
16 you, Dr. Button, to look at that for purposes of the  
17 post-hearing, as well.

18 MR. BUTTON: I certainly will, Commissioner.  
19 Thank you.

20 COMMISSIONER PINKERT: Thank you. Now,  
21 finally, turning to Chattem for a moment, is Chattem  
22 still focused on pharmaceutical-grade glycine?

23 MR. KEDROWSKI: Commissioner, yes, we are  
24 still focused on pharmaceutical-grade, or we call it  
25 USP, pyrogen-free, parental-grade glycine. But we

1 need a baseload of our business to keep our plant  
2 going. And so we always have to try to compete at  
3 some of the major accounts, to get some business with  
4 them. And where we were successful in 2008, when, for  
5 whatever reasons in the marketplace, demand-supply,  
6 we've been pretty unsuccessful from that period on  
7 forward in maintaining a good base business with, say,  
8 just a regular USP account.

9 MR. SCHWARTZ: For the sake of  
10 clarification, Chattem sells USP-grade pyrogen-free to  
11 the pharmaceutical space, to the pharmaceutical  
12 market. But it is marketed as USP-grade pyrogen-free,  
13 which requires additional post-production testing and  
14 more quality control.

15 COMMISSIONER PINKERT: Thank you. One final  
16 question, more on the methodological level than  
17 anything else. What period of time should I be  
18 looking at for purposes of determining whether the  
19 industry is vulnerable, within the meaning of the  
20 provision of the statute applicable to sunset reviews?

21 MR. BUTTON: I think the current time is  
22 probably your best indicator of, well. With respect  
23 to assessing the likelihood that the Chinese product  
24 would reenter the U.S. market in expanded volumes, you  
25 can look at the capacity that exists today, you can

1 look at the commentary perceptions of the consumers,  
2 the purchasers and the importers, as of today. And  
3 you can look at the size of the U.S. market as of  
4 today. And you have, in a sense, the protection of  
5 the order.

6 The specific issue with respect to, you  
7 know, the financial performance, say, of the U.S.  
8 industry, you're looking at the whole period.  
9 Financial performance in recent years is the result of  
10 some very specific circumstances, which we can address  
11 in the brief.

12 But the structural character of the industry  
13 has been pretty much the same since 2008, to the  
14 present. Involving what I think some key things would  
15 be the ability, the response of the domestic industry  
16 to the need to be more supportive of its customer  
17 base. Things of that nature I believe create an image  
18 of the industry today that would be something that  
19 you'd want to focus on.

20 COMMISSIONER PINKERT: Thank you. And you  
21 suggested that you might want to address some of that  
22 in the post-hearing, and that would certainly be  
23 helpful.

24 MR. BUTTON: Yes, sir, we will.

25 COMMISSIONER PINKERT: Thank you. Thank

1 you, Madame Chairman.

2 CHAIRMAN OKUN: Thank you again to the  
3 witnesses for your answers today. I appreciate the  
4 comments and the testimony you've given thus far about  
5 changes that the industry has made since 2007 to  
6 increase its efficiency and its customer service.

7 I know that in the exchange you had with  
8 Commissioner Aranoff, you had indicated, Mr. Mahoney,  
9 that you collect statistics on timeliness, and you may  
10 be providing those. And I just wanted to make, make  
11 that same request, Mr. Kedrowski, that you would  
12 submit those, as well.

13 In addition, if there's any other internal  
14 business information that you collect in judging the  
15 improvements you have made. You cited several. If  
16 those are available and could be submitted post-  
17 hearing, I think that would help us understand what  
18 changes you have made, and how it's translated into  
19 your, how your customers perceive your service. I see  
20 shaking heads. Mr. Eckman, is that something that --  
21 Mr. Mahoney, you have your hand up?

22 MR. MAHONEY: Yes. I'd like to talk about  
23 our reliability further, if I could.

24 CHAIRMAN OKUN: Okay.

25 MR. MAHONEY: One particular example, in the

1 2007 case, was our handling of the five-year shutdown.  
2 So it was new to us at the time. We learned a lot  
3 from the hearing in 2007.

4 I've been encouraged to remind you that once  
5 every five years, we need to do an extended  
6 maintenance shutdown for some of the raw materials  
7 involved in our process. So that is coming up due  
8 again in 2012.

9 In 2007, we did it, and we had just really  
10 begun to understand the process and the shutdown. And  
11 we didn't handle it well. And it led to many service  
12 issues in 2007. The before case, if you will.

13 So now in 2012, we have experienced  
14 management in place that understands what's involved  
15 in that shutdown. We have plans for early warning to  
16 our customers, constant communication of the shutdown  
17 to our customer base, and plans to have adequate  
18 inventory involved as well, so that it should be  
19 seamless to our customers.

20 So we are going in much more eyes-open into  
21 the five-year shutdown in 2012.

22 One other comment I wanted to add on just  
23 kind of improving our service, if I may, was again,  
24 the proof is in the pudding. Major customers that had  
25 moved away from GEO are back in 2011. They have

1 awarded us multi-year contracts in 2011. And we have  
2 quarterly checks with them, and all the feedback is  
3 very positive on that.

4 But the proof is in that pudding. They're  
5 putting their eggs in our basket.

6 CHAIRMAN OKUN: Okay, I appreciate that.  
7 And again, anything that, you know, your metrics that  
8 you use to measure how you're doing, if those can be  
9 provided in a post-hearing submission, I'd appreciate  
10 seeing those, as well.

11 And Mr. Mahoney, maybe I'll stay with you,  
12 because it sounded a little bit more relevant to GEO  
13 than Chattem, with respect to where there are dual-  
14 source contracts.

15 When you're dealing with a customer who is  
16 allocating a percentage, or otherwise splitting their  
17 order, do they quote you other prices in the market?  
18 In terms of when you're trying to get your share, are  
19 they giving you competitive bids that they're  
20 receiving?

21 MR. MAHONEY: In general, no, that's not the  
22 case. That typically, we need to submit and provide  
23 our prices, and then they'll consider their  
24 submissions internally.

25 Occasionally we do get feedback.



1 Occasionally, there is a second round, if you will,  
2 but that's not a guarantee, and not across the board.

3 CHAIRMAN OKUN: And then a question for you,  
4 and Mr. Kedrowski, as well. Which is if that's the  
5 case, how do you, what's the avenue for finding out  
6 what the prices are in the market? There's been some  
7 discussion about what impact non-subjects have, or  
8 what roles non-subjects have in pricing in this  
9 market.

10 How does the industry know that when they're  
11 talking about pricing, or judging what the impact of  
12 increased imports would be?

13 MR. KEDROWSKI: Well, it's a very difficult  
14 question. It probably varies by company. Certainly  
15 we do the best job that we can in trying to understand  
16 the industry, and understand when we've lost quotes.  
17 In retrospect, where did we lose them at. If we can  
18 find that, that gives us an idea of which way the  
19 industry is going, pricing is going.

20 We also try to track the data in terms of  
21 imports, and the average prices of imports coming in,  
22 and what it in whatever range it's going.

23 I would have to say, in retrospect, in 2009,  
24 '10, and the beginning of 2011, we weren't very good  
25 at that. Because no matter where we went, it seemed

1 to be lower.

2 CHAIRMAN OKUN: Mr. Mahoney, anything to  
3 add? Or Mr. Eckman, on prices in the market? Yes,  
4 Mr. Mahoney.

5 MR. MAHONEY: I did also just want to point  
6 out one other thing from our prehearing submission.  
7 That one of the major customers, again to the feedback  
8 loop that you asked about, is doing it electronically.  
9 So there is no feedback. There is an electronic bid,  
10 or an e-mail submission, so often there is no  
11 feedback. And they're one of the major, major  
12 players, and it's conducted by auction.

13 CHAIRMAN OKUN: Yes, I recall seeing that in  
14 the brief. I wondered if there -- again, just trying  
15 to understand from the testimony, and from the record,  
16 that because of the allegations with respect to trans-  
17 shipments, there is perhaps more noise, if you will,  
18 with respect to the role of non-subjects in this  
19 market.

20 But just again helping me understand the  
21 impact of the order, and what role non-subjects play  
22 in a market where, where you acknowledge that the  
23 domestic industry can't supply the whole market.

24 If the order were revoked, what change in  
25 behavior would you expect from non-subjects? Is there

1 anything that we could look to with respect to non-  
2 subjects, the role of non-subjects in this market, in  
3 a post-revocation era? Mr. Button, you want to try to  
4 take that one, based on what you see in the  
5 statistics?

6 MR. BUTTON: Commissioner, I must apologize.  
7 I was in a sidebar conference with Mr. Dougan about  
8 trying to provide some additional data on an earlier  
9 point that Commissioner Pearson had.

10 CHAIRMAN OKUN: Okay. Well, I was just  
11 asking about, you know, post-revocation behavior of  
12 non-subject imports. I'm trying to understand it on  
13 this record where there are allegations of trans-  
14 shipment, I'm trying to understand what role  
15 traditional non-subject suppliers have played when  
16 there have been changes. You've spoken a little bit  
17 about the Koreans going out of the market. Just  
18 trying to understand more how we evaluate non-  
19 subjects, for purposes of our analysis here.

20 MR. BUTTON: I think the fact that there  
21 exists globally other legitimate producers of glycine  
22 in, as mentioned, in India, in Japan of course,  
23 potentially in Korea, potentially elsewhere. That if  
24 the U.S. market were, continued to be protected from  
25 the dumped Chinese product, and the circumvention

1 issue were addressed, these other flows would be  
2 potentially available to come into the U.S. market.

3 So it's not as if there aren't any other  
4 supplies out there. The availability of material  
5 would include imports covered by the order from China,  
6 and legitimate imports from India, and potential  
7 imports from Japan or Korea, and perhaps others.

8 CHAIRMAN OKUN: Okay. And then, just in  
9 terms of -- I appreciate that you provided for the  
10 Commission information on capacity in China. And I  
11 wondered if there's, you know, again, always hamstrung  
12 in a case when we don't have cooperation in collecting  
13 data.

14 But when looking at the global glycine  
15 market, is there anything else that you would have the  
16 Commission look at, that you look at in evaluating  
17 what's going on in the market? In terms of relative  
18 size of other markets. Is there a change going on in  
19 addition to the information that you've provided on  
20 China? Changes with respect to the EU or other large  
21 markets, for glycine.

22 MR. BUTTON: Well, the most notable single  
23 change in that respect, just to the EU, there was a  
24 major producer there, Tercinderlo. It provided the EU  
25 market and that region of broader Europe. But that

1 market was subject to substantial inflows from China.  
2 Tercinderlo closed, and it stated that its closure was  
3 in significant part due to, you know, the import  
4 competition from China. So that's where part of  
5 Chinese volume goes.

6 I don't have specific knowledge, and the  
7 industry has not given me any specific knowledge about  
8 developments in other areas on that.

9 CHAIRMAN OKUN: Is there anything from the  
10 industry? Or Mr. Schwartz, you had a comment?

11 MR. SCHWARTZ: Well, I think the initial  
12 question you asked was, what would happen to  
13 legitimate non-subject imports if the order was  
14 revoked.

15 CHAIRMAN OKUN: That was my earlier  
16 question, yes. You know, my time has expired; I will  
17 come back to that. I think Mr. Button was responding  
18 to my second question about just data sources in  
19 general, and filling in our record. So I will come  
20 back on the non-subjects, and right now we'll turn to  
21 Vice Chairman Williamson.

22 VICE CHAIRMAN WILLIAMSON: Thank you, Madame  
23 Chairman. I too want to express my appreciation to  
24 the witnesses for coming today.

25 The first question, you've sort of explained

1 the drop in the Korean exports to the U.S., I guess  
2 partially due to the fact that you were able to stop  
3 the transshipment. I was just wondering were there  
4 any additional reasons why imports from Korea might  
5 have fallen off?

6 MR. SCHWARTZ: We know that no one showed up  
7 from Korea in the JIK case. That may have had an  
8 affect.

9 I think the effort that we made at Customs,  
10 bringing allegations against Korean transshipments.  
11 We believe a combination of the two may have deterred  
12 the transshippers from Korea.

13 VICE CHAIRMAN WILLIAMSON: You're not sure  
14 there are any legitimate exporters who are interested  
15 in this market from Korea?

16 MR. SCHWARTZ: I think that your staff  
17 report, I think it's in the public version, does  
18 identify legitimate Korean producers who are shipping  
19 to other markets. We don't have inside information  
20 about that particular market, but the information that  
21 was provided seems reasonable to us.

22 VICE CHAIRMAN WILLIAMSON: We've already  
23 talked about the fact that 2009 was a very good year  
24 for the industry. A lot of you attributed it to the  
25 Chinese shutdown of exports. What details do you have

1 on when in 2008 they decided to terminate, or cut back  
2 on exports? How long did that last and when did it  
3 start back up again? Are there any like public  
4 orders?

5 MR. SCHWARTZ: I think there are a couple of  
6 public sources and a few proprietary ones. The report  
7 that we provided you I think has a discussion about  
8 the circumstances in 2008. I think that the industry  
9 at that time obtained reports about what was going on,  
10 or maybe we found out shortly after the fact.

