

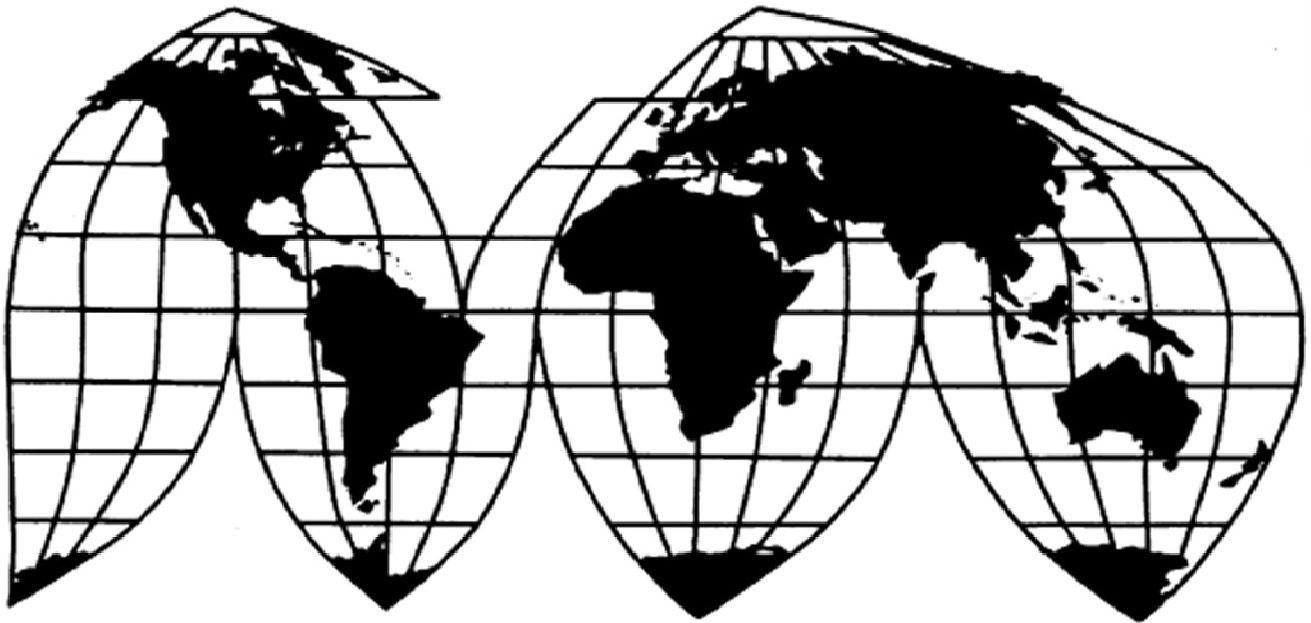
Glycine From Japan and Korea

Investigation Nos. 731-TA-1112 and 1113 (Final)

Publication 3980

January 2008

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 731-TA-1112-1113 (Final)

GLYCINE FROM JAPAN AND KOREA

DETERMINATIONS

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission (Commission) determines,² pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Japan and Korea of glycine, provided for in subheading 2922.49.4020 of the Harmonized Tariff Schedule of the United States,³ that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).

BACKGROUND

The Commission instituted these investigations effective March 30, 2007, following receipt of a petition filed with the Commission and Commerce by GEO Specialty Chemicals, Inc., Lafayette, IN. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of glycine from Japan and Korea were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of September 28, 2007 (72 FR 55247). The hearing was held in Washington, DC, on November 28, 2007, and all persons who requested the opportunity were permitted to appear in person or by counsel.

¹ The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

² Commissioners Irving A. Williamson and Dean A. Pinkert dissenting.

³ The imported products subject to investigation also include sodium glycinate which is provided for in subheading 2922.49.80 of the HTS.

VIEWS OF THE COMMISSION

Based on the record in these investigations, we determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of glycine from Japan and Korea that have been found by the Department of Commerce (“Commerce”) to be sold in the United States at less than fair value (“LTFV”).^{1 2 3}

I. BACKGROUND

The petition in these investigations was filed on March 30, 2007, by GEO Specialty Chemicals, Inc. (“GEO” or “Petitioner”), of Lafayette, Indiana, with a manufacturing plant in Deer Park, Texas, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of glycine from India, Japan, and Korea. The only other firm currently producing glycine in the United States is Chattem Chemicals, Inc. (“Chattem”), of New Jersey with manufacturing facilities in Chattanooga, Tennessee.⁴ Opposing the imposition of antidumping duties are CAF International, Inc. (“CAF”), of New Jersey; Summit Research Labs Inc. (“Summit”), of New York; and Nestle Purina PetCare (“Nestle”), of St. Louis, Missouri, which are importers or purchasers of the subject merchandise. No subject producer or exporter of subject merchandise has made an appearance or provided any argument in the final phase of these investigations. The Commission received responses to its foreign producer/exporter questionnaire from certain producers and exporters of subject merchandise in India and Japan. It received no response from producers or exporters in Korea.⁵

Glycine, also known as aminoacetic acid, is a naturally occurring amino acid that is manufactured and commercially sold as a free-flowing crystalline solid.⁶ Glycine is typically sold in three grades: pharmaceutical, United States Pharmacopeia (“USP”), and technical. Most glycine is manufactured as USP grade material for use as a sweetener/taste enhancer or as a buffering agent. The primary markets for USP grade glycine are as an additive in pet food, animal feed, and antiperspirants.⁷ USP grade glycine accounts for the vast majority, about *** to *** percent, of the U.S. market for glycine.⁸ Pharmaceutical grade glycine is used in applications requiring greater than USP grade purity levels; e.g.,

¹ Commissioners Williamson and Pinkert dissent, finding that an industry in the United States is materially injured by reason of the subject imports. See Dissenting Views of Commissioner Irving A. Williamson and Commissioner Dean A. Pinkert. They join sections I-IV of these views.

² Commission rule 209.68(b) provides that final party comments “containing new factual information shall be disregarded.” 19 C.F.R. § 209.30(b); see also 19 U.S.C. § 1677m(g). The final comments filed by GEO on December 21, 2007, contain new factual information that we have thus disregarded: (1) the first paragraph on p. 3 (sentences 2 through 7) contains new information on this issue of delivery dates and when GEO asserts that such dates became binding, and (2) the second paragraph on p. 3 (sentences 2 through 6) contains new information on GEO’s raw material costs of methanol and on whether the Nestle Purina PetCare contract had a price-adjustment provision.

³ Commerce has not yet made its final determination with respect to subject imports from India and therefore the Commission is not making a determination with respect to India at this time.

⁴ Confidential Staff Report (“CR”) at Table III-1, Public Staff Report (“PR”) at Table III-1.

⁵ CR at VII-3, VII-5 - VII-6, VII-9 - VII-10; PR at VII-3 - VII-5.

⁶ CR at I-9, PR at I-8.

⁷ CR at I-10 - I-12, II-8; PR at I-8 - I-9, II-5; CR/PR at Tables I-2, III-4, IV-3.

⁸ CR/PR at Tables III-4, IV-3.

in solutions for intravenous injection. It is manufactured to meet individual customers' proprietary purity requirements and is sold at a price premium over USP grade glycine.⁹ Technical grade glycine, which may or may not meet USP grade standards, is sold for use in industrial applications; e.g., as an agent in metal complexing and finishing or in the production of foam rubber sponges.¹⁰ Technical grade glycine is typically sold at a price discount to USP grade glycine.¹¹

Precursors of dried crystalline glycine, including glycine slurry (i.e., glycine in a non-crystallized form) and sodium glycinate (i.e., glycine salt), are covered by these investigations, although there are currently no commercial markets for these products in the United States. Glycine and glycine slurry are provided for under statistical reporting number 2922.49.4020 in the Harmonized Tariff Schedule of the United States ("HTS") and sodium glycinate is properly classified under subheading 2922.49.80 of the HTS.¹²

II. DOMESTIC LIKE PRODUCT

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."¹³ Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Act"), defines the relevant domestic industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."¹⁴ In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation"¹⁵

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.¹⁶ No single factor is dispositive, and the Commission

⁹ CR at I-10, PR at I-8; CR/PR at Tables III-4, IV-3.

¹⁰ CR at I-10 - I-11, PR at I-9.

¹¹ CR/PR at Tables III-4, IV-3.

¹² CR at I-7 - I-8, PR at I-6 - I-7.

¹³ 19 U.S.C. § 1677(4)(A) (2000).

¹⁴ 19 U.S.C. § 1677(4)(A).

¹⁵ 19 U.S.C. § 1677(10).

¹⁶ See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int'l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case'"). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996). No single factor is dispositive, and the Commission may consider other factors relevant to a particular investigation. The Commission looks for clear dividing lines among possible like products, and disregards minor variations. See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979); Torrington, 747 F. Supp. at 748-49.

may consider other factors it deems relevant based on the facts of a particular investigation.¹⁷ The Commission looks for clear dividing lines among possible like products and disregards minor variations.¹⁸ Although the Commission must accept the determination of Commerce as to the scope of the imported merchandise allegedly sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.¹⁹

B. Product Description

In its notice of final determinations at sales at LTFV with respect to Japan and Korea, Commerce defined the imported merchandise within the scope of the investigations as follows:

glycine, which in its solid (*i.e.*, crystallized) form is a free-flowing crystalline material. Glycine is used as a sweetener/taste enhancer, buffering agent, reabsorbable amino acid, chemical intermediate, metal complexing agent, dietary supplement, and is used in certain pharmaceuticals. The scope of each of these investigations covers glycine in any form and purity level. Although glycine blended with other materials is not covered by the scope of each of these investigations, glycine to which relatively small quantities of other materials have been added is covered by the scope. Glycine's chemical composition is $C_2H_5NO_2$ and is normally classified under subheading 2922.49.4020 of the Harmonized Tariff Schedule of the United States (HTSUS).

The scope of each of these investigations also covers precursors of dried crystalline glycine, including, but not limited to, glycine slurry (*i.e.*, glycine in a non-crystallized form) and sodium glycinate. Glycine slurry is classified under the same HTSUS subheading as crystallized glycine (2922.49.4020) and sodium glycinate is classified under subheading HTSUS 2922.49.8000.²⁰

There are two known processes for the commercial production of glycine: the hydrogen cyanide ("HCN") process and the monochloroacetic acid ("MCA") process. The petitioner, GEO, uses the HCN process while Chattem uses the MCA process.²¹ Sodium glycinate, which is within Commerce's scope, is a precursor of glycine in the HCN process.²² Under both production methods, glycine passes through a slurry form prior to drying and crystallization.

¹⁷ See, *e.g.*, S. Rep. No. 96-249 at 90-91 (1979).

¹⁸ Nippon, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49. See also S. Rep. No. 96-249 at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

¹⁹ Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

²⁰ CR at I-6 - I-7, PR at I-5 - I-6.

²¹ CR at I-12 - I-13, PR at I-10.

²² CR at I-13, PR at I-10.

C. Analysis

In the preliminary phase of these investigations, the Commission found that there was a single domestic like product coextensive with the scope of the investigations. The Commission found all grades of glycine (USP, technical, and pharmaceutical) to be encompassed in the single domestic like product because all grades had common physical characteristics and end uses, shared common channels of distribution, and generally shared common production processes, facilities, and employees. Applying its semi-finished product analysis, the Commission found that sodium glycinate and glycine slurry were also part of the single domestic like product in light of their dedication to production of glycine, the absence of a separate market for sodium glycinate or slurry, and the relatively small cost and significance of converting sodium glycinate and slurry into glycine.²³

The petitioner supports the finding of one like product coextensive with the scope of these investigations and no party objects to that domestic like product definition. No new evidence has been collected in the final phase of these investigations that would warrant the Commission's reconsideration of its like product finding in the preliminary determinations. Accordingly, for the reasons stated in the preliminary determinations, we define the domestic like product as encompassing all glycine, coterminous with the scope, and thus including glycine in all its forms (slurry and crystalline) and purity levels (USP grade, technical grade, and pharmaceutical grade), and sodium glycinate.

III. DOMESTIC INDUSTRY

A. In General

The domestic industry is defined as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."²⁴ In defining the domestic industry, the Commission's general practice has been to include in the industry all domestic production of the domestic like product, whether toll produced, captively consumed, or sold in the domestic merchant market.²⁵ Based on our finding that the domestic like product is all glycine, we find that the domestic industry consists of all known domestic producers of glycine. The two firms that comprise the domestic industry are GEO and Chattem. GEO was *** the larger of the two producers, accounting for *** percent of domestic production in 2006, while Chattem accounted for *** percent.²⁶

B. Related Parties

We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). Subsection 1677(4)(B) allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are

²³ Glycine from India, Japan, and Korea, Inv. Nos. 731-TA-1111-1113 (Preliminary), USITC Pub. 3921 (May 2007) ("Preliminary Determinations") at 6-7.

²⁴ 19 U.S.C. § 1677(4)(A).

²⁵ United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

²⁶ CR/PR at Table III-1.

related to an exporter or importer of subject merchandise or which are themselves importers.²⁷ Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.

No party has argued that either domestic producer should be excluded from the domestic industry under the related party provision. However, Chattem imported subject merchandise from Japan during the period of investigation: *** pounds in 2005, *** pounds in 2006, and *** pounds in interim 2007, compared with *** pounds in interim 2006.²⁸ Therefore, the Commission must consider whether "appropriate circumstances" exist to exclude Chattem from the domestic industry on the basis of those importations.

Chattem's importations followed its agreement in early 2005 with Showa Denko K.K., a Japanese producer, by which Chattem became a distributor of technical grade glycine produced by Showa Denko. Chattem explains that it imported the subject merchandise in order to supply certain of its customers with glycine at costs below those of its U.S.-produced glycine. Chattem states that the parties' obligations under the agreement currently have been suspended "due to the outcome" of the antidumping duty investigation on imports from Japan.²⁹

Chattem accounted for *** percent of domestic production in 2004, *** percent in 2005, and *** percent in 2006. In interim 2007, Chattem accounted for *** percent of domestic production, compared with *** percent in interim 2006.³⁰ The volume of Chattem's imports of subject merchandise from Japan in 2005 was small as a share of total glycine imports from Japan that year, *** percent, and relative to Chattem's production that year, *** percent.³¹ In 2006, however, Chattem's imports grew to *** percent of U.S. imports of glycine from Japan that year, and to *** percent relative to Chattem's production that year.³² In interim 2007, Chattem's imports were *** percent of U.S. imports from Japan, compared with *** percent in interim 2006.³³ Chattem's imports were *** percent relative to Chattem's production in interim 2007, compared with *** percent in interim 2006.³⁴ Hence, Chattem's domestic production significantly exceeded the volume of its subject import shipments through the full years of the period of investigation, but Chattem's imports of subject merchandise significantly exceeded its production in interim 2007.

Chattem supports the petition with respect to all countries, including Japan, suggesting that Chattem's interests continue to be primarily those of a domestic producer.³⁵ Moreover, Chattem's production is increasingly focused on pharmaceutical grade glycine, subject to the most stringent purity

²⁷ 19 U.S.C. § 1677(4)(B).

²⁸ CR/PR at Table III-6.

²⁹ CR at III-18, PR at III-6.

³⁰ CR/PR at Table III-2.

³¹ CR/PR at Tables III-6, IV-2.

³² Id.

³³ Id. Comparing Chattem's imports of *** pounds in full year 2006, to its imports of *** pounds in interim (first half of) 2006, it is apparent that most of Chattem's imports in 2006 were ***. CR/PR at Table III-6.

³⁴ CR/PR at Table III-6.

³⁵ CR/PR at Table III-1. Chattem has variously opposed and supported the petition during the preliminary phase of these investigations but has supported the petition in the final phase. See CR/PR at Table III-1 n.2. The Commission may consider whether a producer supports or opposes the petition as one factor in deciding whether appropriate circumstances exist to exclude that producer as a related party, but support or opposition to the petition is not dispositive of the question. See e.g., Allied Mineral Products, Inc. v. United States, Slip Op. 04-139 (Ct. Int'l Trade Nov. 12, 2004) at 9-10 & n. 5.

requirements, while it imports grades with lower or minimal purity requirements. To the extent that Chattem's importations may be viewed as potentially conferring an indirect benefit on Chattem's U.S. production operations, we note that Chattem's financial performance *** in terms of its ratio of operating income to net sales throughout the period of investigation, including in the interim period.^{36 37 38} This suggests that Chattem's domestic operations did not derive benefits from importation such that inclusion of its data would inappropriately skew the data of the domestic industry. Because Chattem's interests appear to be primarily those of a domestic producer, and because Chattem's domestic operations appear not to have derived any significant benefits from its importations which might inappropriately skew the data of the domestic industry, we find that appropriate circumstances do not exist to exclude Chattem from the domestic industry.

IV. CUMULATION

A. In General

For purposes of evaluating the volume and price effects for a determination of material injury by reason of the subject imports, section 771(7)(G)(I) of the Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the U.S. market.³⁹ In assessing whether subject imports compete with each other and with the domestic like product, the Commission has generally considered four factors, including:

- (1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
- (2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;
- (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and

³⁶ CR/PR at Table VI-2.

³⁷ Consistent with her practice in past investigations and reviews, Vice Chairman Shara L. Aranoff does not rely on individual-company operating income margins in assessing whether a related party has benefitted from importation of subject merchandise. Rather, she determines whether to exclude a related party based principally on its ratio of subject imports to domestic shipments and whether its primary interests lie in domestic production or importation.

³⁸ Commissioner Pinkert agrees with the inclusion of Chattem in the domestic industry. His primary basis for such inclusion, however, is that Chattem's interests are predominantly those of a domestic producer.

Chattem's imports of subject merchandise did not exceed its domestic glycine production until interim 2007. CR/PR at Table III-6. Chattem reports that it is committed to domestic production, that it has idled production assets that would be beneficial to employ, and that it would increase its glycine production if an order were to be imposed on the subject merchandise. Hearing Transcript at 83-88 (Kedrowski).

Chattem explained in the preliminary phase of these investigations that it reduced its overall glycine production between 2001 and 2004 in response to market prices driven down by imports to levels below Chattem's raw material costs. Glycine from India, Japan, and Korea, Inv. Nos. 731-TA-1111-1113, USITC Pub. 3921 at 9 (May 2007). As discussed in the text, Chattem imported subject merchandise at prices below its costs in order to supply its customers with glycine.

³⁹ 19 U.S.C. § 1677(7)(G)(i).

- (4) whether the subject imports are simultaneously present in the market.^{40 41}

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.⁴² Only a “reasonable overlap” of competition is required.⁴³

B. Analysis

Petitioner argues that, based on the four factors customarily considered by the Commission, subject imports compete with one another and with domestic glycine, and that, therefore, the Commission should cumulate subject imports from India, Japan, and Korea under the facts in this record. No respondent party has argued that imports from the three subject countries should not be cumulated for purposes of our present injury analysis. Based on the discussion that follows, we cumulate subject imports from India, Japan, and Korea for purposes of our present material injury analysis.

The threshold requirement for cumulation is satisfied because Petitioner filed a petition with respect to each of the three subject countries on the same day. None of the statutory exceptions to cumulation is applicable.⁴⁴ We next examine the four factors that the Commission customarily considers in determining whether there is a reasonable overlap of competition.

With regard to the fungibility of the products, domestically produced glycine and the subject imports in the same grade from all three countries, particularly within USP and technical grades, are generally interchangeable.⁴⁵ The vast majority of the subject imports from the three countries and the domestic like product are fairly standardized, commodity grade products, manufactured to specific standards and suitable for a wide range of applications. Specifically, *** percent of domestic producer shipments and *** percent of reported U.S. shipments of subject imports from India, Japan, and Korea

⁴⁰ See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

⁴¹ Commissioner Lane notes with respect to the first factor that her analysis does not require such similarity of products that a perfectly symmetrical fungibility is required and that this factor would be better described as an analysis of whether subject imports from each country and the domestic like product could be substituted for each other. See Separate Views of Commissioner Charlotte R. Lane, Certain Lightweight Thermal Paper from China, Germany, and Korea, Inv. Nos. 701-TA-451 and 731-TA-1126-1128 (Preliminary), USITC Pub. 3964 (Nov. 2007).

⁴² See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

⁴³ The Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103-316, Vol. 1 at 848 (1994) (“SAA”) expressly states that “the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition.” SAA at 848 (citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988)), aff'd 859 F.2d 915 (Fed. Cir. 1988). See Goss Graphic Sys., Inc. v. United States, 33 F. Supp. 2d 1082,1087 (Ct. Int'l Trade 1998) (“cumulation does not require two products to be highly fungible”); Wieland Werke, AG, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”).

⁴⁴ See 19 U.S.C. § 1677(7)(G)(ii).

⁴⁵ Domestic producers indicated that, whereas USP grade and technical grade glycine are easily interchangeable within the grade among sources, pharmaceutical grade glycine must meet higher purity and consistency requirements of individual customers and, therefore, pharmaceutical grade glycine is less interchangeable among sources. CR at I-14, PR at I-11; CR/PR at Table II-4.

were of USP grade in 2006.⁴⁶ Concomitantly, only *** percent of domestic producer shipments and *** of the reported U.S. shipments of subject imports from India, Japan, and Korea were of pharmaceutical grade glycine in 2006.⁴⁷

Subject imports are generally used for the same purpose as the domestic product; that is, the primary uses of USP grade glycine is as an additive to pet food, animal feed, and antiperspirant, and technical grade glycine is primarily used in industrial applications.⁴⁸ Responding domestic producers and importers reported that the domestic like product was frequently or always interchangeable with subject imports from each subject source, and that the subject imports were frequently interchangeable with each other.⁴⁹ A majority of responding purchasers reported that the domestic like product was interchangeable with subject imports from each subject source, and generally agreed that the subject imports were at least sometimes interchangeable with each other.⁵⁰

While responding U.S. producers reported that differences in factors other than price were never a significant factor for any of the country comparisons, the majority of responding importers reported that differences in factors other than price were at least sometimes a significant factor in comparisons between the domestic product and imports from each subject source and among subject sources.⁵¹ Nonetheless, we find that subject imports are sufficiently interchangeable with the domestic like product and with each other for purposes of cumulating the subject imports.