11 MR. ECKMAN: I believe the shutdown in China  
12 started sometime in the second quarter, in that  
13 period, in advance of the Olympics in the August  
14 period. To clear up the air around Beijing. It was  
15 in a report.

16 MR. SCHWARTZ: We learned it from this off-  
17 the-shelf independent research report. We provided  
18 you the third edition, but we have earlier editions of  
19 the report.

20 VICE CHAIRMAN WILLIAMSON: Okay, I'll go  
21 back and look at what you provided then.

22 If I understand correctly -- I'm sorry, Mr.  
23 Button?

24 MR. BUTTON: I beg your pardon, Vice  
25 Commissioner.

1                   You mentioned, I think you said that 2009  
2 was a very good year for the domestic industry. I  
3 think you might have said that.

4                   VICE CHAIRMAN WILLIAMSON: Yeah. Relatively  
5 good.

6                   MR. BUTTON: I would just note there is,  
7 shall we say, a more complicated story associated with  
8 2009. If I might I might comment on that.

9                   VICE CHAIRMAN WILLIAMSON: That was going to  
10 be my next question. So go ahead.

11                  MR. BUTTON: I would just say, and I want to  
12 keep it somewhat elliptical in both volume and price  
13 aspects of an industry's performance. We need to look  
14 at both of those as to 2009. I'd be happy to go into  
15 a little bit more detail on that in the brief.

16                  VICE CHAIRMAN WILLIAMSON: Please do address  
17 that in post-hearing, as to how should we evaluate  
18 that. What does that mean about 2009. What shall we  
19 take away from it?

20                  MR. BUTTON: Yes. I'd say it's a little bit  
21 more of a nuanced story.

22                  VICE CHAIRMAN WILLIAMSON: I appreciate  
23 those details then.

24                  What's the current status of the anti-  
25 circumvention proceeding at Commerce and what's the



1 timetable for coming to a conclusion?

2 MR. SCHWARTZ: The preliminary determination  
3 is due in October and the final is due in February.

4 As you have seen from our submission,  
5 there's a lot of information already on the public  
6 record that we believe indicates that there's  
7 substantial glycine being brought in to India by the  
8 three companies targeted. It's being further  
9 processed and shipped back out to the United States.

10 We're also, as we indicated in our brief,  
11 taking into account that although we do not have a  
12 decision yet from Commerce, Commerce has already made  
13 a very similar decision on this issue twice before,  
14 involving a scope inquiry regarding further process  
15 Chinese Glycemic Korea, in 2002 and also in the JIK  
16 case, when Commerce conducted a verification of one or  
17 the companies targeted. They were found to be  
18 purchasing Chinese glycine and further processing it  
19 and Congress determined at that time that there was no  
20 substantial transformation of the lower grade Chinese  
21 glycine into higher grade glycine. Glycine is glycine  
22 is glycine, all covered by the antidumping order  
23 against Glycine from China. So if Commerce remains  
24 consistent with its decision, then those two prior  
25 matters, and the evidence is very similar, we think

1 it's possible just based on the public information  
2 we've provided you for you to draw that conclusion  
3 even though officially the decision won't come out  
4 until October, in February.

5 VICE CHAIRMAN WILLIAMSON: You may have  
6 already answered my next question which was going to  
7 be how can we take into account the allegations about  
8 the circumvention given that Commerce hasn't made a  
9 final determination, but I guess you would tell me  
10 that I should look at the earlier proceeding test.

11 MR. SCHWARTZ: We think the information we  
12 provided you and the matters that we referenced would  
13 lead you to that conclusion. That there's no other  
14 conclusion to make.

15 VICE CHAIRMAN WILLIAMSON: In terms of our  
16 decision that we must make here, what would you  
17 suggest that should tell us?

18 MR. SCHWARTZ: You should view the shipments  
19 from India of those companies, and I believe in the  
20 last two years they were the only ones shipping to the  
21 United States. You should view their shipments as  
22 Chinese.

23 VICE CHAIRMAN WILLIAMSON: Okay.

24 Mr. Button?

25 MR. BUTTON: Commissioner, thank you.

1           It's our view that the Commission has been  
2 given a great deal of information about the  
3 circumvention proceeding from the public record  
4 intentionally to give you some fact based information  
5 you can consider. You're not going to make the  
6 circumvention determination that Commerce will make,  
7 but you've been given a lot of information concerning  
8 the trade flows into the U.S. of the subject  
9 merchandise or product coming from India.

10           We think there's enough information on the  
11 record to let you know that yeah, there are  
12 substantial volumes coming to the United States  
13 through India that had its origin in China. Whether  
14 that's going to be subject merchandise. Commerce can  
15 make its point of view. But it does mean what's  
16 relevant to this investigation is that the Chinese  
17 producers place a high priority in maintaining access  
18 to the U.S. market one way or the other.

19           VICE CHAIRMAN WILLIAMSON: Thank you.

20           I was wondering if anyone could address the  
21 role of the herbicide glyphosate in terms of demand  
22 for glycine products. There's reference that maybe  
23 there's been increased use of that herbicide. It  
24 wasn't clear to me what did that tell us about demand  
25 for this product.

1           MR. SCHWARTZ: Do you mean increase here in  
2 this market or worldwide?

3           VICE CHAIRMAN WILLIAMSON: I think both. I  
4 saw a reference to the product and --

5           MR. SCHWARTZ: I think we're in a position  
6 to talk about this market. I don't know if we're in a  
7 position to talk about it globally. In fact I think  
8 from what we know about the way glyphosate is made in  
9 the United States, I don't think they use glycine. I  
10 think the two manufacturers here in the United States  
11 that make glycine use a different method. So there is  
12 no U.S. customer that's drawing in glycine imports to  
13 make glyphosate here in the United States.

14           In fact you have that short-lived glyphosate  
15 antidumping case, and I think Monsanto and Alba both  
16 use a method that does not involve glycine.

17           VICE CHAIRMAN WILLIAMSON: Is there anything  
18 about the worldwide demand for the product that  
19 affects the supply of glycine that we should take into  
20 account?

21           MR. SCHWARTZ: I think the independent  
22 market research report that we provided you shows the  
23 demand for glycine in making glyphosate in China.  
24 We're not aware of its use outside of China.

25           Thank you. My time is about to expire, so

1 thank you.

2 CHAIRMAN OKUN: Commissioner Lane?

3 COMMISSIONER LANE: Good morning and welcome  
4 to this panel.

5 Mr. Eckman and Mr. Mahoney, I guess this  
6 question is for you.

7 What about the conditions in 2005 led you to  
8 purchase the Dow facility?

9 MR. ECKMAN: In 2005 GEO's interest in the  
10 Dow facility was in the other product made at Deer  
11 Park, naphthalene sulfonate. We also produce  
12 naphthalene sulfonate in Cedartown, Georgia.  
13 Naphthalene sulfonate, a big use of it is in wall  
14 board as a disburser. Because of the housing market  
15 in 2005 we were starting to run out of capacity. Dow  
16 wanted to sell the Deer Park facility. It was a small  
17 part of the Centrokim acquisition that they had made  
18 in I believe 1998, and so Deer Park was non-core to  
19 them and they were out marketing the business for two  
20 or three years I think, and we were able to acquire it  
21 from Dow. But it was primarily for the naphthalene  
22 sulfonate production capability. The glycine was  
23 there. We were not in the glycine market at that  
24 time.

25 COMMISSIONER LANE: Did you actually examine

1 the glycine aspect of the business before you  
2 purchased it? And did you have some data or some  
3 business reports or whatever that you had at the time  
4 that you decided to purchase the facility?

5 MR. ECKMAN: Commissioner, we had due  
6 diligence information, financial information, that  
7 showed the glycine business and the naphthalene  
8 sulfonate business. Separately we had our engineering  
9 people look at the assets themselves.

10 COMMISSIONER LANE: Were there certain  
11 projections made or certain assumptions that you made  
12 at the time that you purchased the Deerfield facility  
13 relating to the glycine portion?

14 MR. ECKMAN: We made assumptions that it  
15 would continue to more or less, the volume would  
16 improve because of Dow's explanation of why volume had  
17 dropped prior to that. We were accepting their  
18 projection.

19 The focus though was what we could do with  
20 the naphthalene sulfonate business and that's what,  
21 given the purchase price, that's what really  
22 influenced our decision.

23 COMMISSIONER LANE: Okay, thank you.

24 Mr. Kedrowski. Would you walk me through  
25 the circumvention issue? How did you all first

1 discover or even have an inclination that  
2 circumvention was taking place? Then after you  
3 investigated further, I'm assuming that you located or  
4 you thought it was coming from specific facilities in  
5 India and you were able to trace that through the  
6 market? Why don't you walk me through the process.

7 MR. KEDROWSKI: Commissioner, if you'll  
8 allow me I'll go a little bit further back and look at  
9 when we first looked at product coming in from both  
10 Korea and the United Kingdom.

11 To our knowledge at the time, we did not  
12 know of a facility in either of those countries that  
13 made glycine, so it was not a great leap of faith to  
14 say these products must be coming from some other  
15 country through those countries to get to the United  
16 States.

17 COMMISSIONER LANE: How did you even  
18 discover that product was coming in from those  
19 countries?

20 MR. KEDROWSKI: The Commerce Department  
21 reports statistics of volumes of products coming from  
22 the originating country. I use the word originating.  
23 Shipped at least from that country. That's the part I  
24 know for sure. So we could see rising increases from  
25 Korea and the United Kingdom. Then India itself.

1           I think in the case of India over time it  
2 began to appear to us and we began to try to search  
3 out data that suggested that the volume of capacity as  
4 we knew it was not sufficient to cover the amount of  
5 material that was coming to the United States.  
6 Therefore we started to look more carefully into, and  
7 I think I provided some proprietary or some  
8 confidential information in that particular hearing  
9 about some of the things that we tried to do to affirm  
10 or deny that.

11           COMMISSIONER LANE: That helps, thank you.

12           Going back to the product itself are there  
13 different classifications of glycine?

14           MR. SCHWARTZ: In this marketplace I think  
15 your questionnaire focused on the three primary  
16 grades. In this marketplace the vast majority of  
17 glycine sold is USP grade. There is sort of a fourth  
18 grade that's rising up which is a very, a glycine  
19 grade of very low purity that you might call crude or  
20 industrial grade, but it's sold in such limited  
21 volumes it's almost like you sweep it up off the floor  
22 and somebody's willing to purchase it.

23           COMMISSIONER LANE: I hope it's not used in  
24 food.

25           Thank you.



1           MR. SCHWARTZ: I think some of the industry  
2 representatives can tell you what it is used for. The  
3 industrial grade.

4           MR. MAHONEY: It is used as a cleaning  
5 agent, so no, it not used in food at all.

6           COMMISSIONER LANE: Good, thank you.

7           The employees of your companies, are they  
8 mostly production workers or are some of them sales  
9 personnel? What's the breakdown of your workforce  
10 between production and administrative?

11          MR. ECKMAN: Is this for Deer Park or  
12 overall?

13          COMMISSIONER LANE: For the glycine  
14 facility.

15          MR. ECKMAN: They're all production workers.  
16 The 36 that we list. And then we have customer  
17 service that is probably, you have to mix two or three  
18 people in the aggregate, about one and a half people.  
19 Then a full time sales person.

20          COMMISSIONER LANE: What about Chatten?

21          MR. KEDROWSKI: I'm going through the  
22 numbers in my mind. Of course our facility produces  
23 multiple products, but I'd say we have a basic  
24 breakout of about a third of production employees, a  
25 third that go into QC and QA and R&D and then 20

1 percent to a third in either administrative or other  
2 areas. Specifically to glycine, we have two business  
3 managers that both are involved in a set of glycine  
4 accounts, and then we have two customer services  
5 representatives that service all the product shipped  
6 out of our plant.

7 COMMISSIONER LANE: Thank you.

8 Mr. Eckman, I now remember the question that  
9 I meant to ask you.

10 When you were buying the facility and  
11 looking at the glycine portion and you were deciding  
12 whether or not to buy the facility, did you take into  
13 consideration the fact that there was an order on the  
14 product coming in from China?

15 MR. ECKMAN: Yes, we did. We took that into  
16 consideration. The renewal occurred right as we were  
17 purchasing it. We understood that the renewal was an  
18 expedited, uncontested.

19 COMMISSIONER LANE: Thank you.

20 Madame Chair, I don't have any further  
21 questions.

22 CHAIRMAN OKUN: Commissioner Pearson?

23 COMMISSIONER PEARSON: Thank you, Madame  
24 Chairman.

25 Mr. Mahoney, I believe that you stated in

1 your opening remarks something to the effect that the  
2 U.S. industry could compete successfully against non-  
3 subject imports from India, Korea and Japan, setting  
4 aside any transshipment, which we would agree is  
5 unfair.

6 Is that a correct understanding of what you  
7 were saying?

8 MR. MAHONEY: Yes, Commissioner, that's  
9 correct.

10 COMMISSIONER PEARSON: My question is,  
11 because you guys are in this business and know what's  
12 going on. What has changed since 2007 that makes you  
13 comfortable competing with imports from those  
14 countries now when the industry was not comfortable  
15 with it four years ago?