There was geographical overlap among the subject merchandise from each subject country and the domestic like product during the period of investigation. The domestic, Indian, Japanese, and Korean products overlapped in the ***; the domestic, Japanese, and Korean products overlapped in the *** region; and the domestic, Indian, and Japanese products overlapped ***.⁵² Imports from each of the subject countries have been present in the U.S. market throughout the period of investigation.⁵³ The domestic like product and subject imports were sold through common channels of distribution; that is, through distributors and directly to end users, with the majority of each sold directly to end users.⁵⁴

The record in these investigations consequently indicates that the domestic like product and imports from each of the three subject countries are sufficiently similar in characteristics to satisfy the fungibility criterion. The criteria concerning geographic overlap, simultaneous presence, and channels of distribution are also satisfied. Accordingly, we cumulate imports from all three subject countries for our analysis of material injury by reason of subject imports.

⁴⁶ CR/PR at Tables III-4, IV-3.

⁴⁷ CR/PR at Tables III-4, IV-3.

⁴⁸ CR at I-14, PR at I-11; CR/PR at Table II-4.

⁴⁹ CR/PR at Table II-4.

⁵⁰ CR/PR at Table II-4 (while a majority of reporting purchasers found the Japanese product to be at least sometimes comparable to glycine from India and Korea, those comparing the Indian and Korean product were evenly divided on whether glycine from India and Korea was at least sometimes interchangeable (2 purchasers) or never interchangeable (2 purchasers)).

⁵¹ CR/PR at Table II-5.

⁵² CR/PR at Table IV-4.

⁵³ CR/PR at Table IV-5 (subject imports from India and Japan were present in 41 of the 42 months of the period of investigation; subject imports from Korea were present in 39 of the 42 months).

⁵⁴ CR at I-14, PR at I-11 .

V. CONDITIONS OF COMPETITION AND THE BUSINESS CYCLE

The following conditions of competition are pertinent to our analysis of the impact of the cumulated imports of glycine from India, Japan, and Korea on the domestic industry.

A. Demand Conditions

Glycine is an input in the production of many other products, and thus its demand is derived from the demand for those end-use products. Glycine is used as a sweetener in foods, pharmaceuticals, personal care products, and animal feed; as a buffering agent in antacids, analgesics, antiperspirants, cosmetics, and toiletries, and in production of rubber sponge products and fertilizers; as a re-absorbable amino acid to treat diarrhea; as a chemical intermediate in a variety of chemical products; as a metal complexing and finishing agent; as a dietary supplement; to improve gastric absorption of certain drugs; and in some intravenous uses. The grade of glycine required differs among the end uses.⁵⁵ A small number of purchasers account for a large share of apparent U.S. consumption.⁵⁶

Apparent U.S. consumption of glycine increased irregularly from *** million pounds in 2004 to *** million pounds in 2006. Overall, apparent U.S. consumption in 2006 was *** percent higher than in 2004.⁵⁷ Apparent U.S. consumption was *** million pounds in interim 2007, *** percent greater than apparent U.S. consumption of *** million pounds in interim 2006.⁵⁸ Based on available information, purchasing firms are likely to respond to changes in the price of glycine with relatively small changes in their purchases of glycine.⁵⁹

B. Supply Conditions

Domestic Capacity and Production. During the period of investigation, two domestic producers, GEO and Chattem, accounted for 100 percent of U.S. production of glycine. GEO produces glycine using the HCN process at its Deer Park, Texas facility, while Chattem produces glycine using the MCA process at its Chattanooga, Tennessee facility. GEO purchased the Deer Park facility from Hampshire Chemical Corporation, a subsidiary of DOW Chemicals, Inc. (“Hampshire/DOW”), on November 1, 2005.⁶⁰

Throughout the period of investigation, the domestic industry’s capacity to produce glycine, largely concentrated in Hampshire/DOW and GEO’s Deer Park facility, was less than needed to supply total domestic demand. Domestic producers’ capacity was *** million pounds in 2004 and *** million

⁵⁵ CR at II-8, PR at II-5.

⁵⁶ CR/PR at Table I-2. Data on the five largest end users of glycine indicate that two firms that use glycine as an additive in human, animal, or plant food accounted for an estimated *** percent of reported U.S. purchases of glycine in 2006, and that three firms that use glycine as a buffering agent in antiperspirants accounted for an estimated *** percent of reported U.S. purchases of glycine in 2006. Id.

⁵⁷ CR/PR at Tables IV-6, C-1.

⁵⁸ Id.

⁵⁹ CR at II-9, PR at II-5.

⁶⁰ CR at III-1, III-1 n.2, PR at II-1, III-1 n.2. Data reported by GEO included data for Hampshire/DOW for the portion of the period of investigation prior to GEO’s purchase.

pounds in 2005 and 2006, a decline of *** percent between 2004 and 2006. Capacity in interim 2007 was *** million pounds, *** interim 2006.^{61 62}

In early 2005, Chattem became a distributor of subject technical grade glycine produced by Showa Denko K.K., a subject producer in Japan.⁶³ Chattem's domestic shipments decreased overall as its shipments increasingly shifted away from USP grade glycine to pharmaceutical grade.⁶⁴

Overall, domestic production declined by *** percent from 2004 to 2006.⁶⁵ The U.S. industry's production was increasingly concentrated in GEO's Deer Park facility in 2006 and interim 2007 as Chattem developed its position as a niche producer of pharmaceutical grade glycine and importer of technical grade glycine.⁶⁶

In the preliminary phase of these investigations, several U.S. importers asserted that GEO and/or Hampshire/DOW lost business because it was unable to meet customer demand due to plant shutdowns, quality problems, and other problems such as short shipping, unreliable deliveries, allocation, and denial of supply (abrogated contracts).⁶⁷ In the final phase of these investigations, GEO reported problems with on-time delivery over the period of investigation,⁶⁸ and purchasers reported even broader problems with the ability of GEO and its predecessor Hampshire/DOW to supply glycine or to meet supply agreements at various points during the period examined.⁶⁹

⁶¹ CR/PR at Tables III-2, C-1. Capacity for *** reflects a *** pound reduction in capacity in *** resulting from Hampshire/DOW's shutdown of a Glycine Recovery Unit ***. CR at III-5 - III-6, PR at III-2 - III-3; GEO Prehearing Brief at 20.

⁶² In contrast, demand, as reflected in apparent U.S. consumption, increased, as described above, from *** million pounds in 2004 to *** million pounds in 2005, and to *** million pounds in 2006, an increase of *** percent between 2004 and 2006. Apparent U.S. consumption was *** million pounds in interim 2007 as compared with *** million pounds in interim 2006. CR/PR at Tables IV-6, C-1.

⁶³ CR at III-18, PR at III-6.

⁶⁴ CR/PR at Table III-4.

⁶⁵ CR/PR at Tables III-2, C-1. The industry's capacity declined from *** million pounds in 2004 to *** million pounds in 2006. Capacity in interim 2007 was unchanged from interim 2006. CR/PR at Tables III-2, C-1. Domestic production, after increasing from *** million pounds in 2004 to *** million pounds in 2005, decreased to *** million pounds in 2006. Production was *** million pounds in interim 2007 compared with *** million pounds in interim 2006. Id. Capacity utilization, while decreasing irregularly between 2004 and 2006 for the domestic industry as a whole, was unevenly distributed between the two domestic producers. While Chattem's capacity utilization varied between *** percent in 2004, *** percent in 2005, and *** percent in 2006, GEO's was *** at *** percent in 2004, *** percent in 2005, and *** percent in 2006. CR/PR at Table III-2.

⁶⁶ CR at III-5, PR at III-2.

⁶⁷ CR at III-14, PR at III-4 - III-5. In the final phase of these investigations, CAF International repeated its belief that GEO lost market share to imports due to GEO's customer service record. Hearing Transcript at 135, 138-139 (Frey). See also CR at III-14 n.18, PR at III-5n. 18. (***, reported that it chose to meet its requirements with *** material prior to the period of investigation due to Hampshire/DOW's customer service problems).

⁶⁸ E.g., CR/PR at Table III-5; CR at III-15 n.22, PR at III-5 n.22.

⁶⁹ CR at II-4 - II-7, III-14 - III-16.; PR at II-2 - II-3, III-4 - III-6. Nine of the 22 responding purchasers reported that a supplier had put them on allocation or had delayed delivery. Six of these firms reported allocations or delayed deliveries by GEO or its predecessor, with two reporting delayed/short deliveries in 2007. Four purchasers reported that importers had delayed deliveries or put them on allocation. Purchasers were asked to report the impact of these allocations/delayed deliveries. Four of the nine responding firms reported either shutdowns or slowed production, three reported purchasing imported product at higher prices, and one reported purchasing glycine at higher prices but
(continued...)

In 2004, Hampshire/DOW halted production for 35 days and reduced its production for an additional 24 days because of a shortage of a raw material input, hydrogen cyanide.⁷⁰ Overall, Hampshire/DOW was able to ship to customers without a delay from the Deer Park facility in only *** of the last 12 months during the period of investigation that it ran the Deer Park facility. GEO reports that, in the first four months of 2005, between *** percent and *** percent of Hampshire/DOW's monthly shipment quantities were delayed.⁷¹

Because glycine is a small but critical input in products like pet food and antiperspirants for which there is no good substitute, and because glycine cannot be stored for long periods without the risk of caking, purchasers depend on just-in-time delivery and risk business losses when deliveries are delayed. Accordingly, several of the larger U.S. purchasers reported that, following the 2004 disruptions at the Deer Park facility under Hampshire/DOW, they chose to begin sourcing some material from foreign sources such as China, India, Japan, and Korea.⁷² Having made the strategic decision to diversify sourcing, these purchasers continued to purchase subject imports after GEO acquired the Deer Park facility, even while acknowledging GEO's improved on-time delivery record in 2006. GEO acknowledges that, while its on-time delivery record was better than that of Hampshire/DOW in 2006, delays began to occur again due to a scheduled maintenance shutdown in June 2007.⁷³ GEO stated this shutdown was for cleaning, refurbishment, and inspection purposes and to increase production reliability

⁶⁹ (...continued)

did not indicate whether the glycine was domestic or imported. Other problems reported included: need to search for alternative suppliers, expenses of managing the delays, reduced efficiencies, reduced profits, longer lead time for customers, managing product in different packaging, and increased inventories/storage needed to ensure supply. In addition, one firm reported that it was unable to buy *** glycine because *** simply would not respond to its inquiries.

Five of 22 responding purchasers reported that suppliers had broken supply contracts. Two purchasers reported Hampshire/DOW/GEO had broken contracts. One of these purchasers--***--reported that, in spite of contracts, GEO did not supply the required product between June 1 and July 31, 2004 and between April 28 and May 25, 2005, and that in 2007, after the maintenance shutdown, GEO provided less than the required amount and increased prices above the contract price. This purchaser reported that if imported product had not been available it would not have been able to maintain production. Three firms reported that importers broke contracts. One purchaser reported that the importer of Indian product did not supply as provided for in the purchase order; one reported that the importer of Indian product did not provide the quality specified in the contract; and one reported that it did not get an order of Korean product because of the antidumping investigation. Purchasers were also asked to report the effect of these broken contracts on their firms. Four firms reported using other suppliers (one reported that this was at a higher price and thus reduced its profits) and one firm reported that its business was put at risk of a plant shutdown and inventory shortfalls. ***. CR at II-4 - II-6, PR at II-2 - II-4.

⁷⁰ CR at III-3 n.4; PR at III-2 n.4.

⁷¹ CR at III-15, PR at III-5; CR/PR at Table III-5.

⁷² Information on supply problems going back to Hampshire/DOW's ownership was provided, for instance, by ***, which together accounted for a majority of apparent U.S. consumption of glycine during the period of investigation. ***. *** Purchasers' Questionnaire Response at II-2 (showing that domestically produced glycine accounted for *** percent of *** total purchases in 2004 but only *** percent in 2006).

***. CR at III-14 n.18, PR at III-5 n.18.

As noted above, at least three purchasers reported in their questionnaire responses that they had paid more for the subject imports than for the domestic like product. CR at II-4, PR at II-2. Nestle, among them, elaborated in its posthearing submission on its having paid more for subject merchandise from *** than for the domestic merchandise. Nestle's discussion in that regard is summarized further infra.

⁷³ Hearing Transcript at 54-55 (Avraamides).

and capacity,⁷⁴ which would also lower GEO's production costs. GEO attempted to build inventories prior to the June shutdown, but, at least in part because of the need for equipment maintenance, GEO's facilities were unable to build inventories sufficiently to meet specifications. In addition, the shutdown ultimately lasted *** days rather than the *** days originally intended.⁷⁵

Due to this extended shutdown from June 2007, GEO was unable to meet purchasers' glycine requirements on a timely basis.⁷⁶ Nestle reported that, since May 21, 2007, it has records of 12 delayed glycine deliveries with an average delay of 10 days ***.⁷⁷ It reported that these delays continued with a shipment ordered for November 30, 2007, but not expected to arrive until December 18, 2007.⁷⁸ While GEO representatives testified that they worked closely with customers to assure that none ran out of glycine, purchasers documented some production shutdowns.⁷⁹ Based on this most recent experience, many of the large purchasers of glycine expressed concern about relying on GEO to supply their demand for glycine. GEO itself created and heightened some of these concerns when it suggested to its customers toward the end of the period of investigation that "they purchase some of their material from their alternative suppliers."⁸⁰ In particular, Nestle views GEO ***.⁸¹

Chattem, as the only other domestic source of glycine, was not positioned during this period to satisfy purchasers' unmet glycine requirements or even substitute its own production for GEO's ceased deliveries because of its higher production costs, which contributed to Chattem becoming a niche producer in the U.S. market for pharmaceutical grade glycine.⁸² Consequently, purchasers could not turn to Chattem for their USP grade and technical grade glycine supply unless they were willing to pay higher price premiums and, even then, Chattem's production capacity was *** that of GEO.⁸³

Subject and Nonsubject Imports. The domestic industry supplied only a portion of the U.S. market for glycine during the period of investigation, with the remainder supplied by imports. Domestic producers' share of the U.S. market declined steadily from *** percent in 2004 to *** percent in 2006. Domestic producers' share of the U.S. market was *** percent in interim 2007 compared with ***

⁷⁴ Hearing Transcript at 27 (Mahoney), 43, 54-55, 75 (Avraamides).

⁷⁵ CR at III-15, PR at 5; Hearing Transcript at 43-44, 54-55 (Avraamides). While GEO management referred to this unanticipated delay as being the result of a "perfect storm" of uncontrollable factors (see Hearing Transcript at 27 (Mahoney) and 44 (Avraamides)), GEO's *** customer viewed this differently. "This remark [about a "perfect storm"] seems to infer a confluence of adverse circumstances out of GEO's control coming together in an almost unpredictable manner. However, all of the major contributing factors that led to this situation . . . are all purposeful actions or miss-management [sic] on GEO's part." Nestle's Posthearing Submission of November 30, 2007 at 2-3.

⁷⁶ Hearing Transcript at 44-45 (Avraamides and Reilly), 54-57 (Avraamides), 59 (Husisian); CR at III-14 n.18, PR at II-5 n.18.

⁷⁷ ***. Nestle's Posthearing Submission of November 30, 2007 at 2.

⁷⁸ Nestle's Posthearing Submission of December 4, 2007 at 2. Summit Research Labs also indicated that GEO's reliability as a supplier is suspect due to additional supply disruptions that have occurred under the new GEO ownership in 2007, which they admit had not been the case in 2006 when on-time deliveries and customer service metrics had originally improved compared to when the facility was operated by Hampshire/DOW. Letter from Gary Coleman, Summit Research Labs, November 20, 2007 at 2-3.

⁷⁹ CR at II-4 - II-7, III-14 - III-15; PR at II-2 - II-4, III-5.

⁸⁰ Hearing Transcript at 55 (Avraamides).

⁸¹ Nestle's Posthearing Submission of November 30, 2007 at 5.

⁸² CR at I-13, III-5; PR at I-10-I-11, III-2.

⁸³ CR/PR at Table III-2.

percent in interim 2006. Subject imports' share of the U.S. market increased from *** percent in 2004 to *** percent in 2006. Subject imports' share of the U.S. market was *** percent in interim 2007 compared with *** percent in interim 2006.⁸⁴ Finally, the U.S. market share held by nonsubject imports fluctuated during the period examined, and declined slightly overall from *** percent in 2004 to *** percent in 2006. Nonsubject imports' share of the U.S. market was *** percent in interim 2007 compared with *** percent in interim 2006.⁸⁵ Glycine from China, which is subject to an antidumping duty order, accounted for a substantial majority of nonsubject imports in 2005, 2006 and interim 2007.⁸⁶ The average unit value ("AUV") of nonsubject imports was higher than the AUV of subject imports throughout the period of investigation.⁸⁷

3. Substitutability

The domestic like product and glycine from each of the subject countries is generally interchangeable in terms of physical characteristics. All responding domestic producers and importers reported that the domestic like product was always or frequently interchangeable with imports from each subject source, and that the subject imports were frequently interchangeable with each other.⁸⁸

However, price was not identified by purchasers as the determining factor in a customer's purchase decision. Eleven of 22 responding purchasers identified quality as the most important factor in deciding from whom to purchase glycine, availability was the most frequently reported second most important factor (nine of the 22 firms), and price was most frequently rated as the third most important factor (10 of the 22 firms). Other factors listed among the top three factors by more than one purchaser were "consistently meets specifications," "security of supply," "traditional supplier," and "delivery time."⁸⁹

⁸⁴ CR/PR at Tables IV-7, C-1.

⁸⁵ CR/PR at Tables IV-5, C-1.

⁸⁶ CR/PR at Table IV-6.

⁸⁷ CR/PR at Table C-1 (the AUV for nonsubject imports was \$*** in 2004, \$*** in 2005, \$*** in 2006, while the AUV for subject imports was \$*** in 2004, \$*** in 2005, and \$*** in 2006; in interim 2007, the nonsubject AUV was \$*** and the subject AUV was \$***, compared with AUVs in interim 2006 of \$*** for nonsubject imports and \$*** for subject imports). We are mindful that AUVs may present product mix issues in that values may reflect different merchandise rather than differences in price. See *Allegheny Ludlum Corp. v. United States*, 287 F.3d 1365, 1373-74 (Fed. Cir. 2002). However, we note that in these investigations a difference in product mix is less likely to be an issue because *** percent of nonsubject imports were USP grade glycine and *** percent of subject imports were of USP grade, except in 2004 in which *** percent of the subject imports were USP grade. CR/PR at Table IV-3.

⁸⁸ CR/PR at Table II-4. The majority of responding purchasers reported that the domestic like product is always or frequently interchangeable with subject imports from India and Japan and that the domestic like product is always, frequently, or sometimes interchangeable with subject imports from Korea. *Id.*

⁸⁹ CR/PR at Table II-2. U.S. producers reported that factors other than price are never significant for purchasers choosing between subject imports and the domestic like product. CR/PR at Table II-5. However, this conflicts with GEO's identifying elsewhere on the record specific non-price factors that would cause purchasers to buy the domestic product rather than subject imports, including quicker delivery, smaller quantities possible, and longer shelf life. GEO's Posthearing Brief, Answers to Questions at 22. Most importers reported that non-price factors are sometimes or never significant. CR/PR at Table II-5. Responding purchasers reported that the lowest price is at least a somewhat important purchasing factor (CR/PR at Table II-3) and that they at least sometimes purchase the lowest-priced glycine (CR at II-14; PR at II-8 (of responding purchasers asked how often they purchase the lowest

(continued...)

VI. NO MATERIAL INJURY BY REASON OF THE CUMULATED SUBJECT IMPORTS⁹⁰

In the final phase of antidumping duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.⁹¹ In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.⁹² The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”⁹³ In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.⁹⁴ No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁹⁵

B. Volume of Subject Imports

Section 771(7)(C)(i) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”⁹⁶

The volume of the cumulated subject imports of glycine increased by *** percent between 2004 and 2006, from *** million pounds in 2004 to *** million pounds in 2006. Subject import volume in interim 2007 was *** percent lower than in interim 2006, at *** million pounds in interim 2007 as compared to *** million pounds in interim 2006.⁹⁷

Although apparent U.S. consumption also increased over the period of investigation, total market share held by subject imports increased from *** percent of apparent U.S. consumption in 2004 to *** percent in 2006, and was *** percent in interim 2007 as compared to *** percent in interim 2006.⁹⁸ The U.S. market share held by the domestic industry decreased by *** percentage points measured from 2004

⁸⁹ (...continued)
priced glycine, 2 responded always, 5 responded “usually,” 9 responded “sometimes,” 6 responded never)).

⁹⁰ In these investigations, subject imports from each of the three subject sources accounted for more than 3 percent of the volume of glycine imported into the United States in the most recent 12-month period for which data are available preceding the filing of the petition. CR at IV-14; PR at IV-6. Therefore, we find that subject imports for each of the three countries are not negligible under 19 U.S.C. § 1677(24).

⁹¹ 19 U.S.C. § 1673d(b).

⁹² 19 U.S.C. § 1677(7)(B)(i). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each [such] factor . . . [a]nd explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B). See also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

⁹³ 19 U.S.C. § 1677(7)(A).

⁹⁴ 19 U.S.C. § 1677(7)(C)(iii).

⁹⁵ Id.

⁹⁶ 19 U.S.C. § 1677(7)(C)(i); SAA at 854.

⁹⁷ CR/PR at Tables IV-2, C-1.

⁹⁸ CR/PR at Tables VI-7, C-1.

to 2006, but was *** percentage points higher in interim 2007 (which includes several months after the petitions were filed in these investigations) than in interim 2006.⁹⁹

We therefore find that subject import volume, when viewed in isolation, is significant, both in absolute terms and relative to consumption and production in the United States, and that the increase in subject import volume also is significant. However, the significance of the subject import volume is diminished when viewed in light of the conditions of competition in the industry and our findings below on the price effects and impact of the subject imports.

C. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of subject imports, the Commission shall consider whether –

- (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
- (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.¹⁰⁰

As already noted, there appears to be at least a moderate degree of interchangeability between the domestic like product and subject imports, in that a majority of all market participants reported that the domestic like product and subject imports are at least frequently interchangeable.¹⁰¹ Although the record indicates that price is at least a moderately important factor in purchasing decisions, purchasers reported lowest price as very important with less frequency than they did eight other factors, including availability, delivery terms, delivery time, product consistency, and reliability of supply.¹⁰²

The Commission asked U.S. producers and importers of glycine to provide quarterly quantity and pricing data for shipments from January 2004 to June 2007 for three products: glycine sold to pharmaceutical grade end users (Product 1), to USP grade end users (Product 2), and to technical grade end users (Product 3). Domestic producers provided data for all three products for each of the 14 quarters of the period. No importer data were reported for Product 1. Importers reported data for Product 2 from Japan and India for all quarters and from Korea for 12 of the 14 quarters. Importer data for Product 3 were limited to two quarters of shipments of glycine from India.¹⁰³ These product-specific data covered *** percent of domestic producers' shipments, and *** percent of importers' U.S. shipments of Indian, *** percent of Japanese, and *** percent of Korean product.¹⁰⁴

⁹⁹ CR/PR at Tables IV-7, C-1. As a share of domestic production, subject imports increased from *** percent in 2004 to *** percent in 2005, and to *** percent in 2006. In interim 2007, subject imports were *** percent of domestic production, as compared with *** percent in interim 2006. CR/PR at Table IV-8.

¹⁰⁰ 19 U.S.C. § 1677(7)(C)(ii).

¹⁰¹ CR/PR at Table II-4.

¹⁰² CR/PR at Table II-3. Other factors that were reported as very important more often than lowest price were “quality but not USP standard,” and “quality meets USP standard.” Id.

¹⁰³ CR at V-4 - V-5, PR at V-4; CR/PR at Tables V-1, V-2, V-3.

¹⁰⁴ CR at V-5, PR at V-4.

Subject imports undersold the domestic like product in 35 of 42 comparisons.^{105 106} However, we find this underselling not to be particularly significant. We observe in this regard that the data reflects that subject imports undersold Chattem by significant margins in every available quarterly comparison.¹⁰⁷ However, Chattem concentrates on pharmaceutical grade glycine and, to the extent it sold glycine in competition with subject imports (Pricing Product 2), it did not attempt to compete on price.¹⁰⁸ Moreover, the record indicates that subject imports entered the U.S. market in increasing quantities in response to the domestic industry inability to meet domestic demand on a reliable basis.¹⁰⁹ The need for alternative sources of supply was substantial enough that end users were willing, at least in some cases, to pay more for the subject imports than they paid for the domestic like product.¹¹⁰ For instance, Nestle, *** purchaser of glycine in the United States, paid higher prices for the subject merchandise than it paid for the domestic like product in order to reduce the uncertainty of supply posed first by Hampshire/DOW and then by GEO through shutdowns, failures to ship, delayed shipments, and other indications of their inability to reliably meet the company's glycine requirements.¹¹¹ Accordingly, at least from the perspective of the ultimate end user, underselling appears to have had less significance in explaining their purchasing patterns in the marketplace than the quarterly pricing comparisons viewed in isolation would suggest.¹¹² This perception is confirmed by a majority (eight) of 14 responding purchasers rating of the domestic like product as either "superior" or "comparable" to the subject imports in regard to the "lowest price" criterion.¹¹³

¹⁰⁵ CR at V-5, PR at V-4; CR/PR at Tables V-2, V-3.

¹⁰⁶ Pricing data for nonsubject imports of pricing product 2 (glycine to USP grade end users) from China and India show that the nonsubject imports oversold the domestic like product in 2004 but undersold the domestic like product in each quarter thereafter; *i.e.*, in 2005, 2006 and interim 2007. CR/PR at Table V-2.

¹⁰⁷ Derived from CR/PR at Table V-2, Chattem's Domestic Producer Questionnaire Response.

¹⁰⁸ Chattem no longer attempts to compete in high volume USP and technical grade markets for glycine based on price, but still ships U.S.-produced glycine to USP grade and technical grade end users willing to pay higher unit values than are available for similar product through imports or the other U.S. producer. CR at III-12, PR at III-4 see also Hearing Transcript at 109 (Kedrowski).

¹⁰⁹ CR at II-4 - II-7 ("*Delays, allocations, and broken contracts*"), III-14 - III-17; PR at II-2 - II-3, III-4 - III-5.

¹¹⁰ CR at II-4, PR at II-2.

¹¹¹ Nestle's Posthearing Submission of December 4, 2007, at 3.

¹¹² As noted above, Nestle reported that it viewed its pet food production operations as threatened by the unreliability of supply from Hampshire/DOW and its successor GEO. We note that one of the importers of record from which Nestle purchased subject glycine was ***, which did not respond to the Commission's importer questionnaire and therefore did not report quarterly pricing data. To the extent Nestle purchased glycine from distributors that purchased the merchandise from other importers, its prices for the imported merchandise reflect product passed through that distribution level, while its prices for the domestic like product were prices directly from the producer, GEO. Nevertheless, Nestle's reported prices do reflect end user purchases of both subject imports and the domestic like product. Those prices show that Nestle purchased glycine from *** even though it was priced higher on a delivered basis than the domestic glycine in 2004, 2005 and 2006. It appears that Nestle purchased subject imports from ***. We find that Nestle's listing of the prices it paid over the period of investigation for domestic and subject glycine to be a concrete indication that Nestle turned to subject imports for non-price reasons, *i.e.*, the domestic industry's inability effectively to meet demand. Nestle's Posthearing Submission of November 30, 2007 at 3. Regarding purchasers' problems with obtaining supply from Hampshire/DOW and GEO, see also purchaser questionnaire responses of *** at Section II-13 or III-19, and see CR at II-4 - II-7; III-14 nn.17,18; III-14 - III-17; PR at II-2 - II-3, III-5 nn.17, 18, III4 - III-5.

¹¹³ CR/PR at Table II-6.

Despite the observed underselling, domestic producers' prices increased overall over the period of investigation.¹¹⁴ Accordingly, we do not find that the subject imports had significant price depressing effects on prices for the domestic like product. We also find no consistent evidence of significant price suppressing effects by the subject imports. Unit cost of goods sold ("COGS") fluctuated over the period of investigation, and ended only somewhat higher in 2006 than in 2004 (and in fact was lower in interim 2007 compared to interim 2006) while the ratio of COGS to net sales decreased erratically between 2004 and 2006 (and in fact was also lower in interim 2007 compared to interim 2006).¹¹⁵ We thus find no consistent evidence that the industry is faced with a significant cost/price squeeze, and thus no consistent evidence that significant price suppression is occurring, even while subject import volume and market share steadily increased between 2004 and 2006.

For the foregoing reasons, we find that the subject imports have not had significant adverse price effects on the domestic industry.

D. Impact of the Subject Imports¹¹⁶

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry."¹¹⁷ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."¹¹⁸

The domestic industry's capacity to produce glycine declined overall by *** percent between 2004 and 2006 and was unchanged in interim 2007 compared with interim 2006.¹¹⁹ Production declined by *** percent between 2004 and 2006 and was *** percent lower in interim 2007 than in interim

¹¹⁴ CR/PR at Table C-1 (unit sales value); see also CR/PR at Table V-2.

¹¹⁵ CR/PR at Table C-1.

¹¹⁶ The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its final determinations on Japan and Korea, Commerce found weighted-average dumping margins for specific Japanese producers of 280.57 percent and a Japan "all others" rate of 165.3 percent; and found a weighted average dumping margin of 138.83 for Korea Bio-Gen Co. Ltd and a Korea "all others" rate of 165.34 percent. In its preliminary determination on India, Commerce found weighted-average dumping margins for specific Indian producers of 121.62 percent and an India "all others" rate of 45.82 percent. CR at I-6, PR at I-5.

¹¹⁷ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports."). SAA at 885.

¹¹⁸ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386, 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 25 n.148 (Feb. 1999).

¹¹⁹ CR/PR at Tables III-2, C-1. The industry's capacity declined from *** million pounds in 2004 to *** million pounds in 2005 and 2006. Capacity in interim 2007 was *** from interim 2006. CR/PR at Tables III-2, C-1.

2006.^{120 121} Capacity utilization declined by *** percentage points between 2004 and 2006 and was *** lower in interim 2007 than in interim 2006.¹²² The domestic industry's net sales decreased by *** percent from 2004 to 2006 and then were *** percent higher in interim 2007 as compared with interim 2006.¹²³ U.S. producers' shipments declined *** percent between 2004 and 2006, and then were *** percent higher in interim 2007 than in interim 2006.¹²⁴ The domestic industry's market share fell *** percentage points from 2004 to 2006 and then was *** percent higher in interim 2007 than in interim 2006.¹²⁵

During the period 2004-2006, domestic producers' ending inventories of glycine increased by *** percent, and, relative to the quantity of total shipments, ending inventories rose by *** percentage points. Ending inventories in interim 2007 were *** percent lower than in interim 2006 and, relative to total shipments, ending inventories were *** percentage points lower than in interim 2006.¹²⁶

The number of production related workers ("PRW") decreased by *** percent from 2004 to 2006 and was *** percent lower in interim 2007 than in interim 2006.¹²⁷ PRW hours worked fell by ***

¹²⁰ Domestic production, after increasing from *** million pounds in 2004 to *** million pounds in 2005, decreased to *** million pounds in 2006. Production was *** million pounds in interim 2007 compared with *** million pounds in interim 2006. CR/PR at Tables III-2, C-1.

¹²¹ Petitioner suggests that the Commission should attribute improvements in the industry's performance to the filing of the petition in these investigations. However, the record does not support their contention that any improvement was necessarily attributable to the pendency of these investigations rather than to other factors, such as the withdrawal from the U.S. market of one Chinese supplier of glycine in the later stage of the period of investigation and GEO's production shutdown. CR/PR at Table VII-7 (we note also that imports from China increased overall). Moreover, even if any improvement in the industry's performance could be attributed to the pending investigations, such improvement as reflected in the data would be relatively minor overall, as the petition was filed halfway through the interim period. Accordingly, we do not attribute improvements in the industry's performance to the filing of the petition in these investigations.

¹²² After increasing from *** percent in 2004 to *** percent in 2005, capacity utilization declined to *** percent in 2006. Capacity utilization was *** percent in interim 2007 as compared with *** percent in interim 2006. CR/PR at Tables III-2, C-1.

¹²³ Net sales, after increasing from *** million pounds in 2004 to *** million pounds in 2005, decreased to *** million pounds in 2006. Net sales were *** million pounds in interim 2007 compared with *** million pounds in interim 2006. CR/PR at Tables III-2, C-1.

¹²⁴ Domestic shipments, after increasing from *** million pounds in 2004 to *** million pounds in 2005, decreased to *** million pounds in 2006. Shipments were *** million pounds in interim 2007 compared with *** million pounds in interim 2006. CR/PR at Tables III-2, C-1.

¹²⁵ Domestic producers' market share declined from *** percent in 2004 to *** percent in 2005, then declined to *** percent in 2006. Domestic producers' market share was *** percent in interim 2007 as compared with *** percent in interim 2009. CR/PR at Tables IV-7, C-1.

¹²⁶ Ending inventories increased from *** pounds in 2004 to *** pounds in 2005, and then increased to *** pounds in 2006. Ending inventories were *** pounds in interim 2007 as compared with *** pounds in interim 2006. Ending inventories as a share of domestic shipments increased from *** percent in 2004 to *** percent in 2005, then increased to *** percent in 2006. Ending inventories as a share of total domestic shipments were *** percent in interim 2007 as compared with *** percent in interim 2006. CR/PR at Table C-1.

¹²⁷ The number of production workers declined from *** in 2004 to *** in 2005, and then declined to *** in 2006. There were *** production workers in interim 2007 as compared with *** in interim 2006. CR/PR at Table C-1.

percent from 2004 to 2006 and were *** percent lower in interim 2007 than in interim 2006.¹²⁸ Productivity, however, increased by *** percent between 2004 and 2006, and was *** percent higher in interim 2007 than in interim 2006.¹²⁹ Wages paid to PRWs declined by *** percent from 2004 to 2006, and were *** percent lower in interim 2007 than in interim 2006.¹³⁰

The domestic industry generated operating losses throughout the period examined. Operating losses declined from a loss of \$*** in 2004 to a loss of \$*** in 2005, before increasing to a loss of \$*** in 2006, an overall decrease in the loss of *** percent between 2004 and 2006. Operating loss was \$*** in interim 2007, *** percentage less than the loss of \$*** in interim 2006. The industry's operating income margin (income as a percent of net sales) increased from negative *** percent in 2004 to negative *** percent in 2005, before declining to negative *** percent in 2006. The operating income margin was negative *** percent in interim 2007 as compared with negative *** percent in interim 2006.¹³¹

The industry's capital expenditures increased from \$*** in 2004 to \$*** in 2005, before declining to \$*** in 2006. Capital expenditures in interim 2007 were \$*** as compared with \$*** in interim 2006.¹³²

Although the industry was in a weakened condition throughout the period of investigation, with indicators of that condition changing in varying degrees over the period, we nevertheless find that subject imports did not have a significant adverse impact on the condition of the domestic industry over the period of investigation. Rather, we find that, as addressed in the discussion of conditions of competition and price effects, supra, several factors unrelated to subject imports account for the domestic industry's performance during the period examined.

In particular, we find that the domestic industry's loss of market share to subject (and non-subject) imports was due to customers' decisions to diversify suppliers after the Hampshire/DOW delivery problems of 2004 and 2005. Rather than subject imports being aggressively marketed by foreign producers seeking to expand U.S. market share, subject imports increased in the U.S. market as purchasers sought alternative sources of supply.¹³³ At least for the largest U.S. purchaser, which alone accounted for *** percent of U.S. consumption in 2006, the subject imports met the need for an alternative source notwithstanding their having prices that were, for that purchaser, generally higher than the prices for the available domestic like product.¹³⁴

GEO attempted to correct the unreliability of domestic supply, and reportedly achieved on-time delivery for much of 2006. As GEO noted, increased reliability of domestic supply during this time did not result in a simultaneous, commensurate drop in subject import levels that had risen earlier because of

¹²⁸ Hours worked declined from *** in 2004 to *** to 2005, and then declined to *** in 2006. Hours worked were *** in interim 2007 as compared with *** in interim 2006. CR/PR at Table C-1.

¹²⁹ Productivity (pounds per hour) increased from *** in 2004 to *** in 2005, then declined to *** in 2006. Productivity was *** pounds per hour in interim 2007, compared with *** pounds per hour in interim 2006. CR/PR at Table C-1.

¹³⁰ Wages paid declined from \$*** million in 2004 to \$*** million in 2005, and then declined to \$*** million in 2006. Wages paid were \$*** million in both interim periods. CR/PR at Table C-1.

¹³¹ CR/PR at Table C-1.

¹³² Ibid.

¹³³ To illustrate the ability of GEO to compete against subject producers in an environment of on-time deliveries and satisfied customers, we note that *** (see CR at III-14, n.18), increased its purchases from GEO in 2006 and in 2007 (see CR/PR at Table I-2) due to *** *** Purchaser Questionnaire Response, Section III-12.

¹³⁴ CR at II-4 - II-7; III-14 - III-17; III-14 nn.17, 18; III-15 n.22. PR at II-2 - II-3, III-4 - III-6, III-5 nn.17, 18, III-n.22.

the decisions of purchasers requiring reliable supply.¹³⁵ It is not surprising that purchasers were not willing to shift purchasing patterns on a month-by-month basis in reaction to improved domestic supply reliability or subject themselves again to a “business risk” that they had recently experienced.¹³⁶ Such caution on the part of the purchasers seems particularly understandable, considering that the reliability of domestic supply again deteriorated in 2007 as GEO shut down for *** days in June and July 2007, and then attempted unsuccessfully to achieve normal production levels in the following weeks.¹³⁷ Purchasers report greater problems with GEO’s ability to supply glycine than was reported by GEO itself.¹³⁸

We also find that Chattem, by its own admission, was unable to compete at prevailing prices in the domestic market throughout the period of investigation due to its higher costs and its shifting focus from USP to pharmaceutical grade glycine. Chattem concedes it can only sell profitably at premium prices and cannot compete on price even with GEO.¹³⁹ Since we have found that subject imports did not depress or suppress prices for the domestic product, we find no causal connection between Chattem’s performance and the growing market presence of the subject imports.

For the reasons stated above, in light of the prevailing conditions of competition in the U.S. market, we find the volume and increase in volume of subject imports to be significant. However, we do not find that the subject imports had a significant adverse effect on domestic prices during the period examined. Finally, while indicators of the industry’s condition are generally unfavorable, the prevailing conditions of competition we have described above indicate that the subject imports are not contributing significantly to the domestic industry’s poor financial condition. In sum, we find that the record does not demonstrate the requisite causal nexus between the subject imports and the condition of the domestic industry.¹⁴⁰

For these reasons, we find that subject imports are not having a significant adverse impact on the domestic industry. Accordingly, we determine that the domestic industry producing glycine is not materially injured by reason of subject imports from Japan and Korea.

VII. NO THREAT OF MATERIAL INJURY BY REASON OF THE CUMULATED SUBJECT IMPORTS

Section 771(7)(F) of the Act directs the Commission to determine whether an industry in the United States is threatened with material injury by reason of the subject imports by analyzing whether “further dumped or subsidized imports are imminent and whether material injury by reason of imports

¹³⁵ GEO’s Posthearing Brief at 7; CR/PR at Figures IV-5 and IV-6.

¹³⁶ GEO reported that ***, Chattem reported that it typically had a long-term relationship with many of its purchasers, and four of nine responding importers use either short-or long-term contracts, further indicating restraints on frequent or rapid shifts in purchasing patterns. CR at V-3, PR at V-3.

¹³⁷ CR/PR at Table III-5.

¹³⁸ CR at III-14 - III-16, PR at III-4 - III-5.

¹³⁹ CR at III-12, PR at III-4; see also Hearing Transcript at 109 (Kedrowski).

¹⁴⁰ Certain of GEO’s large purchasers were clear in their view that there was a lack of a causal nexus between any problems in GEO’s condition/performance and subject imports. “[T]he hardships facing the company initiating this action, GEO Specialty Chemical, are mostly self-inflicted.” Nestle’s Posthearing Submission of November 30, 2007 at 5. “[A]ny financial problems that GEO may be experiencing are the result, not of foreign competitors, but of GEO’s own management failures -- especially its inability to meet its supply commitments.” Letter from Gary Coleman, Summit Research Labs, November 20, 2007 at 1. Nor was a casual nexus to be found in petitioner’s *** assertions of lost sales and lost revenues as *** of the allegations were confirmed. CR/PR at Table V-6.

would occur unless an order is issued or a suspension agreement is accepted.”¹⁴¹ The Commission may not make such a determination “on the basis of mere conjecture or supposition,” and considers the threat factors “as a whole.”¹⁴² In making our determination, we have considered all factors that are relevant to these investigations.¹⁴³ For the reasons discussed below, we determine that the domestic industry is not threatened with material injury by reason of subject imports from Japan and Korea.

A. Cumulation

¹⁴¹ 19 U.S.C. § 1677d(b) and 1677(7)(F)(ii).

¹⁴² 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon “positive evidence tending to show an intention to increase the levels of importation.” Metallwerken Nederland B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int’l Trade 1990), citing American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int’l Trade 1984); see also Calabrian Corp. v. United States, 794 F. Supp. 377, 387-88 (Ct. Int’l Trade 1992), citing H.R. Rep. No. 98-1156 at 174 (1984).

¹⁴³ 19 U.S.C. § 1677(7)(F). The Commission must consider, in addition to other relevant economic factors, the following statutory factors in its threat analysis:

- (I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement and whether imports of the subject merchandise are likely to increase,
- (II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,
- (III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,
- (IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices and are likely to increase demand for further imports,
- (V) inventories of the subject merchandise,
- (VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,
- (VII) in any investigation under this subtitle which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 1671d(b)(1) or 1673d(b)(1) of this title with respect to either the raw agricultural product or the processed agricultural product (but not both),
- (VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and
- (IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).

Moreover, the Commission shall consider the threat factors “as a whole” in making its determination “whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur” unless an order issues. In addition, the Commission must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class of merchandise suggest a threat of material injury to the domestic industry.

Factors I and VII are inapplicable to these investigations.

Section 771(7)(H) of the Act provides as follows:

(H) Cumulation for determining threat of material injury – To the extent practicable and subject to subparagraph (G)(ii), for purposes of clause (i)(III) and (IV) of subparagraph (F), the Commission may cumulatively assess the volume and price effects of imports of the subject merchandise from all countries with respect to which –

- (i) petitions were filed under section 1671a(b) or 1673a(b) of this title on the same day.
- (ii) investigations were initiated under section 1671a(a) or 1673a(a) of this title on the same day, or
- (iii) petitions were filed under section 1671a(b) or 1673a(b) of this title and investigations were initiated under section 1671a(a) or 1673a(a) of this title on the same day,

if such imports compete with each other and with domestic like products in the United States market.¹⁴⁴

This provision leaves to the Commission's discretion the cumulation of imports in analyzing threat of material injury. Based on an evaluation of the relevant criteria as well as our analysis supporting cumulation in the context of assessing present material injury, we exercise our discretion to cumulate imports from India, Japan, and Korea for purposes of assessing threat of material injury.