16 Mr. Button?

17 MR. BUTTON: Thank you, Commissioner  
18 Pearson.

19 You asked in the opening group of questions,  
20 a question along that line. I apologize, earlier I  
21 was somewhat distracted. I was trying to get  
22 information to respond a little bit to that point. If  
23 I might?

24 COMMISSIONER PEARSON: Please.

25 MR. BUTTON: At the time of the case that

1 was brought against India and Korea, the domestic  
2 industry apparently knew they had a problem but they  
3 weren't real sure of the exact shape of the problem.  
4 They knew that product was coming in from Korea and it  
5 was hurting them. It was low priced. Product was  
6 coming in from India. It was hurting them and it was  
7 low priced. They thought it was from India and Korea.  
8 Therefore the case was brought.

9           What did they find out later? That the  
10 product coming in from Korea was not Korean-made  
11 product. And through that case effort and the  
12 circumvention efforts, the Korean product that really  
13 was Chinese was stopped.

14           So in collective form the effort, although a  
15 negative determination here, was successful with  
16 respect to Korean transshipped product.

17           India. On Exhibit 7 to the pre-hearing  
18 brief is a table which lists the Indian producers  
19 divided between the transshippers and those that are  
20 believed to be others who are legitimate. You'll see  
21 shipments from these companies from 2005, 2006, 2007,  
22 2008, 2009, 2010. In 2007, as Mr. Schwartz said, they  
23 did not know yet that this was transshipped material  
24 from China. Subsequently they got knowledge that  
25 yeah, it was, and they started to address it in

1 another venue.

2 Today the same flows, the same companies  
3 that were providing problems causing volumes in 2005,  
4 2006, and 2007, are out there doing it today and they  
5 are still a problem.

6 So in a sense at the time of the JIK case  
7 yeah, the Indian flows were a problem, but the big  
8 aspect of it is they really weren't Indian.

9 Today what you're hearing is they were a  
10 problem then, they're still a problem today and they  
11 hurt.

12 My intention is to provide this context that  
13 there is some continuity in this proceeding and in the  
14 point of view of the industry speaking before the  
15 Commission.

16 COMMISSIONER PEARSON: Thank you for that  
17 explanation. It's perfectly plausible.

18 Are there any other comments on that issue?

19 Good. Then let me shift to a line of  
20 questioning that's far more in keeping with my normal  
21 approach. What is your view of the demand in the  
22 United States for glycine at this point?

23 On page five of your pre-hearing brief you  
24 had observed that demand had declined during the  
25 investigative period, so let me just first ask a

1 question for clarification.

2           Were there factors leading to the decline  
3 other than the recession? Or is this a function of the  
4 recession?

5           MR. MAHONEY: As we submitted in our  
6 questionnaire, it has fluctuated and as you alluded, I  
7 believe it is primarily related to the recession. If  
8 you look across, beginning to the end of the period,  
9 we do not see dramatic changes.

10           COMMISSIONER PEARSON: What's your outlook  
11 for consumption in the United States for 2011 and  
12 2012?

13           MR. MAHONEY: To continue at similar levels  
14 of 2010, some slight improvement as the economy  
15 improves, and small opportunities in nutraceuticals,  
16 for example.

17           COMMISSIONER PEARSON: A plurality of firms  
18 that responded to the Commission's questionnaires  
19 reported that they anticipate that demand for glycine  
20 will increase in the future. I don't know exactly how  
21 they define the future. But as you look ahead of it,  
22 do you see this as basically a stable market or one  
23 where there might be increases in consumption? And if  
24 so, what would be driving that consumption?

25           MR. MAHONEY: As I said, I think it is a

1 slightly growing market. I'm optimistic to hear the  
2 information that you've shared that the customers  
3 think it's also growing. That's informative to us and  
4 hopeful. And as we submitted, we are anxious to  
5 expand our capacity to meet the customer demand. So  
6 it's the support of the order that will help us  
7 continue to grow our capacity.

8 COMMISSIONER PEARSON: Earlier reference was  
9 made to issues that some customers have raised  
10 regarding limitations on domestic product in 2011.  
11 There are a couple of sentences on page 2-5 of the  
12 public staff report.

13 Are you able to say anything more about  
14 that? It doesn't surprise me in a marketplace where  
15 the domestic industry cannot serve all demand that  
16 there should be instances of shortage. But could you  
17 elaborate a bit on what might be going on there,  
18 either now or in the post-hearing? Mr. Button?

19 MR. BUTTON: Yes. We'd be happy to  
20 elaborate, particularly on the 2011 comment.

21 COMMISSIONER PEARSON: Right. Specifically  
22 2011.

23 MR. BUTTON: There's a particular customer  
24 involved in that and there's a particular story that I  
25 think is applicable here indicating that --

1           Let me just stop there to avoid confidential  
2 data. But yes, there's a story that is certainly  
3 responsive --

4           COMMISSIONER PEARSON: And we'll get to read  
5 that story in the post-hearing brief?

6           MR. BUTTON: Yes, sir.

7           COMMISSIONER PEARSON: Okay.

8           MR. KEDROWSKI: Commissioner, may offer a  
9 comment?

10          COMMISSIONER PEARSON: Please.

11          MR. KEDROWSKI: Currently we're running our  
12 plant about half of our capacity. Last time I checked  
13 was in the last few days, we have over 30 days of  
14 supply of inventory. We would love to sell somebody  
15 right now.

16          COMMISSIONER PEARSON: So you don't know  
17 what's going on where a customer is finding it  
18 challenging to obtain domestic supply. They don't  
19 have your phone number, huh?

20          MR. KEDROWSKI: Could you please give me  
21 their phone number?

22                   (Laughter).

23          MR. KEDROWSKI: I guess I need to talk to  
24 our sales people.

25          COMMISSIONER PEARSON: And either now or in



1 the post-hearing, Mr. Eckman, could you give me a  
2 sense of what level of capacity utilization GEO is  
3 achieving now in 2011? Of course we have the data  
4 through 2010. I'm just wondering currently, has the  
5 capacity utilization come up a bit?

6 MR. ECKMAN: We'd be happy to provide it in  
7 post-hearing.

8 COMMISSIONER PEARSON: Good. Thank you.

9 How long is the shelf life of glycine? We  
10 read that there's a problem with it caking up if it  
11 sits around too long. I'm wondering if there are some  
12 practical limits on how long it could be held in  
13 inventory.

14 MR. MAHONEY: If it's properly packaged and  
15 properly maintained it has a very good shelf life.  
16 The preferred package for that is our 50 pound bags,  
17 for example. Many of the larger customers, however,  
18 it's impractical to use 50 pound bags so they use  
19 larger packages. So it's subject to moisture just  
20 like sugar in your cabinet at home, so it does absorb  
21 that moisture. the larger packages do tend to have a  
22 shorter shelf life. That's true of domestic material  
23 as well as imported material.

24 COMMISSIONER PEARSON: Mr. Kedrowski?

25 MR. KEDROWSKI: We run stability testing so

1 we, in our stability tests the chemistry of the  
2 product is good for at least 36 months and we just  
3 don't run it past that because that's an industry  
4 standard.

5 The practicality of the matter is, it's  
6 individual in terms of the packaging and the care you  
7 take of the product in terms of issues of getting it  
8 into your production process after you buy it.  
9 Meaning tendency or that it could get hard. That's  
10 just a function of glycine it seems to be.

11 COMMISSIONER PEARSON: But an industry  
12 standard is 36 months. You clearly wouldn't want to  
13 have glycine still in your warehouse going past that  
14 date.

15 MR. KEDROWSKI: I would think from a  
16 practicality standpoint you'd like to keep it. We  
17 always tell our customers you should keep it for a  
18 year just because of storage conditions, but that  
19 doesn't mean that the product has gone bad.

20 COMMISSIONER PEARSON: As a practical matter  
21 I imagine that product going out of condition is not  
22 much an issue for the domestic producers in your  
23 warehouses, but rather for the customer who buys a  
24 little bit more than they needed and then it sits  
25 around longer than it should in suboptimal conditions.

1 MR. KEDROWSKI: That is correct, from our  
2 perspective.

3 COMMISSIONER PEARSON: You have good control  
4 over your inventory. You're putting stuff out the  
5 door well before its expiration date, that type of  
6 inventory management is in place in this industry,  
7 correct?

8 MR. KEDROWSKI: Actually our system is  
9 designed around, you literally can't pull out behind  
10 it. You have to ship out the oldest material.

11 COMMISSIONER PEARSON: Good. Thank you very  
12 much.

13 I've gone long, Madame Chairman. Apologies.

14 CHAIRMAN OKUN: Commissioner Aranoff?

15 COMMISSIONER ARANOFF: Just following up on  
16 the line of questioning that Commissioner Pearson was  
17 doing in terms of shelf life of the product.

18 One of the arguments that you made in your  
19 brief is that in the event of revocation large  
20 purchasers could turn to importing directly from  
21 Chinese producers. And given the risk of exposure to  
22 moisture, is it realistic that large domestic users  
23 would be willing to bear that risk of spoilage or  
24 unuseability of the product by relying exclusively or  
25 even principally on importing themselves from Chinese

1 suppliers?

2 MR. MAHONEY: Yes, Commissioner, I believe  
3 that they currently already are importing material so  
4 I think the answer is yes. They are willing and are  
5 currently doing it.

6 COMMISSIONER ARANOFF: Going back to the  
7 question I was asking at the end of my last round. I  
8 was asking about whether there were concerns in the  
9 market about the safety of Chinese products and the  
10 answer that I got was essentially no.

11 Is it your impression that, it must be well  
12 known at this point among your customer base that  
13 you've identified this transshipment issue. In light  
14 of that is there any concern on the part of customers  
15 that you've noticed that product that they're  
16 receiving that might be imported from India or other  
17 third countries might actually be transshipped  
18 product? Any hesitation on their part to purchase  
19 such imports?

20 MR. MAHONEY: We haven't broadcast it  
21 throughout the industry. It's obviously in the public  
22 record. We do talk to our customers about it as we  
23 meet with them, but we are cautious in our  
24 communication pending the final decision.

25 As Mr. Schwartz has alluded, the evidence

1 seems to be clear that it is in fact transshipment, so  
2 there are customers that are starting to think about  
3 their arrangements for the next year. So they've made  
4 commitments and arrangements for 2011 and I think it's  
5 starting to factor into their thought process for  
6 2012.

7 COMMISSIONER ARANOFF: Would you say based  
8 on your conversations with customers or what your  
9 sales people are telling you that the concern is that  
10 the supply might be cut off because of the issues you  
11 raised? Or the concern is a broader concern with the  
12 product itself?

13 MR. SCHWARTZ: Actually getting back to you  
14 previous question, I think the data mine data does  
15 suggest that those companies that have been targeted  
16 by the anti-circumvention inquiries seem to be slowing  
17 down their shipments. So while we may not have heard  
18 from it from the customers, it appears the data  
19 reflects that.

20 I'm sorry, what was your next question?

21 COMMISSIONER ARANOFF: The question was on  
22 the part of purchasers who have a sense that this is  
23 going on, whether they're concerned that the source of  
24 supply may be cut off, or they're concerned because  
25 they're going oh my gosh, I absolutely don't know

1 where this stuff that I'm buying is coming from and  
2 that could be some kind of a concern about the safety  
3 or security or my production process.

4 MR. MAHONEY: Again, speaking on their  
5 behalf, my sense is that it's more the latter. Oh my  
6 gosh, how truthful has this supplier been to me? If  
7 this is the case, how did they present themselves as  
8 Indian manufacturers.

9 COMMISSIONER ARANOFF: Mr. Button?

10 MR. BUTTON: A reflection perhaps of the  
11 point of view that there's not much of a concern as to  
12 the Chinese product has to do with the purchaser  
13 questionnaire data having to do with substitutability  
14 and interchangeability. I believe as we described  
15 earlier, there is a very widespread view among the  
16 customers, the purchasers, that the products are  
17 always or frequently interchangeable. Specifically  
18 Chinese versus U.S. product.

19 COMMISSIONER ARANOFF: I wanted to go back,  
20 Vice Chairman Williamson had been asking about the  
21 current status of the anti-circumvention proceeding so  
22 I won't go into that, but there was something in your  
23 brief that had mentioned that you had also brought  
24 certain matters to the attention of Customer and  
25 Border Protection. Can you tell us what the status of

1 that proceeding is?

2 MR. SCHWARTZ: Oh if we only could. You've  
3 probably heard from testimony on the Hill that quite  
4 often when you're dealing with Customs you're dealing  
5 with a black hole.

6 We did bring a lot of allegations, a lot of  
7 evidence. Quite often the response we get is well  
8 just look in the marketplace and see whether it's  
9 having an impact. So we have. But I can't tell you  
10 officially what the decisions or what findings were  
11 made by Customs.

12 COMMISSIONER ARANOFF: Is there any sort of  
13 formal proceeding that was instituted or this was sort  
14 of a thank you for the information, we'll look into  
15 it.

16 MR. SCHWARTZ: Both. Before they introduce  
17 the e-allegation process it was sort of informal, you  
18 presented a lot of information, you met with them, you  
19 talked to ports, it was more informal.

20 Then they introduce the e-allegation process  
21 which is I guess an electronic black hole. You put  
22 all the information on-line and see what happens.

23 COMMISSIONER ARANOFF: And the allegation is  
24 essential Customs fraud. Misidentification of the  
25 country of origin.

1 MR. SCHWARTZ: Many different types of  
2 Customs fraud, but country of origin, mislabeling.

3 COMMISSIONER ARANOFF: Okay.

4 I don't think I have any further questions  
5 at this time, but I do want to thank you for all your  
6 answers. Thank you, Madame Chairman.

7 CHAIRMAN OKUN: Commissioner Pinkert?

8 COMMISSIONER PINKERT: I have nothing  
9 further for this panel, but I appreciate the testimony  
10 and look forward to the additional information in the  
11 post-hearing.

12 CHAIRMAN OKUN: Just a couple of things to  
13 close up here for me.

14 With respect to the arguments, Mr. Schwartz,  
15 with respect to how the commission treats the  
16 circumvention allegations, and I followed the exchange  
17 with the Vice Chairman. If you would just look at  
18 other cases before the Commission. We face this issue  
19 a lot. I know it's difficult because the Customs  
20 timing doesn't work out as nicely as us having a  
21 decision on transshipment made by Customs before we  
22 make a ruling. But if you can just look at how we've  
23 handled it in other cases and say why or why not that  
24 would be appropriate here, that would be great.

25 And then one follow-up. You had a chance to



1 talk about what the demand looks like in the  
2 foreseeable future and what capacity might be  
3 required.

4 Mr. Eckman, I think in your opening, in your  
5 testimony you had talked about your company indicating  
6 that it would look to increased capacity but that was  
7 based on the outcome of this proceeding.

8 Can you expand on that a little bit more in  
9 terms of what you see in terms of what you would be  
10 trying to, what additional demand you would be trying  
11 to meet? This might be confidential so you might not  
12 be able to do much here. But I'm just trying to  
13 understand what you're looking at in addition to this  
14 order keeping imports at a particular level, or is it  
15 a pricing decision? What would drive that decision to  
16 increase capacity in this market?

17 MR. ECKMAN: If the order were revoked there  
18 wouldn't be any need for additional capacity for a  
19 U.S. producer. We would be managing a rapid decline  
20 in our utilization.

21 If the order is renewed, and we continue to  
22 be effective in our anti-circumvention which we're  
23 very confident of. For instance if the marketplace of  
24 today were to continue we would be looking at  
25 implementing our capacity expansion, one that's been

1 looked at several times over the last, even when Dow  
2 owned the facility. But we would be prepared to go  
3 forwards with that investment.

4 CHAIRMAN OKUN: If there's anything  
5 additional that might involve confidential business  
6 information that you could provide, I'm curious on  
7 the, are you looking at a particular level of demand  
8 in the United States that would indicate this? Again  
9 in a market where U.S. companies have not been able to  
10 supply demand for quite some time, what is it that is  
11 the trigger would be helpful in evaluating what future  
12 conditions might exist. That would be helpful.

13 Then I know, Mr. Mahoney, in response to one  
14 of the exchanges you had talked about, some of the  
15 indications that at least with a purchase that had  
16 signed a multi-year contract, I think most of the  
17 information is in the record, but I know we didn't  
18 collect everything with respect to the current status  
19 of order books. So if there's anything you could  
20 provide post-hearing, and I'd ask this for Chattem as  
21 well in terms of helping us understand where the  
22 market is right now and where your order books are in  
23 terms of your customers. Again, I understand it's a  
24 very small market, but just so I could help put that  
25 into context.

1                   With that I don't think I have any further  
2 questions, but I do appreciate all the information  
3 that you've provided and I'll look forward to the  
4 post-hearing submissions as well.

5                   Vice Chairman Williamson?

6                   VICE CHAIRMAN WILLIAMSON: Thank you, Madame  
7 Chairman. I just have one further question.

8                   Mr. Kedrowski, you indicated that Chattem  
9 over the last three or four years has probably had  
10 difficulty particularly in selling what you might call  
11 the technical grade, the base grade.

12                   I was wondering either now or post-hearing,  
13 could you maybe go into more detail of why you think  
14 that is the case or anything special that is an  
15 explanation for why your company in particular finds  
16 that market challenging?

17                   MR. KEDROWSKI: Certainly. I think in order  
18 to do it justice I should do it post-hearing.

19                   VICE CHAIRMAN WILLIAMSON: That will be  
20 fine.

21                   Thank you, and with that I have no further  
22 questions. I also want to thank the panelists for  
23 their testimony.

24                   CHAIRMAN OKUN: Commissioner Lane?

25                   COMMISSIONER LANE: I have no further

1 questions.

2 CHAIRMAN OKUN: Seeing no other questions  
3 from my colleagues, let me turn to staff to see if  
4 staff has questions for this panel.

5 MR. MCCLURE: Jim McClure, Office of  
6 Investigations.

7 Madame Chairman, staff has no questions.

8 CHAIRMAN OKUN: Okay.

9 Before I excuse this panel and call up our  
10 additional public witness I do want to again take this  
11 opportunity to thank all of you for appearing here  
12 today and answering our many questions. We'll just  
13 take a moment to change positions.

14 (Pause.)

15 SECRETARY: Madame Chairman, our next panel,  
16 public witnesses, have been seated. All witnesses  
17 have been sworn.

18 CHAIRMAN OKUN: Thank you, you may proceed.

19 MS. KOZAK: Good morning. My name is Linda  
20 Kozak. I'm the Director of Administration for Summit  
21 Research Labs, Incorporated located in Huguenot, New  
22 York.

23 Summit manufactures various chemical  
24 compounds used by the personal care industry.  
25 Specifically our company produces active

1 pharmaceutical ingredients used in the manufacture of  
2 antiperspirants. Our principal customers include  
3 companies such as Unilever, Colgate, Proctor & Gamble,  
4 Church and Dwight, and Henkel Dial. Glycine is one of  
5 the principal raw materials used in the production of  
6 aluminum zirconium chlorohydrin glycine which is one  
7 of the major active ingredients for antiperspirants.

8 My responsibilities as Director of  
9 Administration include overseeing the purchase of raw  
10 materials. I've been with the company or its  
11 predecessor for more than 30 years.

12 I've traveled to Washington today to appear  
13 at this hearing because our company is very much  
14 between a rock and a hard place. Practically speaking  
15 there are only four viable sources in the supply of  
16 glycine. One major producer in the United States, the  
17 Deer Park facility; Japan; India; and China. There  
18 are really no other large suppliers of glycine to meet  
19 the demands of a large consumer the size of Summit.

20 Here's our current situation. The Deer Park  
21 facility, now owned by GEO Specialty Chemicals, is not  
22 able to produce the quantities we need on a reliable  
23 basis. Our ability to purchase imported supply has  
24 been dramatically affected by the tsunami and the  
25 resulting nuclear problems in Japan which effectively

1       knocked out Japanese supply, at least for  
2       antiperspirant markets.

3                 Meanwhile some of the largest Indian  
4       producers have stopped shipping because of the  
5       chilling effect of GEO's anti-circumvention case.  
6       This leaves the Chinese suppliers who have effectively  
7       been excluded from the U.S. market for 15 years  
8       because of the antidumping case. So there you have a  
9       rock and a hard place.

10                Please don't misunderstand our position. We  
11       have no problem with domestic producers filing trade  
12       cases to combat unfair competition from imports.  
13       However, it is our view that domestic producers should  
14       not file these trade cases or seek to continue these  
15       cases if they're not able to supply their customers  
16       here at home.

17                The Deer Park facility has had 15 years to  
18       improve its production capabilities and increase  
19       capacity to better meet demand from its customers.  
20       Still today we can't get adequate supply from that  
21       Deer Park facility.

22                Let me describe our attempts to secure our  
23       supply.

24                First, a bit of history. For a long time we  
25       purchased virtually all of our glycine needs from the

1 Deer Park facility over a number of different  
2 ownerships. For about 20 years from the mid 1970s to  
3 the mid 1990s it was virtually our sole supplier. In  
4 1992 the Huguenot production facility was acquired by  
5 Summit Research Labs and the new owner who is still  
6 the current owner today started to grow the business.  
7 Our growth led us to explore alternative sources for  
8 all of our raw materials. However, I note that  
9 although we started to diversify our sourcing, we  
10 still purchased a large proportion of our needs from  
11 the Deer Park facility. It's my recollection that  
12 this facility accounted for the majority of our  
13 glycine needs from the mid 1990s at least until 2005.

14           2005 was when we began to experience  
15 substantial problems with the service from the Deer  
16 Park facility.

17           For example, in May of 2005 the Deer Park  
18 facility which at that time was owned by Dow Chemical  
19 advised us they had decided they would only ship to  
20 contracted customers. All other customers were being  
21 placed on allocation which meant that the Deer Park  
22 facility would not be able to supply Summit's full  
23 demand. In fact Dow specifically told us they didn't  
24 want to put any more money into production upgrades.  
25 they simply wanted to increase price and productivity

1 and that was their goal for the balance of 2005. They  
2 told us they had no plans to increase capacity or make  
3 other improvements at the Deer Park facility.

4           Again, in June of 2007, now GEO owned the  
5 facility, GEO told us that they would start 100  
6 percent allocation if they were successful in their  
7 latest antidumping case against Japan and India. I  
8 note that in 2007 GEO was the major supplier of  
9 Summit's glycine needs.

10           Even though GEO was not able to basically  
11 kick the Japanese and Indian suppliers out of the  
12 market, they still put Summit on allocation for our  
13 2008 requirement, agreeing to supply us only one truck  
14 load a month, which is about 480,000 pounds a year.  
15 We were only able to have this allocated supply  
16 increase after we acquired the other U.S. supplier of  
17 antiperspirant active ingredients and we were able to  
18 utilize their allocated amount as well.

19           Because the Deer Park facility had put us on  
20 allocation, we had no choice but to look elsewhere.  
21 So in 2008 and 2009 we began to purchase a larger  
22 share of our needs from a Japanese supplier. And I  
23 might add, it came at a higher price than we had been  
24 paying to GEO. Our purchase price for the Japanese  
25 supply was higher than our purchase price to GEO, but



1 we really had no choice.

2 In 2010 we were able to continue to diversify  
3 our supply source by adding an Indian supplier. The  
4 supplier had recently completed a large production  
5 capacity expansion and we felt he was then able to  
6 commit to providing a reliable supply for much of our  
7 needs. However even this supplier abruptly left the  
8 U.S. market at the end of 2010 because of the anti-  
9 circumvention case brought by GEO.

10 Things went from bad to worse in early 2011  
11 when the tsunami struck in March and Japan endured its  
12 nuclear crisis. The nuclear crisis caused a virtual  
13 panic amongst many of our personal care customers who  
14 began to demand that we provide written certification  
15 that we did not utilize Japanese glycine in our  
16 manufacturing process and that if we did, we were to  
17 provide written certification that the glycine was  
18 free from radiation on a batch by batch basis. Such a  
19 requirement basically took the Japanese out of the  
20 antiperspirant market, certainly as far as we were  
21 concerned. We had no choice but to go back to the  
22 Deer Park facility, contacted GEO in late 2010, early  
23 2011, to seek additional supply. But based on our  
24 discussions with them, GEO refused to accept new  
25 orders for the remainder of the year except for rather

1 sporadic orders. In fact GEO told us in no uncertain  
2 terms that the most they could supply us in 2011 was  
3 one and occasionally two truckloads a month or some  
4 sub-par material when it became available. Our  
5 requirements are closer to five to six truckloads a  
6 month and that should be quality material. That's why  
7 I'm here today.

8 We can't get the supply we need from GEO.  
9 please understand this is not a gambit about price.  
10 Yes, of course like all purchasers we certainly strive  
11 to lower our purchase prices, but overall  
12 profitability is the most important to us and I can  
13 tell you that on a total cost basis it is generally  
14 less expensive or even to purchase from the Deer Park  
15 facility compared to import sources. The reason for  
16 this is that the Deer Park facility should allow us to  
17 operate with just in time delivery, allowing us to  
18 maintain smaller inventory levels. Their transit time  
19 is typically three days.

20 With import suppliers because of the  
21 vagaries of international shipping, we've had to  
22 maintain significantly larger inventories.

23 Maintaining larger inventories come with a  
24 real cost. In terms of overall profitability I don't  
25 really save money by purchasing from import suppliers

1 even if the unit price is less expensive.

2           The last point I want to make in my limited  
3 time is to state that you should remain skeptical of  
4 the domestic producers' attempts to portray the future  
5 as doom and gloom. I'm kind of puzzled by this  
6 portrayal given that GEO is apparently able to sell  
7 all of their output at whatever price they choose, and  
8 as a manufacturer I certainly wish our company had  
9 that capability.

10           Leaving that aside, I can tell you clearly  
11 that one of the principal uses for glycine is for the  
12 production in the antiperspirant market and the  
13 antiperspirant market is growing. All indications are  
14 that it will continue to grow, especially in export  
15 markets.

16           Concerning our business, our total quantity  
17 produced has continued to grow every year for the last  
18 20 years. The volume is definitely there.