B. Analysis of Statutory Threat Factors

The volume of cumulated subject imports increased from 2004 to 2006, and was lower in interim 2007 than in interim 2006. The volume of cumulated subject imports increased from *** million pounds in 2004 to *** million pounds in 2005, and then rose to *** million pounds in 2006. The volume of cumulated subject imports was *** million pounds in interim 2007 as compared with *** million pounds in interim 2006.¹⁴⁵ The U.S. market share of cumulated subject imports rose from *** percent in 2004, *** percent in 2005, and to *** percent in 2006; it was *** percent in interim 2007 as compared with *** percent in interim 2006. Thus, market share in interim 2007 was lower than in interim 2006.¹⁴⁶

We find that these volumes and increases in volume are significant when viewed in isolation but, as noted in our discussion of the absence of present material injury, they are not significant in light of prevailing conditions of competition; most notably, the domestic industry's continued inability to supply purchasers' demand on a reliable basis. Moreover, although there appears to be substantial unused capacity in India and Japan, and the Indian producers projected the addition of capacity in 2007 and 2008, the total exports to the United States projected by the Indian and Japanese producers combined will not exceed their combined volume of exports in 2006.¹⁴⁷

¹⁴⁴ 19 U.S.C. 1677(7)(H) (emphasis added).

¹⁴⁵ CR/PR at Table IV-2.

¹⁴⁶ Id.

¹⁴⁷ See CR/PR at Table VII-2 (India), Table VII-4 (Japan). No Korean producer responded to the Commission's foreign producer questionnaire. CR at VII-9 - VII-10, PR at VII-5. Capacity utilization of the Indian producers, with annual capacity in 2004-06 of *** million pounds, increased from *** percent in 2004 to *** percent in 2006. Indian producers project their capacity will increase to *** million pounds in 2007 and 2008 and they project their

(continued...)

Nonetheless, the Japanese industry has become increasingly export oriented, with exports accounting for *** percent of its shipments in 2006 and *** percent of its shipments in interim 2007 as contrasted with *** percent in interim 2006.¹⁴⁸ The subject industry in India is also export oriented, with the United States as the destination for between *** percent and *** percent of total reported subject production in India.¹⁴⁹ U.S. importers' inventories of subject merchandise at the end of the period of investigation were modest, both absolutely and as a percentage of subject imports and shipments of import shipments.¹⁵⁰

In light of existing unused capacity in the subject countries and the export orientation of the industries in India and Japan, about which we have information, we find that some increase in the volume of subject imports from India, Japan, and Korea is likely. However, we find that subject imports are not likely to have a significant depressing or suppressing effect on domestic prices in light of prevailing conditions of competition. We observe that over the period of investigation, there generally has not been a strong correlation between domestic prices and import volumes. The highest domestic prices for Product 2 were observed in 2005, a year in which subject imports' share of U.S. consumption (by volume) increased by *** percentage points and the domestic producers' share fell by *** percentage points.¹⁵¹

We note that the financial condition of the domestic industry, although improved later in the period of investigation, remained in a loss position, and that other indicia of the industry's condition also indicate that the industry is in a weakened state.¹⁵² We therefore find that the industry is vulnerable to material injury. However, that vulnerability is lessened by the improvements in its operations that GEO has already made or intends to make in the near term.

As explained above, we have discounted the subject imports' underselling of the domestic product during the period examined, and we have found that the domestic industry's inability to reliably

¹⁴⁷ (...continued)

capacity utilization will be *** percent in 2007 and *** percent in 2008. Under those projections, the Indian producers would have unused capacity of *** million pounds in 2007 and *** million pounds in 2008. However, the Indian producers project exports to the United States of *** million pounds for both 2007 and 2008, which volume is below the *** million pounds they exported to the United States in 2006. CR/PR at Table VII-2. Japanese producers report a constant annual capacity of *** million pounds throughout the period of investigation, and projected that same capacity into 2007 and 2008. Japanese producers reported that their capacity utilization declined irregularly from *** percent in 2004 to *** percent in 2006. They project capacity utilization at *** percent for 2007 and 2008. Under that projection, the Japanese producers would have unused capacity of *** million pounds in 2007 and 2008. However, the Japanese producers project exports to the United States of *** million pounds in 2007, only slightly above their exports to the United States of *** million pounds in 2006, and projected exports to the United States in 2008 of *** pounds. CR/PR at Table VII-4. Thus, the combined projections of the Indian and Japanese producers indicate that their total annual exports to the United States in 2007 and 2008 will not exceed their combined total for 2006. Although little is known about the industry in Korea or, therefore, about Korean capacity and excess capacity, based on the available evidence we find that the likely principal producer in Korea, Korea Bio-Gen Co. Ltd., has the capacity necessary to export to the United States at least at the peak level of U.S. imports from Korea during the period of investigation, *i.e.*, *** million pounds in 2006, and likely also has some unused capacity.

¹⁴⁸ CR/PR at Table VII-4.

¹⁴⁹ CR/PR at Table IV-2.

¹⁵⁰ In interim 2007, importers held inventories of *** pounds of subject merchandise, accounting for *** percent of imports and *** percent of shipments of subject imports. CR/PR at Table VII-5.

¹⁵¹ CR/PR at Table V-2.

¹⁵² See CR/PR at Table C-1 and Impact discussion, supra.

supply glycine, or to deliver glycine on a timely basis, had the effect of pulling subject imports into the U.S. market. We also have found that the increasing cumulated import levels did not depress or suppress domestic prices to a significant degree. There is nothing in the record to suggest that this will change in the imminent future, even at increased import volumes.

There is also no evidence that these subject imports will have negative effects on the existing development and production efforts of the domestic industry. As noted above, GEO reports that its production capabilities have improved as a result of maintenance performed during the 2007 shutdown to cure equipment faults, and that it has computerized and studied its prior records to identify the conditions under which the plant operates especially well.¹⁵³ It has plans to identify and eliminate production bottlenecks, as well as to repair the failed glycine recovery unit chromatographic separator, which actions together would permit it to increase production by *** million to *** million pounds annually.¹⁵⁴ Also, purchasers appear to be willing to increase sourcing from GEO if it is able to supply glycine on a reliable basis.¹⁵⁵ Purchasing from GEO would also be consistent with purchasers' apparent interest in maintaining alternative sources of supply. GEO itself recognizes that several non-price factors provide GEO with a potential comparative advantage over subject sources as a supplier to U.S. purchasers of glycine.¹⁵⁶ Thus, while a number of purchasers increased the share of their purchases from subject sources over the period of investigation, none abandoned GEO entirely as a supplier.¹⁵⁷ Now that GEO has resolved many of its production issues, and absent any evidence that purchasers will retain no domestic supplier, we do not find any further significant shift in volume or market share from the domestic industry to the subject imports to be imminent.

Given the forecast that subject imports will not imminently increase substantially above 2006 levels, the lack of evidence of significant price effects from these imports during the period examined, the moderate inventories of the subject merchandise, and the absence of negative effects of the subject imports on the development and production efforts of the domestic industry, we find that material injury by reason of subject imports will not occur absent issuance of antidumping duty orders against subject imports. We therefore conclude that the domestic glycine industry is not threatened with material injury by reason of imports of glycine from Japan and Korea.

CONCLUSION

For the reasons stated above, we determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of glycine from Japan and Korea that have been found by the Department of Commerce to be sold in the United States at less than fair value.

¹⁵³ GEO's Posthearing Brief, Responses to Questions at 2, 24.

¹⁵⁴ GEO's Posthearing Brief, Responses to Questions at 2, 24. Although GEO contended that it would work to eliminate bottlenecks and repair the glycine recovery unit if an antidumping duty order on the subject imports were in place, there is no basis on the record for concluding that these actions cannot be undertaken in the absence of an order. These possible actions contrast with GEO's study of creating entirely new capacity, which, at an estimated cost of ***, it describes as "quite costly." *Id.* at 24.

¹⁵⁵ For instance, as already noted, ***, which reduced purchases from Hampshire/DOW due to its unreliability prior to the period of investigation (CR at III-14 n.18, PR at III-5 n.18), increased its purchases of glycine from GEO at the end of 2006 and in 2007 due to "favorable value due to material price and domestic sourcing." *** Purchaser Questionnaire Response, Section III-12.

¹⁵⁶ GEO's Posthearing Brief, Responses to Questions at 22, Hearing Transcript at 147 (Frey).

¹⁵⁷ Of the purchasers that responded to the Commission's purchasers' questionnaire and that GEO had listed as customers ***, none abandoned GEO completely as a supplier. *See* GEO's Domestic Producer Questionnaire Response, Section IV-21. *See also, e.g.*, Purchaser Questionnaire Responses of ***.

**DISSENTING VIEWS
OF COMMISSIONER IRVING A. WILLIAMSON
AND COMMISSIONER DEAN A. PINKERT**

Based on the record in these investigations, we determine that an industry in the United States is materially injured by reason of imports of glycine from Japan and Korea that have been found by the Department of Commerce (“Commerce”) to be sold in the United States at less than fair value (“LTFV”).

We join sections I through IV of the Views of the Commission, namely, the Commission majority’s findings on the background of the investigations, domestic like product, domestic industry, and cumulation. We dissent, however, as to the Commission’s negative material injury and threat of material injury determinations, and we write separately to explain our findings and determinations with respect to those issues.

I. MATERIAL INJURY BY REASON OF THE CUMULATED SUBJECT IMPORTS¹

In the final phase of antidumping duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.² In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product (but only in the context of the domestic producers’ U.S. production operations).³ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”⁴ In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.⁵ No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁶

A. Conditions of Competition and the Business Cycle

The following conditions of competition are pertinent to our analysis of the impact of the cumulated imports of glycine from India, Japan, and Korea on the domestic industry.

1. Demand Conditions

Glycine is an input in the production of many other products, and thus its demand is derived from the demand for those end-use products. It is used as a sweetener in foods, pharmaceuticals, personal care

¹ In these investigations, subject imports accounted for more than 3 percent of the volume of glycine imported into the United States from each of the three subject sources in the most recent 12-month period for which data are available preceding the filing of the petition. CR at IV-14; PR at IV-6. Therefore, we find that subject imports for each of the three countries are not negligible under 19 U.S.C. § 1677(24).

² 19 U.S.C. § 1673d(b).

³ 19 U.S.C. § 1677(7)(B)(i). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each [such] factor . . . [a]nd explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B). See also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

⁴ 19 U.S.C. § 1677(7)(A).

⁵ 19 U.S.C. § 1677(7)(C)(iii).

⁶ Id.

products, and animal feed; as a buffering agent in antacids, analgesics, antiperspirants, cosmetics, and toiletries, and in production of rubber sponge products and fertilizers; as a re-absorbable amino acid to treat diarrhea; as a chemical intermediate in a variety of chemical products; as a metal complexing and finishing agent; as a dietary supplement; as an enhancer of gastric absorption with respect to certain drugs; and as an element in certain intravenous technologies. The grade of glycine that is required differs among the end uses.⁷ A small number of purchasers account for a large share of apparent U.S. consumption.⁸

Apparent U.S. consumption of glycine increased irregularly from *** million pounds in 2004 to *** million pounds in 2006. It was *** percent higher in 2005 as compared to 2004, and then it dropped by *** percent from 2005 to 2006. Overall, apparent U.S. consumption in 2006 was *** percent higher than in 2004.⁹ Apparent U.S. consumption was *** million pounds in interim 2007, *** percent greater than apparent U.S. consumption of *** million pounds in interim 2006.¹⁰ Based on available information, consumers are likely to respond to changes in the price of glycine with relatively small changes in their purchases.¹¹

2. Supply Conditions

Domestic Capacity and Production. During the period of investigation, two domestic producers, GEO and Chattem, accounted for 100 percent of U.S. production of glycine. GEO produces glycine using the HCN process at its Deer Park, Texas facility, while Chattem produces glycine using the MCA process at its Chattanooga, Tennessee facility. GEO purchased the Deer Park facility from Hampshire Chemical Corporation, a subsidiary of DOW Chemicals, Inc. (“Dow”), on November 1, 2005.¹²

Throughout the period of investigation, the domestic industry’s capacity to produce glycine, largely concentrated in Dow’s and GEO’s Deer Park facility, was less than needed to supply total domestic demand. Domestic producers’ capacity was *** million pounds in 2004 and *** million pounds in 2005 and 2006. Apparent U.S. consumption increased, as described earlier, from *** million pounds in 2004 to *** million pounds in 2005, before dipping to *** pounds in 2006, an increase of *** percent between 2004 and 2006.¹³

In early 2005, Chattem became a distributor of subject technical grade glycine produced by Showa Denko K.K., a subject producer in Japan.¹⁴ Chattem’s domestic shipments decreased overall as its shipments shifted from USP grade glycine to pharmaceutical grade.¹⁵ Overall, domestic production

⁷ CR at II-8, PR at II-5.

⁸ CR, PR at Table I-2. Data on the five largest end users of glycine indicate that two firms which use glycine as an additive in human, animal, or plant food accounted for an estimated *** percent of reported U.S. purchases of glycine in 2006, and that three firms which use glycine as a buffering agent in antiperspirants accounted for an estimated *** percent of reported U.S. purchases of glycine in 2006. Id.

⁹ CR, PR at Tables IV-6, C-1.

¹⁰ Id.

¹¹ CR at II-9, PR at II-5.

¹² CR at III-1, III-1 n.2, PR at II-1, III-1 n.2. Data reported by GEO included data for Dow for the portion of the period of investigation prior to GEO’s purchase.

¹³ CR, PR at Table C-1. Capacity for *** reflects the effect of a *** pound reduction in capacity in *** resulting from Dow’s shut down of a Glycine Recovery Unit ***. CR at III-5-III-6, PR at III-2-3, GEO Prehearing Brief at 20.

¹⁴ CR at III-18, PR at III-6.

¹⁵ CR, PR at Table III-4.

declined by *** percent from 2004 to 2006.¹⁶ As Chattem developed its position as a niche producer of pharmaceutical grade glycine and importer of technical grade glycine, the U.S. industry's production was increasingly concentrated in GEO's Deer Park facility in 2006 and interim 2007.¹⁷

In the preliminary phase of these investigations, several U.S. importers asserted that GEO and/or Dow lost business because they were unable to meet customer demand due to plant shutdowns, quality concerns, and problems such as short shipping, unreliable deliveries, allocation, and denial of supply (abrogated contracts).¹⁸ In the final phase of these investigations, GEO reported problems with on-time delivery over the period of investigation,¹⁹ and purchasers reported other problems with the ability of GEO and its predecessor Dow to supply glycine or meet supply agreements during the period examined.²⁰

In 2004, because of a shortage of a raw material input, hydrogen cyanide, Dow halted production for 35 days and conducted below-normal production operations for an additional 24 days.²¹ Overall, Dow was able to ship to customers without any delay in only two of the last 12 months during its period-of-investigation ownership of the Deer Park facility. In the first four months of 2005, between *** percent and *** percent of Dow's monthly shipment quantities were delayed.²² The largest U.S. purchasers reported that, following the 2004 disruptions at the Deer Park facility under Dow, they chose to begin sourcing material from foreign entities in countries such as China, India, Japan, and Korea.²³

GEO acknowledges Dow's problems but asserts that it substantially improved the company's on-time delivery record, particularly in 2006 when there were few delayed shipments. It admits that

¹⁶ CR, PR at Tables III-2, C-1. The industry's capacity declined from *** pounds in 2004 to *** pounds in 2006. Capacity in interim 2007 was unchanged from interim 2006. CR, PR at Tables III-2, C-1. Domestic production, after increasing from *** pounds in 2004 to *** pounds in 2005, decreased to *** pounds in 2006. Production was *** pounds in interim 2007 compared with *** pounds in interim 2006. *Id.*

¹⁷ CR at III-5, PR at III-2.

¹⁸ CR at III-14, PR at III-4-5. In the final phase of these investigations, CAF International repeated its assertion that GEO lost market share to imports due to GEO's customer service record. Hearing Transcript at 135, 138-139 (Frey).

¹⁹ *E.g.*, CR, PR at Table III-5; CR at III-15 n.22, PR at III-5, n.22.

²⁰ CR at II-4 - II-7, III-14 - III-16; PR at II-2 - II-4, III-5 - III-6. Nine of the 22 responding purchasers reported that a supplier had put them on allocation or had delayed delivery. Six of these firms reported allocations or delayed deliveries by GEO or its predecessor, with two reporting delayed/short deliveries in 2007. Four purchasers reported that importers had delayed deliveries or put them on allocation. Purchasers were asked to report the impact of these allocations/delayed deliveries. Four of the nine responding firms reported either shutdowns or slowed production, three reported purchasing imported product at higher prices, and one reported purchasing glycine at higher prices but did not indicate whether the glycine was domestic or imported. Purchasers also reported searching for alternative suppliers, expenses of managing a delay, reduced efficiencies, reduced profits, longer lead time for customers, managing product in different packaging, and increased inventories to ensure supply. In addition, one firm reported that it was unable to buy *** glycine because *** would not respond to its enquiries.

Five of 22 responding purchasers reported that suppliers had broken supply contracts. Two purchasers reported Dow/GEO had broken contracts. Three firms reported that importers broke contracts. Purchasers were also asked to report the effect of these broken contracts on their firms. Four firms reported using other suppliers (one reported that this was at a higher price and thus reduced its profits) and one firm reported that its business was put at risk of a plant shutdown and inventory shortfalls. ***. CR at II-4 - II-6; PR at II-2 - II-3.

²¹ CR at III-3 n.4, PR at III-2 n.4.

²² CR at III-15, PR at III-5, CR, PR at Table III-5.

²³ Information pertinent in this regard was furnished by ***, which together accounted for a majority of apparent U.S. consumption of glycine during the period of investigation. CR at III-14 n.18, PR at III-5 n.18.

delivery problems recurred as a result of a regularly scheduled maintenance shutdown in June 2007.²⁴ It attempted to build inventories prior to the June 2007 shutdown, but it was unable to build inventories meeting specifications. Moreover, the shutdown lasted *** days rather than the *** days that were originally intended.²⁵ In any event, GEO indicates that the effects of the shutdown have ended and that it delivered all shipments on time in November 2007.²⁶

Subject and Non-subject Imports. The domestic industry supplied only a portion of the U.S. market for glycine during the period of investigation, with the remainder supplied by imports. Domestic producers' share of the U.S. market declined steadily from *** percent in 2004 to *** percent in 2006. Domestic producers' share of the U.S. market was *** percent in interim 2007 compared with *** percent in interim 2006. Subject imports' share of the U.S. market increased from *** percent in 2004 to *** percent in 2006. Subject imports' share of the U.S. market was *** percent in interim 2007 compared with *** percent in interim 2006.²⁷

Finally, the U.S. market share held by non-subject imports fluctuated during the period examined and slightly declined overall from *** percent in 2004 to *** percent in 2006. Non-subject imports' share of the U.S. market was *** percent in interim 2007 compared with *** percent in interim 2006.²⁸ Glycine from China, which is subject to an antidumping duty order, accounted for a substantial majority of non-subject imports in 2005, 2006, and interim 2007.²⁹ The average unit value ("AUV") of non-subject imports was significantly higher than the AUV of subject imports throughout the period of investigation.^{30 31}

3. Substitutability

The domestic like product and glycine from each of the subject countries are generally interchangeable in terms of physical characteristics. All responding domestic producers and importers reported that the domestic like product was always or frequently interchangeable with subject imports from each subject source and that the subject imports were frequently interchangeable with each other.³²

²⁴ Hearing Transcript at 54-55 (Avraamides).

²⁵ CR at III-15, PR at III-5. Hearing Transcript at 43-44, 54-55 (Avraamides).

²⁶ GEO Posthearing Brief, Responses to Questions at 2.

²⁷ CR, PR at Tables IV-7, C-1.

²⁸ CR, PR at Tables IV-5, C-1.

²⁹ CR, PR at Table IV-6.

³⁰ CR, PR at Table C-1 (the AUV for non-subject imports was \$*** in 2004, \$*** in 2005, \$*** in 2006, while the AUV for subject imports was \$*** in 2004, \$*** in 2005, and \$*** in 2006; in interim 2007, the non-subject AUV was \$*** and the subject AUV was \$***, compared with AUVs in interim 2006 of \$*** for non-subject imports and \$*** for subject imports). We are mindful that AUVs may present product mix issues in that values may reflect different merchandise rather than differences in price. See *Allegheny Ludlum Corp. v. United States*, 287 F.3d 1365, 1373-74 (Fed. Cir. 2002).

³¹ Pricing data for non-subject imports of pricing product 2 (glycine to USP grade end users) from China and India show that non-subject imports oversold the domestic like product in 2004 but undersold the domestic like product in each quarter thereafter, *i.e.*, in 2005, 2006, and interim 2007. CR, PR at Table V-2.

³² CR, PR at Table II-4. The majority of responding purchasers reported that the domestic like product is always or frequently interchangeable with subject imports from India and Japan and that the domestic like product is always, frequently, or sometimes interchangeable with subject imports from Korea. *Id.*

Price was the factor purchasers most frequently identified as the third most important factor in the customer's purchase decision. Purchasers most often identified quality as the most important factor; availability was the most frequently reported second most important factor.³³

B. Volume of Subject Imports

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."³⁴

Cumulated subject import volume more than doubled from 2004 to 2006. Cumulated subject import volume steadily increased from *** million pounds in 2004 to *** million pounds in 2005 and further to *** million pounds in 2006, an overall increase of *** percent. Market share for subject imports increased in tandem with the volume increase.