19           There are two primary reasons for this.  
20 first, in the U.S. market where consumers demand the  
21 highest levels of antiperspirant performance, the sale  
22 of antiperspirant wasn't really affected greatly by  
23 recessions . Antiperspirants in the U.S. are  
24 considered a necessity and they're not viewed as a  
25 luxury item by the buying public.

1           Hence as the population grows, so does the  
2 demand for antiperspirants.

3           Second, there's a tremendous growth in  
4 antiperspirants in other countries and we are one of  
5 the major suppliers to those other markets for  
6 antiperspirant active ingredients.

7           The bottom line is that growth of  
8 antiperspirants appears strong and for many of those  
9 products glycine is a necessity.

10           As the antiperspirant market grows so does  
11 the demand for glycine.

12           So let me return to where I began. We are  
13 between a rock and a hard place, but even more  
14 importantly, we see no end to the present supply  
15 situation, only continued deterioration.

16           Glycine demand in the U.S. market exceeds  
17 the ability of the single viable domestic producer to  
18 supply and the shortage continues to get worse. This  
19 hasn't changed in 15 years.

20           More concerning is the fact that to the best  
21 of my knowledge the Deer Park facility has done  
22 precious little during that time to improve their  
23 quality or increase their capacity.

24           Summit is facing the same uneven domestic  
25 supply witnessed by the Commission in the 2008

1 investigation that sent consumers scrambling to  
2 diversify supply bases. Despite promises to better  
3 serve this market including plans to expand  
4 production, GEO has yet to follow through on that.

5 MR. SCHWARTZ: Ms. Kozak, your red light has  
6 come on.

7 Ms. KOZAK: I'm on the last two sentences.

8 We feel they're still operating in the same  
9 manner as they were in '95. Please, we don't think  
10 this is fair. It's not fair for a single U.S. company  
11 to maintain a virtual monopoly position without doing  
12 anything to address the needs of its customers.

13 That concludes my testimony, and I'd be  
14 happy to answer questions.

15 CHAIRMAN OKUN: Thank you. Before we begin  
16 our questions, I want to thank this opportunity to  
17 thank you for your appearance and for providing a  
18 questionnaire to the Commission, as we prepare our  
19 record. And we will begin our questions with  
20 Commissioner Aranoff.

21 COMMISSIONER ARANOFF: Thank you, Madam  
22 Chairman. Thank you for coming in to testify today.

23 When you consider an oversea supplier of  
24 glycine, what kind of due diligence does your company  
25 do, in terms of -- do you just test the product that

1 they send you for testing? Do you go visit the plant?  
2 What do you do?

3 MS. KOZAK: We have done both and we do this  
4 with glycine, as we do with any raw materials, since  
5 we import other materials, as well. We have a  
6 standard procedure for approving new suppliers of raw  
7 materials. Since what we manufacture is considered an  
8 over-the-counter drug, we're regulated by FDA and  
9 because of that, we must operate within good  
10 manufacturing practices, which include a formal  
11 procedure for approval of new sources of raws.

12 The initial thing we would typically do is  
13 we see samples. Once we know they're there, we either  
14 approach them, they approach us. We look at samples  
15 from multiple lots, get a feel for whether it's the  
16 material we're looking for, also some discussions on  
17 price to make sure it's attractive or it's worth  
18 looking into.

19 Following a time of simply back and forth  
20 with our quality folks, the first procedure we would  
21 take would be to bring in what we would consider a  
22 pilot quantity, enough to run a very small production  
23 batch on our equipment. We look at the product it  
24 makes carefully. We do some accelerated stability  
25 work, to make sure we're not seeing anything different

1 than we do with our existing sources. We fully test  
2 any batches we made. It, also, gives us really the  
3 first opportunity to see a decent size quantity of  
4 material beyond a one-pound sample, which doesn't tell  
5 you the world.

6           Once we've felt that on a pilot basis, the  
7 material is suitable, we would then bring in a next  
8 production size batch, something to make close to a  
9 standard sized batch and do the same thing again, do  
10 some expedited stability work on the finished product;  
11 carefully examine our finished product, using that  
12 material to make sure there is nothing different than  
13 the material we make with our standard. And at that  
14 point, if everything works out well, we would consider  
15 that vendor to be an approved supplier.

16           COMMISSIONER ARANOFF: So at any point  
17 during that extended testing process, have you visited  
18 the plant?

19           MS. KOZAK: yes.

20           COMMISSIONER ARANOFF: Okay.

21           MS. KOZAK: We purchase other materials from  
22 China and a representative from our company has  
23 visited every plant our material comes from. We have  
24 purchased raw materials from India and a member of our  
25 facility has visited those facilities, as well. We

1 know they're there; we know they're making product.

2 COMMISSIONER ARANOFF: So, you would know if  
3 a facility that product was coming from was not, in  
4 fact, capable of producing the product?

5 MS. KOZAK: If they weren't capable of  
6 producing it, you would know.

7 COMMISSIONER ARANOFF: Would you know if --  
8 assuming they had capacity in place to produce  
9 something you could see, would you know for a given  
10 batch whether they actually produced it or bought it  
11 from somebody else?

12 MS. KOZAK: At one facility, we actually  
13 made the request when we were there to see their  
14 production records for the batch, as well as their raw  
15 material purchasing records, and they were able to  
16 show us that documentation. I don't know that we  
17 would get that from every vendor. I don't know that  
18 every vendor would be quite that open. Frankly, I  
19 wouldn't be quite that open with my customers because  
20 I don't like sharing all my costs with my customers.  
21 But, they were open with us and we felt comfortable.

22 MS. KOZAK: What are the risks to your  
23 company if you import supplies for which you really  
24 couldn't be sure of the country of origin?

25 MS. KOZAK: Risks as far as is this



1 circumvented material or risks as far as do I think  
2 this product is safe or both?

3 MS. KOZAK: Both. If you think it's  
4 circumvented, I assume that, if I don't know who the  
5 importer of record is.

6 MS. KOZAK: The explanation I just gave on  
7 this one particular supplier that we've done, that was  
8 in India and we felt there was not a risk that  
9 material was being circumvented since we were able to  
10 clearly -- what was very clear to us from what we saw,  
11 that they were producing that product there.

12 From a safety standpoint, before we start  
13 buying on a production basis, we have seen multiple  
14 lots. We have seen larger quantities where -- I mean,  
15 anybody can give you a good one-pound sample, but can  
16 you give you me a good 2,000 pound super sack or a  
17 good 10,000 pounds of product. Those are the things  
18 we're looking at, as we scale up. We have never seen  
19 anything to indicate from our foreign suppliers that  
20 there was a concern, a safety concern tied to  
21 something being in there that shouldn't be.

22 COMMISSIONER ARANOFF: Okay, okay. And are  
23 you the importer of record for the product that you  
24 bring in or is someone else?

25 MS. KOZAK: Are you talking glycine or --

1 COMMISSIONER ARANOFF: Glycine.

2 MS. KOZAK: -- or some other things?

3 COMMISSIONER ARANOFF: No, just glycine.

4 MS. KOZAK: We are not the importer of  
5 record.

6 COMMISSIONER ARANOFF: Is the foreign  
7 supplier the importer of record or are you using an --

8 MS. KOZAK: We're going through an agent.

9 COMMISSIONER ARANOFF: Okay.

10 MS. KOZAK: Currently, we're going through  
11 an agent.

12 COMMISSIONER ARANOFF: Okay.

13 MR. PORTER: Commissioner Aranoff, I know if  
14 they were the importer of record, this would be a much  
15 different presentation. I would then have APO access.

16 COMMISSIONER ARANOFF: True. You've talked  
17 about some of the periods of time when you've had  
18 trouble getting supply that you've needed from GEO.  
19 With respect to foreign suppliers that you have relied  
20 on in the past in Japan or India, have you had  
21 comparable experiences? Do they experience  
22 maintenance shutdowns and times when they face  
23 unexpected demand from other customers and seem to be  
24 sold out?

25 MS. KOZAK: In the past, we have experienced

1 vendors who have told us we're going to have a  
2 production shutdown. They were clear about how long a  
3 period of time that was intended to be. And what we  
4 had tended to do was to book early and beef up our  
5 inventory, because we knew there would be a period of  
6 time when they would be shut down, not producing. So,  
7 we always made attempts to ensure we had substantial  
8 inventory to carry us through that period.

9 And our typical way of purchasing raw  
10 materials is not to have only one approved supplier.  
11 So, we have typically had someone else, even if they  
12 were a minority share supplier and we would probably  
13 have fallen back on them to help cover us through that  
14 period.

15 COMMISSIONER ARANOFF: Okay. In the  
16 investigation that the Commission did back in 2007,  
17 where the Commission reached a negative determination,  
18 one of the things that we said was that we felt that  
19 the subject supply had been pulled into the U.S.  
20 market by shortages, so that there hadn't been -- it  
21 hadn't come into the market to aggressive pricing. In  
22 contrast to that, in this case, we do have a fairly  
23 large of responding importers and purchasers to our  
24 questionnaire, who've said that they think with  
25 opening the order on China would permit Chinese

1 imports to drive down domestic prices. Do you  
2 disagree with that assessment?

3 MS. KOZAK: I guess I would expect it might  
4 drive the price down somewhat. We don't buy a great  
5 deal, we buy -- a share of our business this year  
6 comes from China through an agent. Would the price  
7 drop? I guess it could.

8 MR. PORTER: Commissioner Aranoff?

9 MS. KOZAK: I mean -- yeah.

10 MR. PORTER: Can I make a comment, if I may?

11 COMMISSIONER ARANOFF: Mm-hmm.

12 MR. PORTER: I like to go back and sort of  
13 review all the testimony -- in fact, you heard quite a  
14 bit of testimony this morning about all of the  
15 supposed Chinese merchandise that has entered the  
16 country over the past few years; in particular, the  
17 last three years, in which according to staff report,  
18 domestic industry made profits and according to  
19 Commissioner Pearson, good profits. And so, I would  
20 submit that that's evidence that there may not be as  
21 much of a dramatic effect. That's hard evidence  
22 because it's actual experience; that if it is, in  
23 fact, Chinese, as they say it is, and they're still  
24 making profits, then shouldn't that suggest that in  
25 the future, when this comes from China, rather than

1 China via India, it can also make profits with the  
2 Chinese in the market?

3 And so, I would suggest all of this -- I  
4 mean, they attempt to say the transshipment is  
5 evidence that the U.S. is a attractive market. That's  
6 a given. The U.S. is a very large market. It's an  
7 attractive market. My point is that if they've been  
8 making good money with Chinese in the market as  
9 history, why isn't that also going to happen in the  
10 future? And they have actually not answered that  
11 question.

12 COMMISSIONER ARANOFF: Okay. Well, I  
13 appreciate those answers. And my time is up, so thank  
14 you, Madam Chairman.

15 CHAIRMAN OKUN: Commissioner Pinkert?

16 COMMISSIONER PINKERT: Thank you, Madam  
17 Chairman. I just have a few questions for Ms. Kozak.  
18 I understand your testimony about the product that  
19 you've purchased and your belief that it was not a  
20 circumvented or transshipped product that originated  
21 in China. But, I'd like you to, if you would, just  
22 comment more generally about whether you think there  
23 is product that's entering the U.S. market that is of  
24 Chinese origin, but it's being transshipped through  
25 other countries.

1 MS. KOZAK: I couldn't say that from my own  
2 experience, because if we had an indication at the  
3 time we were buying that there was transshipment going  
4 on with that particular supplier, we would not have  
5 continued to utilize them. I really did not have --  
6 we didn't have a great deal of experience utilizing  
7 particularly Indian suppliers. Do I think it's going  
8 on? Probably, but that's just -- I couldn't prove  
9 anything to you. That's just my thought.

10 COMMISSIONER PINKERT: So to flip the  
11 question around then, you're not testifying that the  
12 transshipment allegations made by the domestic  
13 industry are false; you just don't have any personal  
14 experience with that?

15 MS. KOZAK: No, we're not talking about that  
16 at all. I don't have that experience.

17 COMMISSIONER PINKERT: Okay. And one other  
18 question and, again, if you can answer it based on  
19 your personal experience, great; if you can answer it  
20 based on what you've heard in the marketplace, that's  
21 also of use. So, do you have any comparison that you  
22 could make between the pricing from India currently  
23 and the pricing from China with respect to the glycine  
24 that's subject to this investigation?

25 MS. KOZAK: Yes, but not something I want to

1 make public knowledge. It's --

2 MR. PORTER: Commissioner Pinkert, I believe  
3 that information is contained in Ms. Kozak's  
4 questionnaire response and we'll go back and check.  
5 And if there's any sort of unclear, we will make sure  
6 in the following-up to give you exact pricing, so you  
7 can look at it directly.

8 COMMISSIONER PINKERT: That would be very  
9 helpful for the post-hearing. And, also, if you have  
10 any other market intelligence that you can give us  
11 that's relevant to this comparison that I'm asking  
12 about, that would be useful, too.

13 MR. PORTER: Will do.

14 COMMISSIONER PINKERT: Thank you. I have no  
15 further questions. I thank you for testifying today  
16 and I look forward to that post-hearing information.  
17 Thank you, Madam Chairman.

18 CHAIRMAN OKUN: Thank you. Ms. Kozak, you  
19 had testified from your experience in sourcing from  
20 Deer Park, including the change in ownership that  
21 occurred in 2005. In the testimony this morning, Mr.  
22 Mahoney talked about some of the changes that they  
23 have made or testified that the Chinese had made to  
24 GEO to increase customer responsiveness. And I know  
25 that's not your experience based on your testimony

1 today, relatively small number of purchasers in the  
2 market. Is there -- could it be that both stories  
3 consistent, that they have focused on other customers  
4 that were long standing and that might be better  
5 relationship, versus --

6 MS. KOZAK: Well, we -- when you say,  
7 customer that's long standing, although we don't  
8 currently have a contract with GEO, we've been buying  
9 from GEO, Dow, Hampshire Chemical, W.R. Grace, all the  
10 names who used to own that facility and even before  
11 that when they used to manufacture glycine in New  
12 Hampshire. So, we certainly have a long standing  
13 history and typically has been a good history with the  
14 facility.

15 Is it possible they are giving really good  
16 service to other people? I can't comment on that.  
17 And we don't have a lot of history this year; although  
18 I will say with the very few orders we've had accepted  
19 this year, typically, once the order is placed and the  
20 date is set on the purchase order, in more than one  
21 case, we have heard back from GEO, oh, I'm sorry, I  
22 can't ship it on that date, but here's when we can  
23 have it.

24 And as an example, in my -- one of the  
25 things that was offered to us by GEO very early, I



1 think it was actually offered at the end of December,  
2 is we were offered about a truckload and three-  
3 quarters of glycine that was USB material, but it was  
4 hard as a brick. And you heard the manufacturers  
5 state that, you know, it doesn't do well with  
6 moisture; it turns hard. Well, in fact, this turned  
7 hard at GEO. We have seen that kind of material from  
8 them occasionally in the past. We've been able to use  
9 it. And since we were talking to them about wanting  
10 to get supply from them, we said, yes, we can take it.  
11 They did offer it to us. Interestingly enough, you  
12 know, they wanted to get it off their hands. They  
13 didn't -- I'm assuming they don't have a whole lot of  
14 customers that are interested in taking what's roughly  
15 a 2,000 pound super sock that you could whack with a  
16 baseball bat and doesn't want to break apart. The  
17 thing is really hard.

18 We have a process, however, where our  
19 glycine is dissolved into a very acidic solution and  
20 I'm assuming other industries don't deal with their  
21 glycine that way. So, we can handle it. We did take  
22 it. We used it. It costs us more to do that because  
23 it takes a lot more handling to be able to get it into  
24 our equipment and into solution. But even that, where  
25 it was a material they had on hand, sitting in their

1 warehouse, when we said that's fine, you know, can we  
2 have it this Friday, we'll take it. We heard, well,  
3 yeah, but, you know, we're short some people and we  
4 have a couple of other orders we have to ship first,  
5 so I'll probably have it for you the end of the first  
6 or second week in January. That's the service we've  
7 seen.

8 CHAIRMAN OKUN: Okay. And then I think you  
9 may have hinted on this during your testimony, but if  
10 the order were revoked, how would you see the market  
11 in terms of who you would be looking to source? Would  
12 it change your sourcing from your current sourcing and  
13 then in what way? I know you don't want to discuss  
14 prices in our public session, but just tell me a  
15 little bit about what a market without this order  
16 would mean for you.

17 MS. KOZAK: We are currently buying from  
18 Japan -- excuse me, we're currently buying from India  
19 from a source that is not included in the anti-  
20 circumvention case and they share the majority end of  
21 our business with buying from a facility in China. In  
22 both cases, we're buying through an agent; we're not  
23 buying direct. So, we're getting it on a delivery  
24 duty-paid basis. And we sought to obtain additional  
25 supply from GEO, because between those two sources, we

1 weren't getting everything we wanted, as far as  
2 volume. And that was why we approached GEO and asked  
3 them what can you supply us in 2011.

4 My guess is we would probably consider -- we  
5 would probably continue in the same fashion. It might  
6 be that additional material from China would open up  
7 for us. But, then, again, we're looking at material  
8 from an approved source. There may be -- I don't know  
9 how many suppliers of glycine there are in China;  
10 there's a lot. We certainly have not approved all of  
11 them as sources. We have one that I know of right now  
12 that's approved. I would have to look back through  
13 our records and see if we've approved any others. I  
14 don't think we would dramatically change how we're  
15 purchasing.

16 MR. PORTER: Commissioner?

17 MS. KOZAK: We will continue to have more  
18 than one supplier.

19 MR. PORTER: Commissioner Okun, I want to  
20 just make sure it's understood that what Linda is sort  
21 of contemplating is that there's no change in GEO's  
22 ability to supply them sort of adequate supply. And  
23 her earlier testimony is, all things being equal, if  
24 GEO is able to commit to adequate supply, she will buy  
25 from GEO, because on an overall cost basis, it's just

1 -- it's cheaper for her. So, you know, she's sort of  
2 saying, okay, if you open up China and GEO is still  
3 not able to supply, this is how I think it may happen;  
4 but if GEO is able to supply her, she will first buy  
5 from GEO.

6 CHAIRMAN OKUN: Right and I've understood  
7 that from just -- that it's not just the price, but  
8 just in time is helpful. But, mine was more given  
9 there are other sources in the U.S. market, what this  
10 market would look like in the event of revocation.

11 MS. KOZAK: Do you mean other sources as far  
12 as U.S. manufacturers?

13 CHAIRMAN OKUN: No, I'm sorry, other country  
14 sources in terms of competing with Chinese product  
15 that would no longer be subject to an order, what  
16 changes that might bring in the market.

17 And then I think -- I think I had one more  
18 question -- oh, just a final question. I'm not sure  
19 if you have knowledge of this, but some of the  
20 discussion this morning talked about what had happened  
21 with the European producer when China entered the EU  
22 market. I don't know if you --

23 MS. KOZAK: We never bought from them.

24 CHAIRMAN OKUN: Okay.

25 MS. KOZAK: Our understanding was they were

1 a very small manufacturing facility, basically just  
2 making enough for whatever part of the European market  
3 they handled. So, we never approached them and dealt  
4 with them.

5 CHAIRMAN OKUN: Okay. I appreciate all  
6 those answers. Commissioner Williamson?

7 COMMISSIONER WILLIAMSON: Thank you, Ms.  
8 Kozak, appreciation for coming. Thank you, Madam  
9 Chairman. Thank you, Ms. Kozak for coming today.

10 I was wondering, in light of what we heard  
11 this morning, and you can answer this post-hearing,  
12 you haven't mentioned Chattem at all. So, I was  
13 wondering why you haven't considered them as a source.

14 MS. KOZAK: We've bought from Chattem in the  
15 past, years back. Their material was qualified.  
16 Quite frankly, particularly back when GEO was our only  
17 source of glycine, we bought Chattem only if we  
18 couldn't GEO material and the reason was their price  
19 was always substantially higher.

20 COMMISSIONER WILLIAMSON: Okay.

21 MS. KOZAK: I will also say that more  
22 currently, when I've had conversations with Chattem,  
23 Chattem, also, represents Showa Denko, a Japanese  
24 supplier, and we have had discussions on sourcing  
25 Showa Denko material. We've used -- it's a qualified

1 source. We've used it in the past. So, I haven't had  
2 a conversation about buying technically Chattem  
3 material in a long time. More recently, our  
4 discussions when we've had them have been regarding  
5 Japanese material.

6 COMMISSIONER WILLIAMSON: Okay, thank you.  
7 If Mr. Kedrowski wants to say anything post-hearing, I  
8 would be interested in hearing. But talking about  
9 Japanese material, are there any estimates about when  
10 the Japan would be sufficiently recovered to come back  
11 in the market?

12 MS. KOZAK: Not yet. I will say -- we used  
13 to buy from Showa Denko. They supplied a portion of  
14 our demand for over a two-year period. Good supplier,  
15 dependable, quality material. Whether there was ever  
16 an issue truly with their material or not, I'm not  
17 sure. What our customers who were putting these  
18 requests into us were telling us, is certify -- number  
19 one, that you don't manufacture my product in Japan.  
20 Well, we don't. Okay, now certify that are you buying  
21 any raw materials for your product, not just glycine,  
22 but are you buying any raw materials that are  
23 manufactured in Japan and if you do, I need a  
24 certification that states they're not radioactive and  
25 with that certification, here's the two-page list of

1 testing I want to have done on every batch you bring  
2 in and put in product you ship to me. If you're going  
3 to certify, you need to prove all this testing has  
4 been done.

5 It just didn't make sense to us and, at this  
6 point, we're not ready to go back, especially since  
7 the -- number one, the issue in Japan is not 100  
8 percent settled yet, as far as their nuclear issues.  
9 How long that's going to take -- how long is it going  
10 to take for Japan to solve their problem with nuclear  
11 plants? I don't know. How long will it be until my  
12 customers feel comfortable that they would not require  
13 that certification? I'm not sure about that either.  
14 It's hard to predict.

15 MR. PORTER: And Commissioner Williamson,  
16 I'm sure you can understand we're dealing with fear  
17 that maybe even called irrational fear, but it's a  
18 very real fear of the customers and more importantly,  
19 her customers are putting demands on her that simply  
20 make purchasing from Japan not feasible.

21 COMMISSIONER WILLIAMSON: Okay. Thank you.  
22 No, I understand that and I understand her rational  
23 fears.

24 Your Indian, I guess you probably have -- do  
25 you have several Indian suppliers?

1 MS. KOZAK: We have bought from more than  
2 one Indian supplier over the years.

3 COMMISSIONER WILLIAMSON: Okay. Because, I  
4 was going to ask you if your Indian supplier, any one  
5 of them is being investigated by Congress?

6 MS. KOZAK: Our currently Indian supplier is  
7 not being investigated.

8 COMMISSIONER WILLIAMSON: Okay. Oh, but,  
9 then --

10 MS. KOZAK: They're not included -- they're  
11 not one of the named --

12 COMMISSIONER WILLIAMSON: Okay.

13 MS. KOZAK: -- facilities that are named in  
14 that anti-circumvention case.

15 COMMISSIONER WILLIAMSON: And I don't know,  
16 can you say whether -- do you know whether they, also,  
17 handle Chinese product, too?

18 MS. KOZAK: I don't know if they handled  
19 Chinese product.

20 COMMISSIONER WILLIAMSON: Okay. So what is  
21 it, it's just there are limited number of other Indian  
22 suppliers that you can turn to?

23 MS. KOZAK: If I wanted to -- if I wanted to  
24 buy from an Indian supplier, who is not named in the  
25 case, there are several.



1 COMMISSIONER WILLIAMSON: Okay.

2 MS. KOZAK: We chose one.

3 COMMISSIONER WILLIAMSON: Okay. Well, thank  
4 you for the answers to your questions. I have no  
5 further questions.

6 CHAIRMAN OKUN: Commissioner Lane?

7 COMMISSIONER LANE: Thank you for coming  
8 here today. I just have a few questions. I'm really  
9 confused as to why you're testifying today, because at  
10 first I thought you were saying that you were  
11 concerned that the antidumping order, if it stayed on,  
12 was going to drive up the cost of the end-use product;  
13 but, now, I understand that you've been buying Chinese  
14 product all along. So, I'm really -- what difference  
15 is it going to make to your business whether or not  
16 these orders stay on -- or this order stays on?

17 MS. KOZAK: We'd like a diversified supply.  
18 We don't truly want to buy just from one place. As an  
19 example, if I had been only -- if I had chosen in 2011  
20 to put 100 percent of my glycine supply at Japan, I'd  
21 be in a world of trouble right now. There's a lot to  
22 be said for not getting it all from one place and a  
23 lot of it's available out of China.

24 Would I like to see the antidumping duty  
25 portion of what I'm paying go away? Sure. What we

1 feel -- where we feel we're hurt, we compete with  
2 manufacturers of the same materials we make. There  
3 are two major manufacturers who manufacture that  
4 product out side of the country. We run into them as  
5 a competitor all around the world. We, also, run into  
6 them as a competitor here in the States. They import  
7 some of the product. We feel they definitely have an  
8 advantage. If they're smart, they're buying Chinese  
9 glycine. They don't have antidumping penalties, so  
10 they're able to purchase it at a substantially lower  
11 cost than I am. One of them actually built a plant in  
12 China, so even more available to them. They've got an  
13 advantage I don't have. And we just think it's not  
14 fair that we're being held back by this antidumping  
15 ruling.

16 MR. PORTER: Commissioner Lane, the  
17 advantage is they have more sources of supply than  
18 does Ms. Kozak. And I really want to sort of  
19 emphasize --

20 COMMISSIONER LANE: Who is "they?"

21 MR. PORTER: They are the foreign  
22 manufacturers of her finished product.

23 MS. KOZAK: Right.

24 MR. PORTER: So essentially foreign  
25 manufacturers of antiperspirant active ingredients.

1 And since they can -- they can source glycine sort of  
2 form a variety of places and not have these  
3 restrictions. And you asked why did she come here  
4 today. She came here today because of sort of what's  
5 happened to her recently and that is -- especially the  
6 experience in having a very solid Japanese supply  
7 completely taken out of the market, circumstances  
8 beyond anyone's control, and having the U.S. supply,  
9 the U.S. producer not be able to supply here and, yet,  
10 say, I'm not going to supply you and I'm not going to  
11 let you buy from others.