Cumulated subject import market share increased from *** percent in 2004, to *** percent in 2005, and further to *** percent in 2006, an increase of *** percentage points.³⁵ Cumulated subject imports went from *** to *** percent of the U.S. market in two years.

The domestic industry's loss of U.S. market share to subject imports from 2004 to 2006 is striking.³⁶ The domestic industry's loss of market share from 2004 to 2006 (*** percentage points) is virtually identical to the additional market share captured by subject imports (*** percentage points). The market share of non-subject imports fluctuated in that time-frame, but ultimately neither increased nor decreased.³⁷ Thus, the increase in apparent U.S. consumption from 2004 to 2006 (*** percent) primarily benefitted subject imports, not domestic production.

³³ CR, PR at Table II-2.

³⁴ 19 U.S.C. § 1677(7)(I); Statement of Administration Action ("SAA") at 854.

³⁵ CR, PR at Table IV-7, Table C-1. The strong trend of increase in subject import volume and market share abruptly changed in interim (January to June) 2007. The petition in this case was filed on March 30, 2007. CR, PR at I-1. We find the change in the volume trend in the subject imports to be largely related to the pendency of the investigation. 19 U.S.C. § 1677 (7)(I). Thus we have discounted the weight of post-petition data, although we have considered them.

Cumulated subject import volume and market share were lower in interim 2007 than in interim 2006. At the same time, domestic industry market share increased, while non-subject import market share remained relatively stable. Subject import volume was *** million pounds in interim 2007 as compared to *** million pounds in interim 2006. Subject imports held a U.S. market share of *** percent in interim 2007 as compared to *** percent U.S. market share in interim 2006. Domestic industry market share was *** percent in interim 2007 as compared to *** percent in interim 2006, while non-subject import market share was *** percent in interim 2007 as compared to *** percent in interim 2006. CR, PR at Table C-1.

³⁶ We note that the loss of U.S. market share by the domestic industry is even more significant given the high degree of interchangeability between the subject imports and the domestic like product. Over the period of investigation, U.S. importer shipments of subject merchandise were virtually all USP grade glycine, and domestic producer U.S. shipments ranged from *** percent to *** percent USP grade glycine. CR, PR at Table III-4 (domestic shipments), Table IV-3 (U.S. importers' shipments).

³⁷ CR, PR at Table C-1. In the preliminary phase of these investigations, *** alleged that all U.S. imports from Korea were transshipments of glycine produced in China. CR at VII-10, PR at VII-7. *** imported all of the subject merchandise from Korea. World Wide provided documentation from a U.S. Customs determination in 2002 that its Korean supplier has glycine production facilities in Korea. CR at VII-9-10 & n.16, PR at VII-7 & n.16. Given this record evidence, we have treated the subject merchandise from Korea as having been produced in that country.

In addition, as subject imports displaced domestic glycine in the U.S. market, the ratio of subject imports to domestic production increased significantly. Over the period of investigation, subject imports increased from approximately *** of U.S. production in 2004 to *** of U.S. production in 2006.³⁸

We therefore find that subject import volume is significant, both in absolute terms and relative to consumption and production in the United States, and that the increase in subject import volume is also significant.

C. Price Effects of the Subject Imports

Section 771(7)(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.³⁹

As discussed in the section on cumulation, domestically produced glycine and glycine imported from subject countries are generally substitutable. A substantial share of purchasers considers domestic and subject imported glycine to be always or frequently substitutable.⁴⁰ Purchasers consider price to be a significant consideration in their purchasing decisions, ranking it behind only quality and availability in terms of importance.⁴¹ The fungibility of domestic and imported glycine and the importance of price to purchasers increase the ability of lower-priced imports to take sales from domestic producers and to put downward pressure on domestic prices.

The Commission collected quarterly pricing data from producers and importers on their shipments of three grades of glycine to unrelated customers: sales to pharmaceutical grade end users (Product 1), sales to USP grade end users (Product 2), and sales to technical grade end users (Product 3).⁴² The collected data cover all shipments of domestic glycine and subject Korean glycine during the period examined, and a substantial share of shipments of subject Indian and Japanese glycine. The vast majority of the data on the domestic product, and virtually all of the data on subject imports, pertains to glycine sold to USP end users (Product 2).

The data show underselling by subject imports in over *** percent of comparisons.⁴³ The weighted average margin of underselling over the entire period was 8.2 percent.⁴⁴ We find this consistent underselling for a substitutable product to be significant.⁴⁵

³⁸ CR at IV-22, PR at IV-9; CR, PR at Table IV-8. As we discuss more fully in our impact analysis, notwithstanding an expanding U.S. market for glycine, U.S. production decreased from 2004 to 2006.

³⁹ 19 U.S.C. § 1677(7)(C)(ii).

⁴⁰ CR, PR at Table II-4.

⁴¹ CR, PR at Table II-2.

⁴² CR at V-4, PR at V-4.

⁴³ CR, PR at Table V-5. The frequency of underselling was similar for Product 2 (USP grade) as for the three products taken together. CR, PR at Table V-2.

⁴⁴ CR, PR at Table V-5.

⁴⁵ We note that Chattem's prices were generally higher than GEO's and that Nestle Purina (Nestle), a significant purchaser, claims it paid more for its subject imports from *** than for GEO product. We also note that Chattem

(continued...)

With respect to price trends, domestic prices of Product 2 (USP grade) increased from 2004 to 2005, remained steady during most of 2005, and then declined during 2006 and the first half of 2007.⁴⁶ Prices ended the period at a level comparable to their starting level. Apparent U.S. consumption of glycine increased by *** percent in 2005, then dipped by *** percent in 2006.⁴⁷ Overall, apparent U.S. consumption increased by *** percent from 2004 to 2006.

We find that the rising prices of domestic glycine in 2005 were associated with the surge in consumption. U.S. producers' domestic glycine shipments grew that year by *** percent, even in the face of sharply rising imports.⁴⁸ In 2006, the continued rise of subject imports, at underselling prices, coincided with a modest dip in consumption. Domestic prices of Product 2 in fourth-quarter 2006 were approximately *** percent lower than in fourth-quarter 2005. We find that subject imports significantly depressed domestic prices during that time-frame.

We have also considered whether subject imports suppressed domestic prices to a significant degree. The domestic industry's ratio of cost of goods sold ("COGS") to net sales was poor throughout the period. The ratio improved from *** percent in 2004 to *** percent in 2005, then dropped to *** percent in 2006.⁴⁹ Between 2004 and 2005, the large increase in apparent U.S. consumption helped lift the industry's sales values and its financial indicators (such as the COGS/sales ratio). Also significant in this regard is that Dow stopped depreciating its assets in 2005 in anticipation of the transfer of its glycine assets to GEO in November 2005, which resulted in a significant decrease of Dow's depreciation costs.⁵⁰

In 2006, however, the industry experienced a cost/price squeeze as raw material costs surged and domestic prices did not keep pace. The industry's unit raw material costs grew by *** percent in 2006.⁵¹ This resulted in an increase in the industry's COGS/sales ratio to *** percent (and substantially higher operating losses as discussed below). We find that the continued capture of market share by subject imports in 2006, discussed above, at underselling prices, significantly suppressed domestic prices.⁵²

In sum, we find significant underselling and significant price depression and suppression by reason of subject imports from India, Japan and Korea.

C. Impact of the Subject Imports

⁴⁵ (...continued)

has alleged that it has lost sales to lower priced imports.

The Commission does not typically disaggregate domestic producer price data. Our focus here is on the industry as a whole and on imports from all subject countries. Even considering GEO's data on its own, subject imports undersold GEO's prices (Product 2) in a majority of instances and, on a cumulated basis, undersold GEO's prices consistently from 2004 through 2006. Moreover, in light of the large transfer of market share from domestic producers to subject imports of a largely fungible product, even a mixed pattern of under- and over-selling, together with declining or suppressed prices, would indicate that subject imports caused significant negative price effects. See Supplemental Tables 3-8.

⁴⁶ We have given limited weight to the price trends for Products 1 and 3, as they represent only a small fraction of the volume of sales of Product 2, and only 2 of the 42 price comparisons. Domestic prices of Product 1 generally increased over the period examined, whereas domestic prices of Product 3 first decreased and then increased to finish the period at a price level above the level at the start of the period. CR, PR at Tables V-1, V-3.

⁴⁷ CR, PR at Table IV-6.

⁴⁸ CR, PR at Tables III-3, C-1.

⁴⁹ CR, PR at Table VI-1.

⁵⁰ CR at VI-5, n.4, PR at VI-2, n.4.

⁵¹ CR, PR at Table VI-3.

⁵² Most of GEO's allegations that subject imports captured sales on the basis of price or pushed prices down with respect to particular customers were either disputed or not confirmed. Nevertheless, it is noteworthy that purchaser *** confirmed that it purchased a significant quantity (*** pounds) of subject imports rather than domestic glycine because the imports were lower priced. CR, PR at Table V-7.

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, “shall evaluate all relevant economic factors which have a bearing on the state of the industry.”⁵³ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the industry.”⁵⁴

As discussed above, apparent U.S. consumption rose sharply (by *** percent) from 2004 to 2005, before declining somewhat (by *** percent) in 2006, for an overall increase of *** percent from 2004 to 2006. Although subject imports increased by over *** million pounds from 2004 to 2005, and gained *** percentage points of market share, the growth in apparent U.S. consumption was large enough that the domestic industry was able to improve its performance in 2005 with respect to several key indicators. These included production, capacity utilization, U.S. shipments, and net sales quantities.⁵⁵

In 2006, however, with the continued rise in the volume and market share of subject imports, and the modest dip in apparent U.S. consumption, the domestic industry experienced a sharp deterioration in a number of performance measurements. Overall, from 2004 to 2006, despite a *** percent increase in apparent consumption, many domestic performance indicators worsened substantially:

Production quantity	Declined *** percent
Capacity utilization	Declined *** percentage points
U.S. shipments	Declined *** percent
Ending inventories	Increased *** percent
Number of workers	Declined *** percent
Hours worked	Declined *** percent
Net sales quantity	Declined *** percent ⁵⁶

These negative trends are clearly tied to the influx of subject imports, which captured an additional *** percentage points of market share – more than *** pounds sold in the market – from 2004 to 2006.

With respect to financial indicators, the industry experienced operating losses throughout the period examined. The industry’s losses as a ratio to net sales were *** percent in 2004, *** percent in 2005, and *** percent in 2006.⁵⁷ In the section above on price effects, we observed that the financial improvement from 2004 to 2005 was the result of rising apparent U.S. consumption (which permitted higher prices) and the reduction of Dow’s depreciation costs in 2005. Direct labor costs and SG&A expenses also decreased from 2004 to 2005.⁵⁸ In 2006, the industry’s fortunes turned sharply downward as rising costs – particularly raw material costs, which grew by over *** percent on a per pound basis⁵⁹ –

⁵³ 19 U.S.C. § 1677(7)(C)(iii).

⁵⁴ The statute instructs the Commission to consider the “magnitude of the dumping margin” in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its final determinations on Japan and Korea, Commerce found weighted-average dumping margins for specific Japanese producers of 280.57 percent and a Japan “all others” rate of 165.3; and found a weighted average dumping margin of 138.83 for Korea Bio-Gen Co. Ltd and a Korea “all others” rate of 165.34 percent. In its preliminary determination on India, Commerce found weighted-average dumping margins for specific Indian producers of 121.62 percent and an India “all others” rate of 45.82 percent. CR at I-6, PR at I-5.

⁵⁵ CR, PR at Table C-1.

⁵⁶ CR, PR at Table C-1.

⁵⁷ Operating income *** for the domestic industry were ***. CR, PR at Table VI-2 .

⁵⁸ CR, PR at Table VI-3.

⁵⁹ CR, PR at Table VI-3.

squeezed domestic profitability at a time when subject imports were depressing domestic prices. The industry experienced consistent negative cash flow during the period of investigation.⁶⁰

Several large purchasers stated that they switched to subject imports because of GEO's shortcomings as a supplier. Nestle indicated that in 2004 and 2005 Dow failed to deliver glycine on time (or in some cases failed to deliver at all) and unilaterally attempted to raise contract prices.⁶¹ GEO has acknowledged Dow's difficulties but has disputed their severity and has noted that GEO achieved a solid record of reliable supply in 2006 after it took over from Dow.⁶²

It is difficult to evaluate the arguments of purchasers such as Nestle because, while it and several others submitted letters to the Commission, they did not appear at the hearing at which time the Commission could have questioned them, nor did importers of merchandise purchased by Nestle and others submit briefs on these issues. The record supports GEO's claims that it achieved a solid record of supply in 2006.⁶³

We find that the industry's supply difficulties do not explain the above-described underselling and price suppression/depression. Moreover, significant lost domestic sales volume was demonstrably unrelated to the industry's supply issues. Purchaser *** agreed that GEO had lost a *** pound sale to it for price reasons. The production of the other domestic producer – Chattem (about which there were no claims of supply disruptions) – also declined by *** percent.⁶⁴

In sum, we find that supply failures of the domestic industry during the period examined did not sever the causal link between the rising tide of subject imports and material injury. The increase in subject imports suppressed and depressed domestic prices, and caused the poor performance of the domestic industry. Thus, the subject imports had a significant negative impact on the domestic industry.

II. Application of the *Bratsk Aluminum Smelter v. United States* Replacement/Benefit Test

Having reached affirmative determinations by application of the statutorily mandated factors, the Federal Circuit's decision in Bratsk Aluminum Smelter v. United States requires that we turn to an additional analysis which can, in some circumstances, negate an affirmative determination.⁶⁵ The Federal Circuit directed the Commission to undertake an "additional causation inquiry" whenever certain triggering factors are met: "whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market."⁶⁶ The additional inquiry

⁶⁰ CR, PR at Table VI-1. The domestic industry's experience between first-half (interim) 2006 and interim 2007 was mixed. Some factors (such as production, capacity utilization, employment indicators, and productivity) remained relatively stable. Other factors (such as market share, U.S. shipments, and net sales) rose *** as subject imports declined by *** percent. The *** net sales volume in interim 2007 was offset by *** average sales values, such that the industry's operating losses remained similar between the interim periods (\$*** in interim 2006 versus \$*** in interim 2007). CR, PR at Table C-1. As mentioned above, we have discounted post-petition data.

⁶¹ CR at III-14 n.18, PR at III-4, n.18.

⁶² GEO Posthearing Brief at 4-6.

⁶³ CR, PR at Table III-5. We note that several purchasers referenced GEO's supply difficulties starting in April 2007 as it shut down its facilities for cleaning and inspection of its raw material systems as required by law. CR at III-15; PR at III-5. However, those 2007 events cannot explain purchasers' sourcing decisions during 2004 to 2006.

⁶⁴ Chattem's production ***. CR, PR at Table III-2. At the same time, Chattem switched increasingly from domestic production to importing subject imports. Chattem's ratio of its imports of subject merchandise to its domestic production was *** percent in interim 2006, but *** percent in full year 2006, and *** percent of its production in interim 2007. CR, PR at Tables III-6, IV-2.

⁶⁵ 444 F.3d at 1369 (Fed. Cir. 2006).

⁶⁶ Bratsk, 444 F.3d at 1375.

required by Bratsk , which we refer to as the Bratsk replacement/benefit test, is “whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers.”⁶⁷

We respectfully disagree with Bratsk that the statute requires any analysis beyond that already included in our discussion of volume, price, and impact above. We have discussed Bratsk and the Commission’s application of the statutory scheme at length in other determinations and do not reiterate that discussion here.⁶⁸ The Commission has a well established approach to addressing causation.⁶⁹ We apply the Bratsk replacement/benefit test to our analysis because the Federal Circuit has directed us to do so, notwithstanding that, in our considered view, this test is not required by, or consistent with, the statute.

The Bratsk analysis “is triggered whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market.”⁷⁰ If both Bratsk triggering factors are satisfied, we apply the “replacement/benefit” test required under Bratsk to determine whether non-subject imports would replace subject imports with no benefit to the domestic industry.

We find that both of the Bratsk triggers are satisfied here and that non-subject imports would have replaced subject imports to a certain extent, but not fully, during the period of investigation. Thus we find that there would have been a volume benefit to the domestic industry from the order, in terms of increased sales and/or market share. We also find that to the extent that non-subject imports would have replaced the subject imports, such replacement would have benefitted the domestic industry through improved market pricing.

A. Triggering Factors

We find that glycine qualifies as a commodity product based upon the Bratsk panel’s definition of “commodity product” as “meaning that it is generally interchangeable regardless of its source.” Given the significant degree of substitutability among different sources of glycine within a given grade, we find that for purposes of our Bratsk analysis glycine is a commodity product.⁷¹

We also find that price competitive non-subject imports are a significant factor in the market. They had a comparable share of the U.S. market to that of subject imports in 2004, at a *** percent level, and were at a *** percent level overall. We note, however, the relative aggressiveness of subject imports in the U.S. market compared to the non-subject imports (in terms of capturing market share). By the end of the period of investigation, subject import market share was *** the non-subject import market share.⁷²

Non-subject imports were priced competitively with respect to subject imports and the domestic like product in the U.S. market. Non-subject import average unit values (“AUVs”) were higher than those

⁶⁷ Bratsk, 444 F.3d at 1375.

⁶⁸ For a full discussion of our views on the applicability of Bratsk, see the Commission’s Views in Certain Polyester Staple Fiber from China, Inv. No. 731-TA-1104 (Final), USITC Pub. 3922 (June 2007), at 24-26.

⁶⁹ See Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand), USITC Pub. 3910 (Mar. 2007), at 3-8 (articulating in detail the Commission’s long-standing interpretation of the “by reason of” causation standard).

⁷⁰ Bratsk, 444 F.3d at 11.

⁷¹ We note that it is improper to assume that simply because goods are generally interchangeable for purposes of the “reasonable overlap of competition” analysis for cumulation, or are interchangeable for purposes of defining the domestic like product, that they are necessarily “commodities” for purposes of assessing causation, which is the function of the Bratsk “test.” See Silicon Metal from Russia, USITC Pub. 3910 at 10-11 (footnotes omitted) , citing BIC Corp. v. United States, 964 F. Supp. 391, 397, 399 (Ct. Int’l Trade 1997) ([L]ike product, cumulation and causation are functionally different inquiries because they serve different statutory purposes As a result, each inquiry requires a different level of fungibility. Hence the record may contain substantial evidence that two products are fungible enough to support a finding in one context (e.g., one like product), but not in another (e.g., cumulation or causation.”)).

⁷² CR, PR at Table C-1.

of subject imports, but generally lower than those of the domestic like product.⁷³ Grade-specific pricing data reflect that non-subject imports from China and India generally undersold the domestic like product with respect to USP grade glycine.^{74 75} We therefore conclude that non-subject imports are “price competitive” and are a significant presence in the U.S. market.

B. The Replacement/Benefit Test

Having found both Bratsk triggers satisfied, we consider whether non-subject imports would have replaced subject imports over the period of investigation without any benefit to the domestic industry.

Non-subject glycine from Belgium, China, and India were in the U.S. market during the period of investigation, with China being the largest source. The Tessenderlo Group (“Tessenderlo”) of Belgium largely left the U.S. market. Tessenderlo is focused on pharmaceutical grade glycine, which the subject countries have not exported to the United States. Therefore, the level of Tessenderlo’s U.S. exports of pharmaceutical grade glycine to the United States would have been unaffected by whether or not subject imports were in the U.S. market. Although the record reflects the existence of some non-subject imports from India, they decreased over the period of investigation and were at low volumes.

Glycine producers in China are currently subject to an antidumping duty order imposed in 1995 and continued in 2000 and 2005.⁷⁶ All but two glycine producers in China are subject to antidumping duties at 155.89 percent *ad valorem*. The Chinese firms subject to this high rate have only exported small amounts of glycine to the U.S. market.⁷⁷ The two Chinese exporters responsible for the vast majority of U.S. imports from China, Nantong Dongchang (“Nantong”) and Baoding Mantong (“Baoding”), have much lower duty rates. From 2001 to 2007, Nantong was subject to an antidumping duty of 18.60 percent *ad valorem*. This duty increased to 38.67 percent in September 2007 following an administrative review at Commerce. Baoding received a 2.95 percent *ad valorem* duty rate in 2005.⁷⁸

We find that these two Chinese producers, Nantong and Baoding, are the only two Chinese producers that would have increased their exports to the United States over the period of investigation if subject imports had not been in the U.S. market. *** increased its glycine imports into the United States significantly from 2004 to 2005, but decreased them in 2006, and noticeably pulled back from the market in interim 2007, even before its duty rate was raised. Baoding entered the U.S. market in 2006, and increased its exports substantially in interim 2007.⁷⁹ We do not have overall data on glycine shipments by these producers because they did not submit questionnaire responses. GEO has estimated that Nantong and Baoding each have a production capacity of *** million pounds.⁸⁰ To put this capacity in perspective, we note that subject import volume was *** pounds in 2006.

We find that imports from such producers would have replaced subject imports in the U.S. market to some extent, given that they were in the U.S. market during the period of investigation and increased their imports to that market. We find, however, that they would not have completely replaced the subject imports. Imports from these two Chinese exporters increased from low levels in 2004. Nantong appears to have backed away from the U.S. market even before the Department of Commerce increased its

⁷³ CR, PR at Table C-1.

⁷⁴ CR, PR at Table V-2.

⁷⁵ In determining whether non-subject imports are price competitive in this investigation, Commissioner Pinkert has primarily analyzed whether non-subject imports are price competitive with the domestic like product, although he has also taken into account relative pricing levels for non-subject and subject imports.