12 COMMISSIONER LANE: Okay.

13 MR. PORTER: And that's why she is here  
14 today.

15 COMMISSIONER LANE: Let me go back to Ms.  
16 Kozak. As I understand that for the past several  
17 years, you bought glycine from GEO and you bought some  
18 from Indian and you bought some from China and none of  
19 that is going to change whether or not this order  
20 stays on or is revoked; is that correct?

21 MS. KOZAK: Well, we would certainly -- we  
22 would like to buy more from GEO. When we talked about  
23 total costing, it is a fact that my cost of imported  
24 glycine versus my cost, my delivered cost of GEO  
25 glycine, it's not substantially cheaper, especially

1 when you consider when I'm buying from a place where  
2 the transit time is three weeks. There are always  
3 oddball disruptions that go on in China, things go on  
4 in India. They have monsoons and they stop shipping  
5 for a month-and-a-half. It forces us to carry  
6 typically two to three months worth of inventory and  
7 sometimes more. It's expensive. The product, itself,  
8 is expensive. Just our carrying costs is a cost  
9 variable that I have to deal with and the cost of  
10 money. I've had to pay for that product at the time  
11 it arrived; now, I'm sitting on it for another three  
12 months and, you know, there's a cost to that money  
13 that I've spent.

14 COMMISSIONER LANE: Do you typically have  
15 contracts with GEO for the supply that you want?

16 MS. KOZAK: We've had contracts occasionally  
17 in the past. For many years, we didn't. Now some of  
18 that was pre-GEO. But even at the beginning of GEO's  
19 time, I don't believe we had a contract every year.  
20 It is something they asked us to do in more recent  
21 years.

22 This year, the understanding was that this  
23 12 to 15 loads a year would be available to us on a  
24 contract basis. Our management wasn't willing to  
25 contract at that time. And I think things they took

1       into consideration when they considered should they  
2       have a contract or not were things like, we knew that  
3       this sunset review was underway, we knew that the  
4       anti-circumvention issue was still churning away. And  
5       without having a firm knowledge of where both of those  
6       would go, we didn't want to restrict ourselves should  
7       the results of those lead us to not want to buy from  
8       GEO for one reason or another.

9               Now, in fact, we have given them some spot  
10       orders, orders with out a contract. Aside from the  
11       hard material that they offered us, we've placed  
12       orders, received two orders. I think we actually  
13       placed a third order and we're told the material  
14       wasn't going to be available after all.

15               COMMISSIONER LANE: And when was the last  
16       time that you considered going to Chattem to buy  
17       product? And have you --

18               MS. KOZAK: To buy product from Chattem  
19       manufactured in the States?

20               COMMISSIONER LANE: Yes.

21               MS. KOZAK: I'd have to look at my records,  
22       not recently.

23               COMMISSIONER LANE: And so have you -- so,  
24       you haven't taken a look at the relative costs of  
25       buying from Chattem, as opposed to buying from a

1 foreign source?

2 MS. KOZAK: No. And I would also mention  
3 that Chattem has not approached us and say, you know,  
4 we'd like to sell you our material. The conversations  
5 we have had in recent years have been, hey, the  
6 Japanese would really like a chance of getting back in  
7 there.

8 COMMISSIONER LANE: Okay, thank you. I  
9 don't have any further questions, Madam Chair.

10 CHAIRMAN OKUN: Commissioner Pearson?

11 COMMISSIONER PEARSON: Thank you, Madam  
12 Chairman. Welcome, the three of you. I do use your  
13 product sometimes, especially in Washington in the  
14 summer. So, I'm sensitive to your supply needs here.

15 MS. KOZAK: The stuff called 24 and 7 is the  
16 best stuff on the market.

17 COMMISSIONER PEARSON: Thanks.

18 MS. KOZAK: Just a hint.

19 COMMISSIONER PEARSON: Just to clarify, is  
20 there a different price point between material that  
21 Chattem produces in the United States and material  
22 that they have been able to supply from Showa Denko?

23 MS. KOZAK: I haven't seen a price from  
24 Chattem's material produced in the United States in a  
25 long time.

1 COMMISSIONER PEARSON: Okay.

2 MS. KOZAK: So, I couldn't comment.

3 COMMISSIONER PEARSON: Okay. But going back  
4 historically, were they --

5 MS. KOZAK: Well, it was a different --

6 COMMISSIONER PEARSON: -- did they have a  
7 higher price than --

8 MS. KOZAK: They had a higher price than GEO  
9 back when we had those conversations; but once we were  
10 talking about Japan, by then, you know -- since I had  
11 conversations with them about Japan, I don't know that  
12 I've ever seen a price from Chattem, themselves.

13 COMMISSIONER PEARSON: Okay. And do you  
14 know, is there a different production process used for  
15 the material that comes from Showa Denko and from the  
16 material that Chattem would produce in its own  
17 facility?

18 MS. KOZAK: I'd have to look at our records.  
19 I know there are two major processes. GEO makes it  
20 one way; Chattem makes it the other. Without looking  
21 at my documentation, I couldn't comment on which one  
22 Showa Denko uses.

23 COMMISSIONER PEARSON: Okay. But in terms  
24 of your -- the product that you need for your  
25 processing --

1 MS. KOZAK: Either one.

2 COMMISSIONER PEARSON: -- either one --

3 MS. KOZAK: Either one works well for us.

4 COMMISSIONER PEARSON: Okay, thanks.

5 Another question for clarification regarding the  
6 Japanese product. Does the unavailability of that  
7 product to you, at this time, relate in any way to  
8 physical damage to production facilities in Japan, or  
9 does it relate entirely to concern by your customers  
10 about radiation?

11 MS. KOZAK: It's concern from our customers  
12 that safety of the product they're buying from me.  
13 They've just got this thought, oh, my God, I don't  
14 want to buy anything from Japan right now because it  
15 might be radioactive.

16 COMMISSIONER PEARSON: Okay. But --

17 MS. KOZAK: Kind of like what you heard from  
18 people when you heard about toothpaste with  
19 contamination from China, don't buy anything Chinese.

20 COMMISSIONER PEARSON: Okay. So, if the  
21 radiation concerns ever would diminish, then the --

22 MS. KOZAK: I'm sure, yeah, I'm sure  
23 customers would feel relieved and that would become a  
24 viable source for us again.

25 COMMISSIONER PEARSON: Okay. You mentioned



1 the caking problem that you experienced with the  
2 relatively recent shipment from GEO. Have you had any  
3 caking problems or other quality out-of-condition  
4 problems with product that's been imported?

5 MS. KOZAK: Many years ago, and by "many,"  
6 I'm talking eight or nine, we were dealing with a  
7 supplier from India and I believe we got one load with  
8 a couple of the large sacks, but had caked in the same  
9 way. We know it comes from moisture. We were able to  
10 deal with it, just like -- we are able to deal with  
11 it. It comes at a little bit of a higher handling  
12 cost, but he put some changes in his process and that  
13 was the last time we got it that way. It is something  
14 we have seen very occasionally over the years from the  
15 Deer Park facility. You know, every once in a while,  
16 material would come in and it was hard. We used to  
17 hear that they were putting dryers or some sort of  
18 equipment on their production line to try -- to  
19 continue to pull moisture out of the process.

20 I was never offered hard material. We'd  
21 like to ship you this hard stuff, will you take it.  
22 That was the first time we've ever had it approached  
23 that way. But, it does speak to the fact that it  
24 doesn't only harden over time. It may, if it picks up  
25 moisture and it's not in a package that will keep

1 moisture out, but apparently, you know, I know it can  
2 happen in a process, if --

3 COMMISSIONER PEARSON: It can happen fairly  
4 quickly under the right conditions is what you're  
5 saying.

6 MS. KOZAK: I'd say that's correct.

7 COMMISSIONER PEARSON: Okay. And I would be  
8 correct to understand that the technology involved in  
9 shipping product from Asia to the United States,  
10 putting it into I assume the 2,000 pound jumbo stacks  
11 and --

12 MS. KOZAK: We have bought it from overseas  
13 either in 2000 pound sacks or metric ton sacks. They  
14 come in a plastic liner, as does GEO's material. And  
15 we've also received it in 25 kilo bags.

16 COMMISSIONER PEARSON: Okay. But --

17 MS. KOZAK: So, they can both keep moisture  
18 out.

19 COMMISSIONER PEARSON: Okay.

20 MS. KOZAK: And, you know, it's protected.

21 COMMISSIONER PEARSON: Okay. So, they put  
22 it in a container. It gets over here and it's okay  
23 unless there's been some extraordinary circumstance?

24 MS. KOZAK: Right, typically.

25 COMMISSIONER PEARSON: Okay, thanks. Mr.

1 Porter, more commonly, you would be, at this point, in  
2 a position to argue based -- you know, argue volume,  
3 price, and impact, and perhaps encourage us to revoke  
4 the order. Let me just clarify, are you arguing now  
5 that we should revoke and, if so, can you give us  
6 whatever reasons that you can for that recommendation?

7 MR. PORTER: Thank you, Commissioner  
8 Pearson. Yes, as I represent Summit Research Labs and  
9 as Ms. Kozak has testified, she would like to see the  
10 order revoked, so as to have increased availability of  
11 supply. And we intend to submit on her behalf a sort  
12 of post-hearing submission that will go through the  
13 legal criteria and do the best we can with the public  
14 versions of the information, to show that the full  
15 evidentiary record before the Commission doesn't  
16 support continuation of the order.

17 I alluded to sort of the rationale I believe  
18 in my earlier or discussion with Commissioner Aranoff.  
19 And since you've asked and since you've allowed me to  
20 give a 30-second preview, I'll do so. It's very  
21 simple. Petitioners came up here and said, you know,  
22 just look at what happened with the investigation and  
23 look at when you conducted the expedited reviews in  
24 2000 and 2005 and that's all I need to look at.  
25 Essentially, our point is very simple. You, the

1 Commission, the undertook a comprehensive examination  
2 of all the competitive dynamics in 2007, 2008. And  
3 what you found was not just that over time, the  
4 subject imports weren't causing injury, you found no  
5 threat. You found that there would not be a threat in  
6 the future for -- if we had no order and these subject  
7 imports came in.

8 But there's even more, Commissioner Pearson.  
9 So let's look about what was the basis -- not the  
10 basis, what the circumstances were of that decision.  
11 Fact number one: the producers didn't show up. They  
12 really didn't defend their case.

13 Fact number two: the Commerce Department  
14 had found high antidumping margins of close to or over  
15 200 percent.

16 Fact number three: the Commission found  
17 substantial excess capacity in the targeted countries.

18 And fact number four: they said though even  
19 be, we -- the Commission's determination said, there  
20 will be increased shipments in the future.

21 Notwithstanding all of that, you said,  
22 because of the domestic conditions, what's going on  
23 here in the United States, we don't think there's  
24 going to be future injury. And, Commissioner Pearson,  
25 I submit the same thing is applicable today and that's

1 essentially, the basis of our position. We will set  
2 forth that out, identifying evidence on the record to  
3 supply it.

4 COMMISSIONER PEARSON: Okay, thank you. I  
5 appreciate that, because, of course, one of the issues  
6 we deal with in any review is what's going to actually  
7 happen in the marketplace if an order is revoked.  
8 It's a little hard for us to get to that here, given  
9 the constraints that you are under in regard to the  
10 IPO record.

11 MR. PORTER: Thank you. I recognize my  
12 constraints, but we're going to do the best we can  
13 even under those constraints.

14 COMMISSIONER PEARSON: Okay. Thank you all,  
15 very much. With that, I believe I had no further  
16 questions.

17 CHAIRMAN OKUN: Commissioner Aranoff?

18 COMMISSIONER ARANOFF: In the original  
19 investigation and both of the expedited reviews, the  
20 Commission concluded that this is a market  
21 characterized by large purchasers with substantial  
22 pricing power. Is that consistent with your  
23 experience in the market, Ms. Kozak?

24 MS. KOZAK: Summit is the -- used to be one  
25 of three reasonably even-sized companies in the U.S.

1 that manufactured active pharmaceutical ingredients.  
2 One exited the industry because they went bankrupt and  
3 we bought -- or we gained a lot of that business and  
4 took it onto ourselves to take it. The other was put  
5 up for sale by their ownership and offered to Summit  
6 to purchase that facility and we acquired that  
7 company, as well. So, we are currently the largest  
8 manufacturer of antiperspirant active ingredients in  
9 the world, certainly just about the only one of any  
10 size in the United States and, therefore, we feel we  
11 are a large user of glycine and we feel we should have  
12 -- that should hold sleigh with GEO; but, it doesn't.  
13 It doesn't.