⁷⁶ CR at I-4, PR at I-3-4.

⁷⁷ CR at VII-14, PR at VII-7-8.

⁷⁸ CR, PR at VII-14, PR at VII-7-8. CR, PR at Table VII-7.

⁷⁹ CR at VII-14 & n.26, PR at VII-7-8 & n.26. CR, PR at Table VII-7.

⁸⁰ CR at VII-14, PR at VII-7.

antidumping duty deposit rate.⁸¹ Baoding did not enter the U.S. market until 2006, after its rate improved, and it is limited by its production capacity.

Further, the Bratsk opinion indicates that the price of the non-subject imports can be an important consideration: “it may well be that ... the price of the non-subject imports is sufficiently above the subject imports such that elimination of the subject imports would have benefitted the domestic industry.”⁸² Nantong’s and Baoding’s incentive to increase market share during the period of investigation using low prices would have been constrained by the antidumping duty order.⁸³ AUVs from China increased over the period of investigation, and in interim 2007, when subject imports from China were at their highest levels, the AUVs of imports from China exceeded those of subject imports.

The record thus indicates that subject imports would have been replaced by non-subject imports to some extent, but not fully, during the period of investigation. Moreover, exporters of non-subject imports would have been constrained from lowering their prices to gain market share. Our affirmative material injury determination, therefore, is consistent with the holding in Bratsk.⁸⁴

CONCLUSION

For the foregoing reasons, we determine that the domestic industry producing glycine is materially injured by reason of subject imports from Japan and Korea sold at less than fair value.

⁸¹ CR, PR at Table VII-7.

⁸² Bratsk, 444 F.3d at 1375.

⁸³ We do not believe that, simply because a foreign producer could divert glycine production shipments to the United States to “replace” subject imports, it necessarily would act in that manner.

⁸⁴ We make a negative critical circumstances finding with respect to subject imports from Japan for which Commerce made an affirmative finding of critical circumstances in its final LTFV determination. Between the six months pre- and post-filing of the petition (October 2006-March 2007 and April 2007-September 2007), subject imports from Japan increased by *** percent. At least some of the increase was additional supply to make up for GEO’s planned production outage. CR at IV-27, PR at IV-9. Importers’ monthly inventories showed no increase from the pre-petition to post-petition periods. CR, PR at Figure IV-8. We note further that Petitioner GEO indicates that it no longer supports a finding of critical circumstances. Accordingly, we find that the imports from Japan subject to Commerce’s critical circumstances determination are *not* “likely to undermine seriously the remedial effect of the antidumping order to be issued.” 19 U.S.C. § 1673d(b)(4)(A)(i).

PART I: INTRODUCTION

BACKGROUND

These antidumping duty investigations result from a petition filed by GEO Specialty Chemicals, Inc. (“GEO”), Lafayette, Indiana, on March 30, 2007, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (“LTFV”) imports of glycine¹ from India, Japan, and Korea. Information relating to the background of these investigations is provided below.²

Effective date	Action
March 30, 2007	Petition filed with Commerce and the Commission; institution of the Commission's investigations (72 FR 17580, April 9, 2007)
April 26, 2007	Commerce's notice of initiation (72 FR 20816)
May 25, 2007	Commission's preliminary determinations and views (72 FR 29352)
September 13, 2007	Commerce's preliminary LTFV determinations on Japan and Korea (72 FR 52349 and 72 FR 52345, respectively)
September 13, 2007	Commission's scheduling of final phase of investigations (72 FR 55247, September 28, 2007)
November 7, 2007	Commerce's preliminary LTFV determination on India (72 FR 62827) as amended (72 FR 62826)
November 28, 2007	Commerce's final LTFV determinations on Japan and Korea (72 FR 67271 and 72 FR 67275, respectively)
November 28, 2007	Commission's hearing ¹
January 3, 2008	Commission's vote on Japan and Korea
January 11, 2008	Commission's determinations and views on Japan and Korea transmitted to Commerce
March 21, 2008	Scheduled date for Commerce's final LTFV determination on India
April 17, 2008	Commission's scheduled vote on India
May 5, 2008	Commission's determination and views on India due to Commerce
¹ App. B presents the list of witnesses that appeared at the hearing.	

¹ A complete description of the imported product subject to these investigations is presented in *The Subject Product* section of this part of the report.

² *Federal Register* notices cited in the tabulation since the Commission's preliminary determinations are presented in app. A.

ORGANIZATION OF REPORT

Section 771(7)(B) of the Tariff Act of 1930 (the “Act”) (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission--

shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and. . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.

. . .

In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether . . . (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.

. . .

In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to

. . .

(I) actual and potential declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.

Part I of this report presents information on the subject merchandise, dumping margins, and domestic like product. *Part II* of this report presents information on conditions of competition and other relevant economic factors. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. *Parts IV and V* present the volume and pricing of imports of the subject merchandise, respectively. *Part VI* presents information on

the financial experience of U.S. producers. The statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury are presented in *Part VII*.

U.S. MARKET SUMMARY

Trade for glycine totaled approximately *** million pounds (\$*** million) in the U.S. market in 2006. Currently, only two firms produce glycine in the United States: GEO and Chattem Chemicals, Inc. ("Chattem").

U.S. producers' U.S. shipments of glycine totaled *** million pounds (\$*** million) in 2006, and accounted for *** percent of apparent U.S. consumption by quantity. U.S. imports from subject sources totaled *** million pounds (\$*** million) in 2006 and accounted for *** percent of apparent U.S. consumption by quantity. U.S. imports from nonsubject sources totaled *** million pounds (\$*** million) in 2006 and accounted for *** percent of apparent U.S. consumption by quantity. Glycine is used as a food additive (*e.g.*, sweetener and buffering agent in pet foods and animal feed), as a cosmetic additive (*e.g.*, buffering agent in antiperspirant actives), in pharmaceutical applications (*e.g.*, within intravenous liquid drug applications, or in the manufacture of pills), and in metal finishing (*e.g.*, reactant used in bath to prepare metal for adhesion with silicone), among others.

SUMMARY DATA AND DATA SOURCES

Appendix C presents a summary of data collected in these investigations. In this report, data on the U.S. industry are based on responses to the Commission's questionnaires from the two U.S. producers of glycine. U.S. imports are based on official Commerce statistics with modifications.³ Additional data on U.S. importers' shipments are based on responses to the Commission's questionnaires from U.S. importers of glycine. Data on the glycine industries in Belgium, India, Japan, and Korea are based on responses to the Commission's questionnaires from producers of glycine in those countries.

PREVIOUS AND RELATED INVESTIGATIONS

Chattem Drug and Chemical Co., the forerunner of today's Chattem, filed an antidumping petition in 1968 against imports of glycine from Japan, France, the Federal Republic of Germany, and the Netherlands. The Department of Treasury found no sales at LTFV from the Federal Republic of Germany or the Netherlands, and issued a negative determination concerning Japan on the basis of the Japanese exporter's agreement to discontinue LTFV sales. Antidumping duties were imposed on imports of glycine from France following an affirmative injury determination by the Commission. That finding was revoked in 1979.⁴

In 1994, Hampshire Chemical Corp. ("Hampshire") (predecessor company to GEO) and Chattem filed an antidumping petition against imports of glycine from China. Following affirmative determinations of LTFV sales and injury to the domestic industry, antidumping duties were imposed on March 29, 1995.⁵ In the 2000 and 2005 five-year reviews of the dumping order, the Commission determined that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, and

³ See Part IV of this report for a complete discussion of the treatment of U.S. import data.

⁴ *Aminoacetic Acid (Glycine) from France, Inv. No. AA1921-61*, Pub. 313 (Feb. 1970), 34 F.R. 18559 (1969); 35 F.R. 4676 (1970); 35 F.R. 5009 (1970); 44 F.R. 12417 (1979).

⁵ *Antidumping Duty Order: Glycine From the People's Republic of China*, 60 FR 16116, March 29, 1995.

Commerce published notices of continuation of the antidumping duty order.⁶ The antidumping duty rates for imports from China during the period of this investigation were as follows: 38.67 percent *ad valorem* for Nantong Dongchang Chemical Industry Corp. (“Nantong Dongchang”),⁷ 2.95 percent *ad valorem* for Baoding Mantong Fine Chemistry Co., Ltd. (“Baoding Mantong”) after September 13, 2005,⁸ and 155.89 percent *ad valorem* all other companies.⁹

NATURE AND EXTENT OF SALES AT LTFV

On November 7, 2007, the Commission received Commerce’s preliminary determination of LTFV sales of glycine from India.¹⁰ On November 28, 2007, the Commission received notification of Commerce’s final determinations of LTFV sales concerning glycine from Japan¹¹ and Korea.¹² In its final LTFV sales determination regarding Japan, Commerce made an affirmative determination with respect to critical circumstances. The weighted-average final (for Japan and Korea) and preliminary (for India) antidumping duty margins¹³ calculated by Commerce for foreign producers or exporters in India, Japan, and Korea are presented in the following tabulation:

⁶ *Continuation of Antidumping Duty Orders: Glycine from China*, 65 FR 45752, July 25, 2000, and 70 FR 69316, November 15, 2005.

⁷ *Glycine from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809, October 17, 2007. The cash deposit rate that had been in effect for most of the period of investigation (*i.e.*, before the administrative review) was 18.60 percent as a result of Nantong Dongchang’s most recent previous administrative review, *Glycine From the People’s Republic of China: Notice of Amended Final Results of Antidumping Duty Administrative Review*, 70 FR 54012, September 13, 2005.

⁸ *Glycine From the People’s Republic of China: Notice of Amended Final Results of Antidumping Duty Administrative Review*, 70 FR 54012, September 13, 2005.

⁹ *Glycine From the People’s Republic of China: Notice of Amended Final Results of Antidumping Duty Administrative Review*, 70 FR 54012, September 13, 2005. Baoding Mantong had been subject to the all other companies rate of 155.89 percent *ad valorem* prior to requesting an administrative review of its shipments. The preliminary administrative review for Baoding Mantong was published in April 2005. See 70 FR 17649, April 7, 2005.

¹⁰ *Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Glycine From India*, 72, FR 62826, November 7, 2007. Note that Commerce’s amended preliminary notice appeared in the *Federal Register* on the same day as its preliminary determination. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Glycine From India*, 72 FR 62827, November 7, 2007.

¹¹ *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Glycine from Japan*, 72 FR 67271, November 28, 2007.

¹² *Notice of Final Determination of Sales at Less Than Fair Value: Glycine From the Republic of Korea*, 72 FR 67275, November 28, 2007.

¹³ All margins, except for the one applied to Paras Intermediates, Ltd., are based on Commerce’s application of adverse facts available.

Source	Producer/exporter	Antidumping duty margins ¹ (percent ad valorem)
India	Paras Intermediates, Ltd.	0.0
	Abhiyan Media Pvt. Ltd.	121.62
	Advanced Exports/Aico Laboratories	121.62
	Ashok Alco-Chem, Ltd.	121.62
	Bimal Pharma, Pvt., Ltd.	121.62
	Euro Asian Industrial Co.	121.62
	EPIC Enzymes Pharmaceuticals & Industrial	121.62
	Indian Chemical Industries	121.62
	Kumar Industries	121.62
	Nutracare International/Salvi Chemical Industries	121.62
	Sisco Research Laboratories Pvt. Ltd.	121.62
	Sealink International, Inc.	121.62
	All others	45.82
	Japan	Nu-Scaan Nutraceuticals Co., Ltd
Yuki Gosei Co., Ltd		280.57
Showa Denko K.K.		280.57
Hayashi Pure Chemical Industries Co., Ltd		280.57
CBC Co., Ltd		280.57
Seino Logix Co., Ltd		280.57
Estee Lauder Group Companies K.K.		280.57
Chelest Corporation		280.57
All others		165.34
Korea	Korea Bio-Gen Co., Ltd.	138.83
	All others	138.60

¹ The weighted-average margins presented are based on Commerce's final LTFV determinations for Japan and Korea, and amended preliminary LTFV determination for India.

THE SUBJECT PRODUCT

Commerce's Scope

Commerce has defined the imported product subject to these investigations as:

“{G}lycine, which in its solid (i.e., crystallized) form is a free-flowing crystalline material. Glycine is used as a sweetener/taste enhancer, buffering agent, reabsorbable amino acid, chemical intermediate, metal complexing agent, dietary supplement, and is used in certain pharmaceuticals. The scope of {these investigations} covers glycine in any form and purity level. Although glycine blended with other materials is not covered by the scope of {these investigations}, glycine to which relatively small quantities of other materials have been added is covered by the scope. Glycine's chemical composition is

C₂H₅NO₂ and is normally classified under subheading 2922.49.4020 of the Harmonized Tariff Schedule of the United States (HTSUS).

The scope of each of {these investigations} also covers precursors of dried crystalline glycine, including, but not limited to, glycine slurry (i.e., glycine in a non-crystallized form) and sodium glycinate. Glycine slurry is classified under the same HTSUS subheading as crystallized glycine (2922.49.4020) and sodium glycinate is classified under subheading HTSUS 2922.49.8000.”¹⁴

U.S. Tariff Treatment

Imports of glycine are entered under statistical reporting number 2922.49.4020 of the Harmonized Tariff Schedule of the United States (“HTS”). Commerce’s scope includes sodium glycinate which is properly classified under statistical reporting number 2922.49.8000, which is a residual or “basket” category of merchandise. As such, official Commerce statistics for that HTS reporting number were not used for data compilation purposes in this report. During the course of these investigations, it was found that one U.S. importer reported importing subject merchandise inappropriately, under the statistical reporting number 2922.49.1000 of the HTS.¹⁵

Table I-1 presents data on the current tariff rates of the subheadings identified above.

¹⁴ *Glycine from India, Japan, and the Republic of Korea: Initiation of Antidumping Duty Investigations*, 72 FR 20816, April 26, 2007. The scope of these investigations differs from the scope of the current antidumping duty order on imports of glycine from China, as the precursors of dried crystalline glycine (e.g., glycine slurry and sodium glycinate) are not included in that order. *Glycine from China: Continuation of Antidumping Duty Order*, 70 FR 69316, November 15, 2005.

¹⁵ Staff telephone interview with ***, April 24, 2007. Materials properly classified under statistical reporting number 2922.49.1000 of the HTS are certain aromatic oxygen-function amino-compounds other than those containing more than one kind of oxygen function, and their esters, such as (i) *m*-Aminobenzoic acid, technical; (ii) *p*-Aminobenzoic acid; (iii) 3,5-Diaminobenzoic acid; (iv) 2-Ethylamino-5-sulfobenzoic acid; (v) 3-(*N*-Ethylanilino) propionic acid, methyl ester; (vi) β -(β -Methoxy- ethoxyethyl)-4-aminobenzoate; (vii) Methyl anthranilate; and (viii) *I*-Phenylalanine.

**Table I-1
Glycine: Tariff rates, 2007**

HTS provision	Article description	General	Special	Column 2
		Rates (percent ad valorem)		
2922 2922.49 2922.49.40 2922.49.4020	Oxygen-function amino-compounds: Amino-acids, other than those containing more than one kind of oxygen function, and their esters; salts thereof (con.): Other: Other: Amino acids Glycine (aminoacetic acid)	4.2	(¹)	25
2922 2922.49 2922.49.8000	Oxygen-function amino-compounds: Amino-acids, other than those containing more than one kind of oxygen function, and their esters; salts thereof (con.): Other: Other: Other: Other	3.7	(¹)	25
¹ Certain nonsubject countries qualify for duty free rates either within the U.S. Generalized System of Preferences ("GSP") program or as negotiated in a free trade agreement with the United States. Source: Harmonized Tariff Schedule of the United States (2007).				

THE DOMESTIC LIKE PRODUCT

The Commission’s determination regarding the appropriate domestic product that is “like” the subject imported product is based on a number of factors, including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price.

During the preliminary phase of these investigations, the petitioner contended that there is a single domestic like product consisting of glycine, regardless of grade¹⁶ and no parties challenged the petitioner’s definition of the domestic like product. In its preliminary views, the Commission found that there is a single domestic like product “coterminous with the scope, and thus including glycine in all the forms (slurry and crystalline) and purity levels (USP grade, technical grade, and pharmaceutical grade), and sodium glycinate.¹⁷

¹⁶ Petition, pp. 15-16. In its original and review investigations of glycine from China, the Commission defined the domestic like product as glycine of all purity levels, coextensive with Commerce’s scope. *Glycine from China, Inv. No 731-TA-718 (Final)*, USITC Publication 2863, March 1995, p. I-6; *Glycine from China, Inv. No 731-TA-718 (Review)*, USITC Publication 3315, June 2000, p. 4; and *Glycine from China, Inv. No 731-TA-718 (Second Review)*, USITC Publication 3810, October 2005, p. 4.

¹⁷ *Glycine from India, Japan, and Korea, Inv. Nos. 731-TA-1111-1113 (Preliminary)*, USITC Publication 3921, May 2007, p. 8.

Physical Characteristics and Uses

Glycine, also known as aminoacetic acid, is an organic chemical with the chemical formula $\text{NH}_2\text{CH}_2\text{COOH}$. The Chemical Abstract Service (“CAS”) number for glycine is 56-40-6. Figure I-1 presents the chemical structure of the glycine molecule.

Figure I-1
Glycine: Chemical structure



Source: www.daviddarling.info/encyclopedia/G/glycine.html.

Glycine is a nonessential amino acid that is produced naturally by humans and other organisms as a building block for proteins. Commercial production of glycine uses traditional chemical synthesis.¹⁸ In its dried form, which is the form that it is most often sold in, glycine is a white, free-flowing powder.¹⁹ Glycine is odorless and sweet to the taste.²⁰

Glycine is typically sold in three main grades: pharmaceutical, USP,²¹ and technical. The glycine in these grades is chemically identical; the grades differ by the kind and amounts of impurities in the product. Pharmaceutical grade is sold for uses where the highest purity is required, such as in intravenous injections.²² The USP grade standard is stricter than the technical grade standard. USP grade sets maximum allowable concentration for impurities, such as arsenic, heavy metals, and chlorides, that are either less strict or not specified for technical grade glycine.²³ USP grade glycine is typically used for cosmetic and food applications, while technical grade glycine is used for industrial applications. Some customers have even stricter requirements for the purity of glycine than those included in the USP standard. A typical product that requires greater purity than the USP grade is glycine used in intravenous injections, which requires lower levels of chlorides and metals such as aluminum.²⁴ These higher purity

¹⁸ Petition, p. 10.

¹⁹ Ibid.

²⁰ Ibid.

²¹ The United States Pharmacopeia (“USP”) is the official public standards-setting authority for all prescription and over-the-counter medicines, dietary supplements, and other healthcare products manufactured and sold in the United States. USP grade glycine conforms to the standards set by USP. See petition, p. 4 and <http://www.usp.org/aboutUSP/>, retrieved on April 24, 2007.

²² Petition, p. 5.

²³ Petition, pp. 5-6.

²⁴ Conference transcript, p. 50 (Eckman) and staff field trip notes, GEO, April 12, 2007.

products are often referred to as “pharmaceutical grade” glycine, but the purity standards for these products are set by individual customers, not by government or industry organizations.²⁵

Because of the sweetness of glycine, it is used as a sweetener and flavor enhancer in food, beverage, and pharmaceutical products. Glycine is used to sweeten soft drinks, juice concentrates, and other beverages.²⁶ Manufacturers of medicaments and personal care products, such as mouthwash and toothpaste, use glycine to mask the bitter taste of some active ingredients.²⁷ Glycine is used to enhance the flavor of animal feeds, both those for household pets and those for livestock.²⁸ USP grade glycine is required for products made for human or animal consumption.²⁹

Glycine is used as a buffering agent in certain products and manufacturing processes to maintain a stable pH.³⁰ In antacids and analgesics, glycine helps to reduce the acidity of the digestive tract.³¹ In personal care products, such as antiperspirants and cosmetics, glycine is used to reduce the acidity of other ingredients.³² Technical grade glycine is used as buffer in the production of foam rubber sponges.³³

Glycine can be used as a starting material for producing other organic chemicals or in metal finishing. USP grade glycine is typically used in the production of other amino acids and pharmaceuticals. Technical grade glycine is used in metal finishing to brighten metal surfaces or to enhance the adhesion of rubber to a surface.

USP grade glycine can be used in over-the-counter dietary supplements, also called nutraceuticals.³⁴ Promoters of these supplements claim that glycine can increase the strength and flexibility of connective tissue, regulate blood sugar levels, and stimulate muscle growth.³⁵ Pharmaceutical manufacturers use USP grade glycine to promote the gastric absorption of certain drugs such as aspirin, and to treat diarrhea in humans and animals.³⁶

According to conference testimony, there are no ready substitutes for glycine in any of its applications.³⁷ Glycine typically accounts for a small amount of the price of the final product.³⁸

Glycine is typically packaged and sold in plastic bags weighing from 50 to 2,000 pounds. These bags are placed on pallets and shipped by truck. Each package of glycine is accompanied by a certificate of analysis that gives the levels of moisture and impurities in the product.³⁹

²⁵ Petition, p. 5, and staff field trip notes, GEO, April 12, 2007.

²⁶ Petition, p. 11.

²⁷ Ibid.

²⁸ Staff field trip notes, GEO, April 12, 2007.

²⁹ Petition, p. 11.

³⁰ pH is a measure of the acidity or alkalinity of a substance.

³¹ Petition, p. 11.

³² Ibid.

³³ Petition, p. 12.

³⁴ Conference transcript, p. 64 (Eckman).

³⁵ Petition, p. 12.

³⁶ Petition, pp. 12-13.