14 MR. PORTER: I think the -- Commissioner  
15 Aranoff, if I may, it's the fact that it doesn't is  
16 the response to your question. And you would seem to  
17 suggest that the circumstances that she is saying,  
18 that she should have more market power, more leverage,  
19 but she doesn't, and I think that's more the important  
20 evidentiary point. And if she did, she would be  
21 buying from GEO at an attractive price and we wouldn't  
22 be here. The fact is that GEO doesn't have the time  
23 of day for Summit and so she has to scramble to find  
24 supply elsewhere.

25 COMMISSIONER ARANOFF: Okay. Now,

1 representatives of GEO testified this morning that  
2 their goal was to sell out their plant and that the  
3 easiest way for them, the best way for them to do that  
4 is to contract with various larger purchasers, so that  
5 they can plan their production, so that everybody gets  
6 exactly what they asked for. And Ms. Kozak just  
7 testified that your management doesn't want to enter  
8 into a contract, which by GEO's approach, you, I  
9 guess, go kind of to the end of the line. It sounds  
10 kind of self-inflicted.

11 MS. KOZAK: Well, we've had contracts with  
12 GEO in the past and regardless of whether we had a  
13 contract or not, shipments were late. We received  
14 partials, which doesn't tell me they treat a  
15 contracted customer any better than they did one that  
16 was not contracted. Now, if they have changed that,  
17 I'd say cheers. I hope they have. And it might be  
18 that after this year, when we approach GEO and say,  
19 you know, how much can we get from you, what's your  
20 price, you know, here's what we'd like, I would hope  
21 that number is larger and I would hope that by that  
22 time, this case is settled. The anti-circumvention  
23 case is settled. We know a little bit better where  
24 the whole market is going. And we might be in a  
25 better position at that time to say, yes, we're

1 interested and we will contract.

2 MR. PORTER: Commissioner Aranoff, can I  
3 make a point? With all due respect, Summit Research  
4 is not on trial here and so the fact that their  
5 management wisely or unwisely did or did not enter  
6 into contracts, with all due respect, I think is less  
7 relevant. What is more relevant is the testimony you  
8 heard this morning that they are -- they sell out  
9 their plant all the time. That's relevant; that's  
10 relevant. It speaks to vulnerability, okay. It  
11 speaks to the conditions in the domestic market.

12 MS. KOZAK: As a manufacturer --

13 MR. PORTER: Okay. And we're talking about  
14 after 15 years, should they have the ability to put  
15 her wise or unwise management into a position of  
16 having to scramble for supply, when they sell out  
17 their production and they cannot supply her.

18 COMMISSIONER ARANOFF: Well, okay.

19 MR. PORTER: I think that's kind of  
20 relevant.

21 COMMISSIONER ARANOFF: I don't think their  
22 testimony was that they do sell out. I think it was  
23 that that's what they'd like to do. I don't think  
24 that the record evidence suggests that they always  
25 succeed.



1           MR. PORTER: Well, if you allow me to, we  
2 have correspondence here that says, they have sold out  
3 for 2011, okay. It doesn't say sell out there, but  
4 you read the correspondence, talking about tight  
5 supply and that we cannot supply you. And, again, it  
6 may be just to Summit, but they have sold out with  
7 respect to supplying Summit, which is the only thing  
8 that Summit can offer.

9           COMMISSIONER ARANOFF: Okay. With that, I  
10 don't have any further questions. Thank you, Madam  
11 Chairman.

12           CHAIRMAN OKUN: Oh, yes, Commissioner Lane?

13           COMMISSIONER LANE: Ms. Kozak, would you, in  
14 the post-hearing brief, put into the record the last  
15 date or the date of the last written contract you had  
16 for supply with GEO?

17           MS. KOZAK: Yes.

18           COMMISSIONER LANE: Okay, thank you.

19           CHAIRMAN OKUN: Any further questions from  
20 my colleagues?

21           (No further questions.)

22           CHAIRMAN OKUN: Does staff have questions of  
23 this witness?

24           MR. MCCLURE: Jim McClure, Office of  
25 Investigations. Madam Chairman, staff has no

1 questions.

2 CHAIRMAN OKUN: Do those in support of  
3 continuation of the order have questions for this  
4 witness?

5 MR. CHRISTY: No, we don't. Thank you.

6 CHAIRMAN OKUN: Okay. With that, then, Ms.  
7 Kozak and Mr. Porter, we thank you, very much, for  
8 your appearance here today. I appreciate your  
9 participation and look forward to your post-hearing  
10 submissions. And now, let me just let these witnesses  
11 go back.

12 I'll now go over the time remaining for  
13 those in support of continuation. You have a total of  
14 25 minutes remaining, which includes five for closing.  
15 Understand -- do you want to come forward to this row  
16 to present your rebuttal and closing?

17 MR. CHRISTY: Yes, we will, and also I think  
18 we plan to combine the rebuttal and the closing.

19 CHAIRMAN OKUN: Okay.

20 MR. CHRISTY: Trying to get us all --

21 CHAIRMAN OKUN: I appreciate that.

22 MR. CHRISTY: -- out of here, as soon as  
23 possible.

24 CHAIRMAN OKUN: All right. Then, we'll just  
25 give you a moment to come up and you can proceed.

1 MR. CHRISTY: Thank you.

2 (Pause.)

3 CHAIRMAN OKUN: All right, you may proceed.

4 MR. CHRISTY: Thank you, very much.

5 Summit's stated goal is diversity of supply, but the  
6 facts say otherwise. We've heard the complaints not  
7 of the purchaser, but of one potential customer today,  
8 Summit. We have yet to hear the whole story.

9 Summit is the customer that GEO and Chattem  
10 wish they had. Summit is the biggest U.S. purchaser  
11 not under contact with the U.S. producers. The last  
12 contract GEO had with Summit was signed November 17,  
13 2008. Since then, GEO and Chattem have vigorously  
14 pursued Summit for the past few years. They've  
15 attempted numerous times to conclude contracts with  
16 Summit. Each time, they have been rebuffed. I'll let  
17 Bill Mahoney elaborate and we'll supply specifics in  
18 our post-hearing brief.

19 MR. MAHONEY: I'm always reluctant to say  
20 anything bad about a customer, but let me clarify the  
21 record concerning our relationship with Summit. We  
22 value Summit as we do any other customer. Summit is a  
23 desirable customer. We continue to seek contracts  
24 with them. In 2009, we had a contract with Summit to  
25 provide a substantial volume of glycine. I have the

1 contract here with me, signed by Linda. However,  
2 Summit refused to take the contract at volume and  
3 would only take less than half of the contracted  
4 amount. Despite repeated attempts to increase our  
5 supply to Summit, we were unable to supply more than  
6 half of the volume to them in 2009 under that  
7 contract.

8 For 2010 and for 2011, we, again, sought to  
9 contract with them. We negotiated in good faith.  
10 They did not choose to contract with us.

11 We outreached to them many times, so in  
12 2009, I outreached in October, sent them a contract  
13 the day after they said that they would be interested  
14 in material. It was -- despite repeated attempts to  
15 conclude the contract, it was months later that Linda  
16 informed that there would be no material for 2010.

17 For 2011, we requested meetings with them in  
18 August and September and October. It was not until  
19 Linda's management finally requested a meeting in late  
20 November that we were able to meet with them, of 2010,  
21 that we met with their management. Days later, we  
22 sent the offer for a contract for 2011 to Summit.  
23 Again, they did not accept our offer. So,  
24 subsequently, we supplied them product in the same  
25 manner that we supply our non-contract customers. And

1 we have outreached to them several times this calendar  
2 year. Concerning the specifics, I'm happy to include  
3 those in the post-hearing brief.

4 On the hard material that Linda mentioned,  
5 we were clear up front that it was USB in all regards,  
6 other than the free-flowing nature of it. As you  
7 Commissioners had asked, it was -- happened in our  
8 situation and we outreached to them and gave them an  
9 incentive to use the material for us. Both parties  
10 were very clear that that was the case. That occurred  
11 right at the end of the year, over the New Year's Eve  
12 kind of time frame that they indicated interest in  
13 material and that led to some difficulties getting the  
14 shipments out. But, we did ship material to them over  
15 that holiday period.

16 MR. CHRISTY: Summit testified earlier that  
17 the fact that they're large should "hold sleigh" with  
18 GEO. Summit expects to be able to operate as a  
19 monopsonist in this market. They said that GEO  
20 doesn't have the time of day for Summit. Well, the  
21 facts speak otherwise and we'll provide a detailed  
22 account of the relationship in our post-hearing brief.

23 A second point raised by Summit was their  
24 struggle to compete in their downstream market. Now,  
25 we don't have data regarding Summit's efforts in that

1 regard, but other purchasers aren't here with the same  
2 complaints. Accepting Summit's account as accurate,  
3 the account would tend to confirm our position.  
4 Summit's foreign competitors, according to Summit, out  
5 compete Summit because they have access to low-priced  
6 glycine abroad. This low-cost glycine is -- the price  
7 of this glycine is low because Chinese glycine  
8 competes freely in those markets, driving the price  
9 down. So, again, accepting Summit's account as  
10 accurate, they confirm the necessity of the order in  
11 this case. Because if the order is removed, Chinese  
12 glycine will pour into our market, depressing,  
13 suppressing glycine prices here and driving the U.S.  
14 producers out of the business.

15 But in any case, we, respectfully, submit  
16 that this issue is tangential to the core statutory  
17 issue in this case, which put simply is, what will  
18 happen to the domestic glycine-producing industry, if  
19 the order is revoked.

20 Today, we ask the Commission to vote to  
21 continue the order. The data collected by the staff  
22 established that revocation of the order would cause  
23 injury to the industry and, in fact, would result in  
24 its demise. We don't want to insulate the domestic  
25 market from competition, that's not the goal here, but

1 only to ensure that competition is fair and not  
2 injurious. The order has helped the U.S. industry  
3 during the period of review. It's reduced Chinese  
4 imports and void domestic prices, thereby allowing the  
5 domestic industry to continue to improve its  
6 facilities and its service.

7 The continuation of the order is critical to  
8 the survival of the industry. The data show that  
9 without the order, there would be a flood of very low-  
10 priced Chinese glycine. And, indeed, this is  
11 precisely what Summit thinks. As we heard earlier,  
12 Summit's stated goal is to revoke the order, so that  
13 Summit can have lower cost glycine with which to  
14 produce its products. Now, we understand that from a  
15 competitive perspective; but, it's inconsistent both  
16 with the statute and obviously our position here.

17 The domestic industry cannot supply all  
18 domestic demand. We've never claimed that we can.  
19 That is not the issue here. Non-subject imports and  
20 imports of Chinese glycine that are subject to the  
21 discipline of the order play a necessary role in the  
22 market. Maintaining the order will not hurt U.S.  
23 purchaser and will, in fact, help them by preserving  
24 the domestic industry as an important source of  
25 supply. Summit seeks alternative sources of supply.

1 Well, I have two right here, one on either side of me,  
2 and Summit hasn't contracted with either of them,  
3 although both companies have tried to contract with  
4 Summit.

5 In contrast, revoking the order will hurt  
6 U.S. purchaser by eliminating an important source of  
7 supply and by permitting low-priced Chinese glycine to  
8 force other non-subject imports out of the market.

9 A vote in favor of the order won't bar  
10 imported glycine, even Chinese glycine from the  
11 market. The order simply supplies discipline for  
12 subject imports from China. This means that non-  
13 subject imports produced in Japan, Korea, and India,  
14 which according to Summit has several viable suppliers  
15 of supply -- of glycine that aren't subject to our  
16 anti-circumvention inquiry, sources from those  
17 countries can continue. And even with the order in  
18 place, subject imports from China have a significant  
19 presence in the domestic market.

20 In short, the order works. The domestic  
21 industry is still in business, even though because of  
22 transshipments, it hasn't had the full benefit of the  
23 order. In any case, the U.S. industry won't be in  
24 business long if the order I revoked and it's forced  
25 to compete with China's massive overcapacity and



1 willing to sell glycine in the United States at very  
2 low prices. The order is essential to the existence  
3 of the domestic glycine industry.

4 And thank you, very much, for taking the  
5 time today to hear from all of us. Appreciate it.

6 CHAIRMAN OKUN: Thank you. Post-hearing  
7 briefs, statements responsive to questions, and  
8 requests of the Commission, corrections to the  
9 transcript must be filed by July 11, 2011. The  
10 closing of the record and final release of data to  
11 parties is August 4, 2011, and final comments are due  
12 August 8, 2011. With no other business to come before  
13 the Commission, this hearing is adjourned.

14 (Whereupon, at 12:56 p.m., the hearing was  
15 adjourned.)

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**CERTIFICATION OF TRANSCRIPTION**

**TITLE:** Glycine from China  
**INVESTIGATION NO.:** 731-TA-718  
**HEARING DATE:** June 30, 2011  
**LOCATION:** Washington, D.C.  
**NATURE OF HEARING:** Hearing

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

**DATE:** June 30, 2011

**SIGNED:** Raymond M. Vetter  
Signature of the Contractor or the  
Authorized Contractor's Representative  
1220 L Street, N.W. - Suite 600  
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

**SIGNED:** Carlos E Gamez  
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

**SIGNED:** David W. Jones  
Signature of Court Reporter