³⁷ Conference transcript, pp. 13-14 (Reilly). *** reported that lysine could be used as a substitute in pet food applications. *** questionnaire response from the preliminary phase, section IV-13.

³⁸ Conference transcript, p. 14 (Reilly).

³⁹ ***. Staff field trip notes, GEO, April 12, 2007.

Manufacturing Facilities

There are two known processes for the commercial production of glycine: the hydrogen cyanide (“HCN”) process and the monochloroacetic acid (“MCA”) process. Both of these processes can be used to produce both technical and USP grades of glycine. The petitioner uses the HCN process, while the other domestic producer, Chattem, uses the MCA process. The process used by producers in India, Japan, and Korea is not definitely known, but according to testimony, most producers in these countries likely use the MCA, including AICO in India, while only one producer, Showa Denko, is known to use the HCN process.⁴⁰

The HCN process uses hydrogen cyanide and formaldehyde (H_2CO) as the primary starting materials. These chemicals are mixed with aqueous ammonia (NH_4OH) in the first reaction step of the process. The reaction product from this first step is then reacted with caustic soda ($NaOH$) to produce sodium glycinate.⁴¹ A co-product, ammonia, is boiled off during this latter step and is recovered as aqueous ammonia in a scrubber. Most of the aqueous ammonia is recycled to feed the first reaction step, but a small amount is available to be sold.⁴²

To convert sodium glycinate to glycine, the sodium glycinate is first mixed with an acid, such as sulfuric acid (H_2SO_4). In addition to glycine, this step produces the sodium salt of the acid that is used. For example, if sulfuric acid is used, sodium sulfate (Na_2SO_4) is produced.⁴³ The removal of the sodium sulfate, or other salt, to produce pure glycine is an energy intensive process but does not require great technical expertise.⁴⁴ The aqueous solution containing glycine and sodium sulfate is heated to the boiling point of water. This step concentrates the solution and causes the sodium sulfate to crystallize. The sodium sulfate crystals are filtered out of the glycine solution and can be sold as a co-product.⁴⁵ The glycine solution then goes through one or more crystallization and filtration steps to produce a pure white, glycine powder.⁴⁶

For the MCA process, the primary feedstocks are monochloroacetic acid ($ClCH_2COOH$) and ammonia. These feedstocks are mixed together in the presence of a catalyst to produce glycine.⁴⁷ According to testimony, the MCA process is the less economical process in terms of operating cost due to higher raw material cost.⁴⁸ However, the capital costs for the HCN process are higher than for the MCA process.⁴⁹ Sodium glycinate is not produced as a precursor to glycine in the MCA process.⁵⁰

Operators of both processes strive to make USP grade material at all times. However, during startup, and occasional upsets in the process, the purity of the product may fall below the standard for USP grade glycine. This material is set aside for sale to technical grade end users. To make the highly pure glycine used in intravenous injections and other pharmaceutical applications, even stricter operating requirements and monitoring are necessary than for the USP grade. For example, any water used in the

⁴⁰ Hearing transcript, p. 80 (Eckman) and pp. 160-161 (Frey).

⁴¹ Staff field trip notes, GEO, April 12, 2007.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Conference transcript, p. 29 (Husisian).

⁴⁵ ***.

⁴⁶ Ibid.

⁴⁷ *Glycine from The People's Republic of China, Inv. No. 731-TA-718 (Preliminary)*, USITC Publication 2804, August 1994, p. II-4.

⁴⁸ Hearing transcript, p. 80 (Eckman) and conference transcript, p. 60 (Kedrowski).

⁴⁹ Ibid.

⁵⁰ Conference transcript, p. 62 (Kedrowski).

process must be purified and tested to ensure that it does not contain any toxins from microorganisms that might induce a fever in a patient.⁵¹ ***.

Interchangeability and Customer and Producer Perceptions

U.S. producers of glycine generally reported that the U.S.-produced and imported product were frequently interchangeable and that while technical and USP grades were always interchangeable between U.S.-produced and imported product, pharmaceutical grade tended to be tailored to specific customer needs and thus was less likely to be interchangeable. All responding importers reported U.S.-produced glycine and subject imports were always or frequently interchangeable. More detailed information on interchangeability can be found in Part II of this report, *Conditions of Competition in the U.S. Market*.

Channels of Distribution

Both U.S. producers and U.S. importers reported selling most of their product to end users of glycine. In 2006, U.S. producers reported selling approximately *** percent of their product to end users while importers reported selling approximately *** percent of their glycine to end users (** percent for subject imports from India, *** percent for imports from Japan, *** percent for imports from Korea, and *** percent for overall subject imports). Additional information on channels of distribution can be found in Part II of this report, *Conditions of Competition in the U.S. Market*.

The market for glycine is concentrated among a few high-volume end users. Table I-2 presents data on the concentration of U.S. purchasers of glycine in the U.S. market. The five largest U.S. purchasers of glycine are ***. These firms consume glycine that is considered USP or food grade glycine and produce products intended for consumption (pet food, animal feed, or nutraceuticals) or cosmetic applications (antiperspirant actives).

⁵¹ Conference transcript, pp. 27 and 62 (Kedrowski).

Table I-2

Glycine: Five largest U.S. purchasers, end uses, and total purchases, 2004-06, January-June 2006, and January-June 2007

Firm	End use	Calendar year			January-June	
		2004	2005	2006	2006	2007
Quantity (1,000 pounds)						
***	Human, Animal, and Plant feed	***	***	***	***	***
***	Pet food	***	***	***	***	***
***	Antiperspirants	***	***	***	***	***
***	Antiperspirants	***	***	***	***	***
***	Antiperspirants	***	***	***	***	***
Subtotal, five largest purchasers		7,686	10,766	11,530	5,513	6,436
All other ¹		1,027	1,155	900	195	433
Total		8,713	11,921	12,430	5,707	6,869
Share of quantity (percent)						
***	Human, Animal, and Plant feed	***	***	***	***	***
***	Pet food	***	***	***	***	***
***	Antiperspirants	***	***	***	***	***
***	Antiperspirants	***	***	***	***	***
***	Antiperspirants	***	***	***	***	***
Subtotal, five largest purchasers		88.2	90.3	92.8	96.6	93.7
All other ¹		11.8	9.7	7.2	3.4	6.3
Total		100.0	100.0	100.0	100.0	100.0
¹ Includes all other reporting U.S. purchasers. While not all U.S. purchasers identified in the preliminary phase of these investigations supplied the Commission with completed questionnaire responses, the remaining nonrespondent U.S. purchasers are likely small purchasers in terms of the volume of glycine they purchase based on an analysis of apparent consumption data in Part IV of this report and preliminary phase questionnaire responses.						
Source: Compiled from data submitted in response to Commission questionnaires.						

Price

Table I-3 and figure I-2 present average unit values (“AUVs”) for U.S. shipments of glycine by various sources. Pricing practices and prices reported for glycine in response to the Commission’s questionnaires are presented in Part V of this report, *Pricing and Related Information*.

Table I-3

Glycine: Average unit values of U.S. shipments, by sources, 2004-06, January-June 2006, and January-June 2007

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
Unit value (per pound)					
U.S. producers' U.S. shipments	\$***	\$***	\$***	\$***	\$***
U.S. importers' U.S. shipments of glycine imported from--					
India	***	***	***	***	***
Japan	***	***	***	***	***
Korea	***	***	***	***	***
Average, subject sources	1.30	1.48	1.44	1.46	1.41
All other sources ²	***	***	***	***	***
Average, all sources	***	***	***	***	***
<p>¹ ***, the only U.S. importer of glycine from Korea, did not provide a questionnaire response in the final phase of these investigations. Its preliminary phase questionnaire response was used for data on U.S. shipments of glycine from Korea. Data for the partial year periods are therefore unavailable on Korea.</p> <p>² In all of 2004 and most of 2005, the AUVs for U.S. shipments of glycine from all other sources reflect data submitted by *** which imports glycine from Paras in India. Paras has a zero preliminary antidumping duty margin from Commerce. The decline in nonsubject AUVs between 2005 and 2006 is due to the inclusion of data on U.S. shipments of glycine from China by two importers.</p>					
Source: Compiled from data submitted in response to Commission questionnaires.					

Figure I-2

Glycine: Average unit values of U.S. shipments, by sources, 2004-06, January-June 2006, and January-June 2007

* * * * *

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

MARKET CHARACTERISTICS

U.S. producers sell glycine to three main markets, based on the level of purity required. The highest purity form and smallest share of the U.S. market is pharmaceutical grade, which is required for intravenous injections. Pharmaceutical grade is a subset of the USP grade. USP grade other than pharmaceutical has the largest share of the U.S. market and is used in most other medical, food, or cosmetic uses. The lower purity form, technical grade, is used in the production of sponges, and for metallurgical and chemical applications. Glycine is mainly sold directly to end users. In 2006, U.S. producers reported that *** percent of their glycine was sold directly to end users and the remainder was sold to distributors. U.S. importers of subject glycine sold *** percent of their glycine to end users (table II-1).

Table II-1

Glycine: Channels of distribution, 2004-06, January-June 2006, and January-June 2007

* * * * *

Twenty-two firms responded to the purchasers' questionnaire; 13 were end users, eight were distributors, and one was both an end user and a distributor ***. The end users reported using glycine in personal care products such as shampoo, deodorant or ingredients for deodorant; food flavorings; pet food and animal feed; and in the manufacturing process of other types of materials. Distributors sold to producers of deodorant products, human and animal food, nutritional supplements, and fertilizers; and to laboratories and researchers.

Both responding U.S. producers reported selling to all regions ***. One importer of Indian glycine and one of Japanese glycine reported selling to all regions. Eight importers reported selling to the Midwest, seven to the Northeast, six to the Pacific Coast, four to the Southeast, three to the South Central, and two to the Mountain region. ***.

*** and all nine responding importers reported that they arrange transportation to their customers' facilities. *** of its glycine to locations between 101 and 1,000 miles from its facilities; and *** of its glycine to locations more than 1,000 miles from its facilities. Of the eight responding importers, four reported selling most of their imported glycine within 100 miles of their facilities, one reported selling most of its glycine between 100 and 1,000 miles of its facilities, one reported selling most of its glycine over 1,000 miles from its facility, and two reported selling less than half their product in each of the distance groups.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Supply

Based on available information, staff believes that U.S. glycine producers are likely to respond to changes in demand with small changes in shipments of U.S.-produced glycine to the U.S. market. Factors contributing to this degree of responsiveness are discussed below.

Industry capacity

Domestic capacity for producing glycine declined *** from *** million pounds in 2004 to *** million pounds in 2006. U.S. producers' reported capacity utilization for glycine increased from *** percent in 2004 to *** percent in 2005 as production increased and capacity declined, but then declined to *** percent in 2006 as production fell. Capacity utilization was *** percent in the first half of 2006 and *** percent in the first half of 2007. GEO reports that if antidumping duties are imposed, it could afford to invest in repairing its glycine recovery unit, which would increase its capacity by 600,000 pounds of glycine per year, and it could eliminate production bottlenecks which would increase GEO's output by an additional five to 10 percent, *** per year.¹ This capacity could be available before the end of 2008.² Additional potential major investments could increase GEO's capacity as early as 2009 if it were expected to be profitable.³

This moderate level of capacity utilization indicates that U.S. producers have some available capacity with which they could increase (or decrease) production of glycine in response to a price change. Capacity utilization in chemical industries is typically high because this tends to reduce the cost per unit dramatically. However, much of the excess capacity is that of Chattem which competes mainly in the pharmaceutical grade because it cannot profitably sell the other grades at current prices. Chattem however, reported that it is able to sell all grades although these sales are at higher than current market prices.⁴ Chattem also reported that ***.⁵

Lead times

Chattem reported selling *** percent of its product produced to order, with lead times of *** days and *** percent from inventories with lead times of *** days. GEO reported selling *** percent of its product from inventories with lead times of *** days and *** percent to order with lead times of *** days.

Four of the nine responding importers reported selling all or nearly all product from inventories. One importer reported selling all product produced to order and four others reported selling 75 to 95 percent to order. Importers' lead times for product sold from inventories ranged from 1 to 7 days and lead times for made-to-order product ranged from 4 to 8 weeks.

Delays, allocations, and broken contracts

Nine of the 22 responding purchasers reported that a supplier had put them on allocation or had delayed delivery. Six of these firms reported allocations or delayed deliveries by GEO or its predecessor, with two reporting delayed/short deliveries in 2007.⁶ Four purchasers reported that importers had delayed deliveries or put them on allocation. Purchasers were asked to report the impact of these allocations/delayed deliveries. Four of the nine responding firms reported either shutdowns or slowed production, three reported purchasing imported product at higher prices, and one reported purchasing glycine at higher prices but did not indicate whether the glycine was domestic or imported. Other

¹ Hearing transcript, p. 32 (Mahoney) and petitioner's posthearing brief, exh. 1, p. 24.

² Petitioner's posthearing brief, exh. 1, p. 24.

³ Petitioner's posthearing brief, exh. 1, p. 24.

⁴ Hearing transcript, pp. 46-47 (Kedrowski).

⁵ Chattem's posthearing brief, p. 2.

⁶ ***.

problems reported included: searching for alternative suppliers and to ensure supply had led to increasing inventories, expenses of managing the delay, reduced efficiency, reduced profits, longer lead time for customers, and purchase of product in different packaging. In addition, one firm reported that it was unable to buy *** glycine because *** would not respond to its enquiries.

Five of 22 responding purchasers reported that suppliers had broken supply contracts. Two purchasers reported Dow/GEO had broken contracts. One of these purchasers reported that, in spite of contracts, GEO did not supply the required product between June 1 and July 31, 2004 and between April 28 and May 25, 2005, and that in 2007, after the maintenance shutdown, GEO provided less than the required amount and increased prices above the contract price. This purchaser reported that if imported product had not been available it would not have been able to maintain production.⁷ Three firms reported that importers broke contracts. One purchaser reported that the importer of Indian product did not supply as specified in the purchase order; one reported that the importer of Indian product did not provide the quality specified in the contract; and one reported that it did not get an order of Korean product because of the antidumping investigation. Purchasers were also asked to report the effect of these broken contracts on their firms. Four firms reported using other suppliers (one reported that this was at a higher price and thus reduced its profits) and one firm reported that its business was put at risk of a plant shutdown and inventory shortfalls. ***.

GEO reported that in June 2007 it had a regularly scheduled maintenance shutdown which occurs every five years.⁸ It attempted to build up inventories before this shutdown in order to continue supplying its customers. This took time because, ***, the maintenance of GEO's equipment wasn't in the best condition. During the shutdown GEO planned to improve the reliability of the equipment and refurbish many of the items that limited GEO's capacity and capability.⁹ The shutdown lasted longer than the predicted 10 days to 2 weeks and additional time was needed to produce glycine up to specifications.¹⁰ GEO reported that this disruption lasted *** days. At the same time, purchasers were trying to replace purchases of imported product with U.S. product because of the current case, and therefore demand for GEO's glycine increased.¹¹ In order to ensure availability, GEO advised some customers to purchase glycine from other sources which they believed were subject imported product;¹² in addition GEO's shipments were delayed, partial shipments were sent, and GEO worked with purchasers to ensure that they had the glycine that they needed.¹³ GEO reported that it was a "temporary period of a month or two where customers were delayed by a couple of days."¹⁴

Nestle reported that ***.¹⁵ In addition, Nestle reported that, since May 21, 2007, it has records of 12 delayed glycine deliveries with an average delay of 10 days ***.¹⁶ It reported that these delays

⁷ ***.

⁸ Hearing transcript, pp. 54-55 (Avraamides).

⁹ Ibid.

¹⁰ Hearing transcript, pp. 43-44, 54 (Avraamides).

¹¹ Hearing transcript, pp. 44-45 (Avraamides and Reilly).

¹² Hearing transcript, pp. 54-57 (Avraamides).

¹³ Hearing transcript, pp. 45, 57-58 (Avraamides and Husisian).

¹⁴ Hearing transcript, p. 59 (Husisian).

¹⁵ Nestle's letter, November 30, 2007.

¹⁶ ***. Nestle's letter, November 30, 2007.

continue with a shipment ordered for November 30th expected to arrive December 18th.¹⁷ In contrast, GEO reported that it did not record a single delayed shipment in November 2007.¹⁸ “***.”¹⁹

Alternative markets

Domestic producers’ exports, as a percentage of total shipments, ranged between *** percent and *** percent between 2004 and 2006 and rose from *** percent in the first half of 2006 to *** percent in the first half of 2007. The relatively low level of exports indicates that U.S. producers would have little ability to increase domestic shipments by shifting exports to the U.S. market.

Inventory levels

U.S. producers’ inventories, as a share of U.S. producers’ total shipments, increased from *** percent in 2004 to *** percent in 2006, and fell from *** percent in the first half of 2006 to *** percent in the first half of 2007. Glycine is hygroscopic, and tends to absorb water; this causes it to harden if stored for three to four months, making it unusable.²⁰ Glycine’s short shelf life limits the inventories producers and purchasers can carry. The low to moderate inventory levels suggest that U.S. producers have some limited ability to respond to changes in demand with product shipped from inventories.

Production alternatives

*** production from other products to glycine.

Supply of Subject Imports to the U.S. Market

India

Glycine imports from India increased from *** pounds in 2004 to *** pounds in 2006; subject Indian imports rose from *** pounds in 2004 to *** pounds in 2006. Reported commercial shipments of subject Indian glycine rose from *** pounds in 2004 to *** pounds in 2006. Most Indian product (*** percent) was USP grade glycine, and none was pharmaceutical grade. One importer of Indian product reported that he believed that one of the Indian firms that was reported to be a producer actually was repackaging Chinese product.²¹

Japan

Glycine imports from Japan increased from 1.0 million pounds in 2004 to 2.6 million pounds in 2006. Reported commercial shipments increased from *** pounds in 2004 to *** pounds in 2006; *** internal consumption ***. In 2006, most Japanese product (*** percent) was reported to be USP grade glycine; the remainder was reported to be technical grade.

¹⁷ Nestle’s posthearing submission, p. 2.

¹⁸ Petitioner’s posthearing brief, Exh. 1, p. 2.

¹⁹ Nestle’s letter, November 30, 2007.

²⁰ Hearing transcript, p. 101 (Avraamides and Reilly).

²¹ Hearing transcript, p. 162 (Frey).

Korea

Glycine imports from Korea increased irregularly from 1.06 million pounds in 2004 to 1.12 million pounds in 2006. All reported Korean product was commercial shipments and USP grade.²²

U.S. Demand

U.S. demand for glycine depends on its end-use markets. Glycine is used as a sweetener in foods, pharmaceuticals, personal care products, and animal feed; as a buffering agent in antacids, analgesics, antiperspirants, cosmetics, toiletries, and in production of rubber sponge products and fertilizers; as a re-absorbable amino acid to treat diarrhea; as a chemical intermediate in a variety of chemical products; as a metal complexing and finishing agent; as a dietary supplement; to improve gastric absorption of certain drugs; and in some intravenous uses. The grade of glycine required differs among the end uses.

Demand Characteristics

U.S. consumption of glycine increased irregularly from an estimated *** million pounds in 2004 to *** million pounds in 2006. Overall, U.S. consumption in 2006 was *** percent higher than in 2004. Pharmaceutical grade glycine accounted for *** percent of apparent consumption in 2004, *** percent in 2005, and *** percent in 2006; USP grade accounted for *** percent of apparent consumption in 2004, *** percent in 2005, and *** percent in 2006; and technical grade accounted for *** percent of apparent consumption in 2004, *** percent in 2005, and *** percent in 2006.

Based on available information, consumers are likely to respond to changes in the price of glycine with relatively small changes in their purchases of glycine.

When asked how the overall U.S. demand for glycine has changed since January 2004, ***, two of the six responding importers, and nine of the 13 responding purchasers stated that the demand was unchanged. ***. GEO and three importers reported that demand within the United States had increased.²³ ***. Two importers reported reasons for the increased demand, one noted that demand for glycine had grown in cosmetics and feed, and one noted that two glycine plant shutdowns by GEO/Hampshire and abrogation of a long term contract in 2005 had increased demand.²⁴ One importer reported that demand had declined because of lower sales.

*** five of the six importers reported no changes in the product range and marketing of glycine since January 2004. Chattem, ***, reported that it had shifted to being an importer of product from Japanese producer Showa Denko because of competition from ***.

Purchasers were also asked if demand had changed for their own products that used glycine and if their demand for glycine had changed since January 2004. Eight firms reported that demand for their products had increased;²⁵ five reported that demand for their products had not changed; and two reported that demand for their products had declined. Six purchasers reported that their demand for glycine had increased, three reported their demand was unchanged, two reported that their demand for glycine had decreased, and one reported that demand had spiked in 2006 but has since leveled off.

²² While the Bureau of Customs and Border Protection (“Customs”) found production in Korea, some industry sources believe that Korean producers only repackage Chinese material. Hearing transcript, p. 150 (Frey).

²³ Hearing transcript, p. 21 (Reilly).

²⁴ The other firm did not report why demand had increased.

²⁵ This includes one firm that reported that the number of consumers had increased but consumption per purchaser had not.

Substitute Products

Substitutes for glycine are very limited. *** reported that ***, while *** reported that ***. None of the importers or purchasers reported any substitutes for glycine.

Cost Share

Producers, importers, and end user purchasers were asked to report the cost share of glycine relative to the total cost of products in which it is used. Twelve purchasers responded, with a number reporting the costs for more than one product. Many of the products reported were products which would be further processed into products such as deodorant and food. For these glycine was reported to cost from 4 to 63 percent of the total cost of the end product. Consumer products cost shares ranged from less than 1 percent for products such as deodorant, dietary supplement, cosmetics, and some food flavorings, to under 1 to 6 percent for cat food, 13-36 percent for shampoos, and 46 percent for ***. One importer responded, reporting cost shares that ranged from 1 percent to 10 percent with cost shares ranging from 1 to 3 percent for all products except deodorant. ***, ***,²⁶ ***.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported glycine depends on factors such as the grades produced in each country, product quality, and consistency, and on conditions of sale particularly reliability of supply, availability, and delivery time. Ease of substitution between suppliers will typically vary by grade.

For most purchasers, non-pharmaceutical grades of glycine could be substituted among producers fairly easily once a producer meets the standard for the specific grade required. On the other hand, pharmaceutical grade requires extremely high purity, consistency, and record keeping, as well as frequent plant tours, making shifting between producers difficult.²⁷ As a result, Chattem reported that it did not experience much competition from imports in the pharmaceutical grades.²⁸

Factors Affecting Purchasing Decisions

Major Factors in Purchasing

Purchasers were asked to identify the three most important factors considered by their firm in deciding from whom to purchase glycine (table II-2). Quality was reported to be the most important factor by 11 of the 22 responding purchasers. Availability was the most frequently reported second most important factor (nine firms) and price was most frequently rated as the third most important factor (10 firms). Other factors listed among the top three factors by more than one purchaser were consistently meets specifications, security of supply, traditional supplier, and delivery time.

²⁶ Staff telephone interview with Coleman and Kozak, April 27, 2007.

²⁷ Conference transcript, pp. 54-55 (Kedrowski).

²⁸ Conference transcript, p. 55 (Kedrowski).

Table II-2
Glycine: Most important factors¹ in selecting a supplier, as reported by purchasers

Factor	First	Second	Third
Quality/consistent quality	11	1	1
Price	4	4	10
Consistently meets specifications/grade	3	2	1
Availability/availability speed	2	10	4
Security of supply/consistent reliability of supply/reliability	1	1	1
Supplier/traditional supplier	1	0	2
Delivery time/delivery	0	2	1
Other ²	0	1	1

¹ Eight firms reported more than three factors; additional factors reported were dependability of supplier, payment terms, price consistency, USP product, quality, tracing documents, packaging, and that once a supplier has been qualified it is not easy to change.

² Other includes country of origin as second most important factor and technical service third most important factor.

Source: Compiled from data submitted in response to Commission questionnaires.

Factors Determining Quality

Purchasers were asked to identify the factors that determine the quality of glycine. Six of 20 responding purchasers reported that meeting USP grade was important for quality and five reported that purity was a determinant of quality. Other factors identified include: aesthetic considerations, color, odor, taste, and appearance; physical characteristics, free flowing, particle size, and not hard and chunky; usability characteristics, solubility, meeting internal specifications, historic specifications, performance in manufacture, and meeting formula needs; specific contamination issues such as heavy metal and water content; and others such as cleanliness, type of packaging, kosher certification, and customer approval.

Certification/Qualification Issues

Fourteen of 22 responding purchasers reported requiring USP certification,²⁹ with eleven of these requiring it for all the product they purchased in 2006.³⁰ Eleven purchasers reported that they required qualifications in addition to USP certification including: testing in laboratories, caking, flow, validation audits, purity, flavor, particle size, color, use in production, heavy metals, kosher, microbiology, ***, and other qualifications. Qualification times for firms that were already able to provide USP material ranged from one day to six months while qualification time ranged from 1 day to 2 years when purchasers required qualification in addition to USP certification. Only three purchasers reported the time required for USP certification; times ranged from 5 to 90 days.

²⁹ The question asked if producers needed to be USP certified, however, it is the product that is USP certified. This therefore includes the two firms that reported that USP grade was not a qualification for a producer but of the product.

³⁰ One purchaser reported that it required USP certification for 3 percent of its purchases in 2006, while the other reported that it required it for none of its purchases in 2006 but in a typical year 3 percent of its purchases required USP certification.

Five of the eight firms that did not require USP certification required other prequalification of their suppliers. In addition, two of the firms that required USP certification for part of their purchases also required other qualification for some material.³¹ Four of those not requiring USP certification require some other qualification for all their purchases and one requires it for 35 percent of purchases. Three of these firms required product to match specifications, one required food grade for some of its purchases, one reported using its vendor's qualification process. Qualification times ranged from one day to one year.

Five of the 22 responding purchasers reported that suppliers had failed to qualify their glycine. Reasons for failure to qualify included inclusion of anticaking ingredients that caused problems when used, not kosher, not USP, appearance of material, and samples did not meet specifications. Product from India, Japan, and Belgium had failed to qualify.

Specific Sources

Purchasers were also asked whether they or their customers specifically ordered glycine from one country in particular over other sources of supply. Only two of 20 responding purchasers reported ordering glycine based on the country of origin. Both of these purchased U.S. product, with one reportedly preferring U.S. product because of availability and shipping times. None of the 18 responding purchasers reported that any glycine product was available only from a single source. However, one purchaser reported that the major U.S. producer said that it did not manufacture technical grade for sale.

Purchases of the Lowest-Priced Product

Purchasers were asked if they always, usually, sometimes, or never purchase the lowest-priced product when buying glycine. Two purchasers reported that they always purchased the lowest-priced product; five usually purchased the lowest-priced product; nine sometimes purchased the lowest-priced product; and six never purchased the lowest-priced product.

Purchases from Higher-Priced Sources

Purchasers were also asked if they purchased glycine from one source although a comparable product was available at a lower price from another source. Fifteen of 16 responding purchasers reported reasons for purchasing from one source even if a less expensive source was available. Reasons cited include: purchase from related firm; consistency; quality; flexibility of minimum orders; manufacturing lot size; service; reliability of supply/supplier; interruptions in supply; availability; lead times; purchase higher priced imports from Japan, India, and China to ensure supply of essential ingredient; use mainly one supplier since glycine is a minor product; customer approval of source; do not like to change suppliers; qualification of only one or two suppliers and difficulty changing suppliers; purchased U.S. product because is stocked locally, competitively priced, and until recently product has always been available; and long-term relationship with the supplier.

Importance of Specified Purchase Factors

Purchasers were asked to rate the importance of 18 factors in their purchasing decisions (table II-3). The factors most often rated as very important were availability and reliability of supply (16 firms); delivery time and product consistency (15 firms); delivery terms (12 firms); quality but not USP standard

³¹ One of these firms required that 95 percent of its purchases which must be technical grade for microbiology labs, or satisfy other quality control. The other required 1 percent of its purchase be reagent grade.

(11 firms); and quality meets USP standard (10 firms). No other factor was rated as very important by half or more of the responding purchasers. Supply factors (e.g. availability, reliability of supply, and delivery time) were three of the four most important factors reported by purchasers; all purchasers reported these top four factors were either very or somewhat important. The only other factor that all firms reported was either very important or somewhat important is lowest price.

Table II-3
Glycine: Importance of purchase factors, as reported by purchasers

Factor	Very important	Somewhat important	Not important
	Number of firms responding		
Availability	16	1	0
Delivery terms	12	2	3
Delivery time	15	2	0
Discounts offered	1	10	5
Extension of credit	5	5	6
Lowest price	7	10	0
Minimum quantity requirements	5	4	7
Packaging	7	8	1
Product consistency	15	2	0
Quality but not USP standard	11	2	1
Quality meets USP standard	10	3	3
Quality exceeds USP standard	8	2	7
Producer keeps a master drug list	0	7	9
Product range	3	8	6
Able to source multiple products from supplier	3	7	7
Reliability of supply	16	1	0
Technical support/service	7	7	2
U.S. transportation costs	2	9	5
Note:--Not all firms responded to all questions.			
Source: Compiled from data submitted in response to Commission questionnaires.			

Purchases from Specific Producers and Countries

Purchasers were asked how frequently they and their customers purchased glycine from specific producers and from specific countries. The following tabulation summarizes the responses.

Purchaser/customer decision	Always	Usually	Sometimes	Never
Purchaser makes decision based on producer	4	3	6	8
Purchaser's customer makes decision based on producer	0	0	6	13
Purchaser makes decision based on country	3	1	7	10
Purchaser's customer makes decision based on country	0	0	5	13

Purchasers' responses were mixed regarding how often they purchased glycine based on the producer of the glycine. Country of origin was less often a factor than producer, with only 4 of the 21 responding purchasers reporting they either always or usually base purchases on country of origin. Purchasers' customers are less likely to make decisions based on either the producer or the country of origin; no responding purchaser reported that their customers always or usually made purchases based on producer or country of origin. Reasons reported for making purchase decisions based on the manufacturer include: quality, availability, price, and reliability of supply (6 purchasers each); approved sources (4 firms), and one firm each reported customer requests, prefer domestic and are reluctant to change suppliers, and do not consider unreliable producers regardless of price. Responses regarding country of origin were similar to those regarding producer, except some purchasers reported that they preferred not to purchase Chinese material.

Interchangeability of Domestic Products, Subject Imports, and Nonsubject Imports

Producers, importers, and purchasers were asked to report how frequently glycine from different countries was used interchangeably (table II-4).

Table II-4

Glycine: U.S. firms' perceived degree of interchangeability of products produced in the United States, subject, and nonsubject countries¹

Country comparison	U.S. producers				U.S. importers				U.S. purchasers ²			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. India	0	1	0	0	4	1	0	0	5	2	2	3
U.S. vs. Japan	0	1	0	0	1	2	0	0	5	2	1	1
U.S. vs. Korea	0	1	0	0	0	1	0	0	2	1	2	1
India vs. Japan	0	1	0	0	0	2	0	0	3	0	3	1
India vs. Korea	0	1	0	0	0	1	0	0	1	0	1	2
Japan vs. Korea	0	1	0	0	0	1	0	0	1	0	1	1
U.S. vs. nonsubject	0	1	0	0	1	1	0	0	3	2	3	2
India vs. nonsubject	0	1	0	0	1	1	0	0	2	1	1	3
Japan vs. nonsubject	0	1	0	0	0	1	0	0	2	2	1	2
Korea vs. nonsubject	0	1	0	0	0	1	0	0	2	0	2	1

¹ Producers, importers, and purchasers were asked if glycine produced in the United States and in other countries is used interchangeably.

² In addition, one firm did not answer this question as requested but reported that it had found acceptable material from the United States, all subject countries, and ***.

Note.-"A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never.

Source: Compiled from data submitted in response to Commission questionnaires.

A number of firms provided additional information on interchangeability. Purchasers' comments include: Japan tends to be at the top end for quality, potency, cleanliness, and packaging while India at the low end of packaging and cleanliness; U.S. material has superior flow characteristics to Japanese and Chinese material; if U.S. material is approved it may not be easy to switch to Chinese material; purchased U.S. USP glycine once for sample/qualification purposes and elected not to use the material due to performance related issues, use Indian product; do not typically pursue new suppliers once a supplier is locked in as supplier of record; have found that U.S. and Korean product meet specifications; Indian product is purchased for microbiology lab purposes; and do not purchase Korean because it is believed to

be repackaged Chinese material. *** reported that although technical grade and USP grade product was interchangeable, pharmaceutical grade tends to be tailored to individual purchasers, and it believed that ***.

. “”³² Only six importers compared any country pairs. Four importers reported that U.S. and subject India were always interchangeable and one reported that they were frequently interchangeable. One importer reported that U.S. and Japanese imported products were always interchangeable and two reported that they were frequently interchangeable. One importer reported Korean and U.S. products were frequently interchangeable.

Other Country Comparisons

In addition to comparisons between the U.S. product and imports from the subject countries, U.S. producers and importer comparisons between the U.S. product and imports from nonsubject countries and between subject imports and nonsubject imports are also shown in tables II-4, II-5, and II-6. Nonsubject sources of glycine reported by purchasers were China, Germany, and Belgium, however the petitioner reported that the only nonsubject sources for glycine are China and Belgium.³³

Importance of Differences Other Than Price

Producers and importers were asked to assess how often differences other than price between product from country pairs were a significant factor in sales of glycine (table II-5).

Table II-5
Glycine: U.S. firms’ perceived significance of differences other than price between U.S.-produced and imported product¹

Country comparison	U.S. producers				U.S. importers			
	A	F	S	N	A	F	S	N
U.S. vs. India	0	0	0	1	1	0	2	2
U.S. vs. Japan	0	0	0	1	1	0	1	1
U.S. vs. Korea	0	0	0	1	0	0	0	1
India vs. Japan	0	0	0	1	0	0	0	0
India vs. Korea	0	0	0	1	0	0	0	1
Japan vs. Korea	0	0	0	1	0	0	0	0
U.S. vs. nonsubject	0	0	0	1	0	0	0	2
India vs. nonsubject	0	0	0	1	0	0	0	2
Japan vs. nonsubject	0	0	0	1	0	0	0	1
Korea vs. nonsubject	0	0	0	1	0	0	0	0

¹ Producers and importers were asked if differences other than price between glycine produced in the United States and in other countries were a significant factor in their sales of the products.

Note.--“A” = Always, “F” = Frequently, “S” = Sometimes, “N” = Never.

Source: Compiled from data submitted in response to Commission questionnaires.

³² *** questioned whether other suppliers had undergone the same inspections.

³³ Hearing transcript, p. 36 (Schwartz).

Two U.S. producers and six importers responded. *** of the producers reported that there were never differences other than price for any of the country pairs while the other reported that “***.” One importer reported that non price factors are always a difference between U.S. and Indian product; two reported that factors were sometimes a difference; and two that there was never a difference. One importer reported that there were always differences between U.S. and Japanese product; one stated that there were sometimes differences; and one stated that there were never differences. One importer reported that there was never a difference between U.S. and Korean product. Differences between U.S. and Japanese products that were reported include cost, performance, and schedule, in addition; service from U.S. sources was reported to be poor.

Comparisons of Country Sources

Purchasers were asked to compare domestically produced glycine and glycine produced in subject and nonsubject countries, with respect to 18 different attributes, for all country pairs for which they had actual experience. The most common comparison was between U.S. product and product from Japan, with nine purchasers providing comparisons (although not for every attribute); six purchasers compared U.S. and Indian product; six compared Japanese product with nonsubject product, four compared U.S. and nonsubject product; three compared product from U.S. with Korean product; three firms compared product from India with product from Japan; three firms compared Indian and nonsubject product; and one compared Japanese and Korean product (table II-6).

The majority of responding purchasers reported that U.S. and Japanese products were comparable for 15 factors. Of the remaining factors, for delivery time, four firms reported that U.S. and Japanese products were comparable; two reported that the U.S. product was superior; and three stated that the U.S. product was inferior. With regard to lowest price, three each reported U.S. product was superior and inferior, while two reported that the U.S. and Japanese prices were comparable.

The majority of responding purchasers reported that U.S. and Indian products were comparable for 13 factors. For availability, one firm reported that U.S. product was superior, three firms reported that the U.S. and Indian products were comparable, and two that the U.S. product was inferior. For delivery terms, two firms reported that the U.S. product was superior; three reported that the U.S. and Indian products were comparable; and one reported that the U.S. product was inferior. For delivery time, three firms reported that the U.S. product was superior; two firms reported that the U.S. product was inferior; while one reported U.S. and Indian products were comparable. For lowest price, two firms reported that the U.S. product was superior and one stated that prices were comparable; and one stated that the U.S. price was inferior.

The majority of responding purchasers reported that the U.S. and Korean products were comparable in 12 factors. The majority of responding purchasers reported that U.S. product was inferior in terms of lowest price and U.S. product was superior in delivery time. For the other factors, responses were split, with one firm each reporting U.S. superior and products were comparable for U.S. transportation costs. For discounts offered and ability to source multiple products from supplier, one purchaser reported that the U.S. product was comparable and one stated that the U.S. product was inferior.

The majority of responding purchasers reported that Indian and Japanese products were comparable for 13 factors. The majority of responding purchasers reported that the Indian product was inferior to the Japanese in terms of product consistency. Responses were split for the three other factors with one firm reporting India superior to Japan for discounts offered and one firm reporting comparable; for lowest price, one firm each reported superior, comparable, and inferior; for quality greater than USP, one firm reported that Indian and Japanese products were comparable and one reported that the Indian product was inferior.

Table II-6

Glycine: Comparisons of U.S. product and subject imported product with subject and nonsubject product, as reported by purchasers¹

Factor	U.S. vs India			U.S. vs Japan			U.S. vs Korea			U.S. vs nonsubject		
	S	C	I	S	C	I	S	C	I	S	C	I
Availability	1	3	2	0	5	4	0	3	0	1	1	2
Delivery terms	2	3	1	2	5	2	1	2	0	0	2	2
Delivery time	3	1	2	2	4	3	2	1	0	2	0	2
Discounts offered	1	3	0	2	5	0	0	1	1	1	2	0
Extension of credit	1	4	0	2	6	0	0	2	0	0	3	0
Lowest price ²	2	1	1	3	2	3	0	0	2	2	0	1
Minimum quantity requirements	0	5	0	2	6	0	0	3	0	1	3	0
Packaging	0	6	0	1	7	1	0	3	0	1	3	0
Product consistency	0	5	1	1	7	1	0	3	0	1	3	0
Quality less than USP standard	0	5	0	0	6	0	0	3	0	1	3	0
Quality meets USP standard	0	5	0	0	8	1	1	2	0	1	3	0
Quality greater than USP standard	0	3	0	1	4	1	0	2	0	1	2	0
Product range	0	5	0	0	5	1	0	2	0	0	3	0
Able to source multiple products from supplier	0	4	0	0	5	1	0	1	1	0	2	1
Reliability of supply	0	4	2	1	6	2	0	3	0	0	2	2
Technical support/service	0	5	0	1	6	1	1	2	0	0	4	0
U.S. transportation costs	1	4	0	2	5	0	1	1	0	1	2	0
Other ³	0	0	2	0	0	1	0	0	0	0	0	1

Table continued on next page.

Table II-6--Continued

Glycine: Comparisons of U.S. product and subject imported product with subject and nonsubject product, as reported by purchasers¹

Factor	India vs Japan			Japan vs Korea			India vs nonsubject			Japan vs nonsubject		
	S	C	I	S	C	I	S	C	I	S	C	I
Availability	0	3	0	0	1	0	0	3	0	2	3	1
Delivery terms	0	3	0	0	1	0	0	3	0	1	5	0
Delivery time	0	3	0	0	1	0	0	3	0	1	5	0
Discounts offered	1	1	0	1	0	0	0	3	0	0	4	1
Extension of credit	0	2	0	0	1	0	0	3	0	0	5	0
Lowest price ²	1	1	1	1	0	0	1	2	0	3	2	1
Minimum quantity requirements	0	2	0	0	1	0	0	3	0	0	4	0
Packaging	0	2	1	0	1	0	0	3	0	2	4	0
Product consistency	0	1	2	0	1	0	0	3	0	4	2	0
Quality less than USP standard	0	2	0	0	1	0	0	3	0	0	5	0
Quality meets USP standard	0	2	1	0	1	0	0	3	0	0	6	0
Quality greater than USP standard	0	1	1	0	1	0	0	3	0	1	4	0
Product range	0	2	0	0	1	0	0	3	0	0	5	0
Able to source multiple products from supplier	0	2	0	0	1	0	0	3	0	1	4	0
Reliability of supply	0	3	0	0	1	0	0	3	0	1	5	0
Technical support/service	0	2	0	0	1	0	0	3	0	1	4	0
U.S. transportation costs	0	2	0	0	1	0	0	3	0	0	5	0
Other ³	0	1	0	0	0	0	0	1	0	0	1	0

¹ Not all firms answered for all characteristics.

² A rating of superior means that the price is generally lower. For example, if a firm reported "U.S. superior," it meant that the price of the U.S. product was generally lower than the price of the imported product.

³ Two purchasers gave responses for other. One used "functions in the purchaser's manufacture process" for other and compared only U.S. and Indian product. One purchaser's other factor was "adheres to contract terms and prices"; it compared six country pairs for this factor.

Note.--S=first listed country's product is superior; C=both countries' products are comparable; I=first listed country's product is inferior.

Source: Compiled from data submitted in response to Commission questionnaires.

The majority of responding purchasers reported that U.S. and nonsubject products were comparable for 12 factors; most reported U.S. product was superior in lowest price. For delivery terms and reliability of supply, two firms reported that U.S. and nonsubject products were comparable and two reported that U.S. product was inferior. For delivery time, two firms reported that U.S. product was superior and two that the U.S. product was inferior and for availability two reported that the U.S. product was inferior while one each reported that the U.S. product was superior and that U.S. and nonsubject products were comparable.

The majority of responding purchasers rated product from India and from nonsubject countries comparable for all factors. Japanese and nonsubject products were rated as comparable by most

responding purchasers for all but three factors. Japan was reported as superior by most purchasers with regard to product consistency. For availability, two firms rated Japanese product as superior, three rated Japanese and nonsubject product as comparable, and one rated Japanese product as inferior. For lowest price, three firms reported Japanese product was superior, two firms reported that Japanese and nonsubject products were comparable, and one firm reported Japanese product was inferior. Only one firm compared Japanese and Korean product and it reported product was comparable for all factors except discounts offered and lowest price; for these factors, Japan was reported to be superior.

Awareness of Country Sources

Purchasers were asked to identify the sources of glycine of which they were aware. Sixteen purchasers were aware of the U.S.-produced product, seven reported that they were aware of product from India, 11 from Japan, and only three from Korea. Other sources of imports reported by purchasers included China (reported by 3), Belgium (reported by 3), and Germany (reported by 1). Of the 10 responding importers, five imported product from India, six imported product from Japan, two imported product from Korea, and one reported imports from China as well as subject product.

ELASTICITY ESTIMATES

This section discusses elasticity estimates. Parties did not provide any comments in their briefs.

U.S. Supply Elasticity³⁴

The domestic supply elasticity for glycine measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of glycine. The elasticity of domestic supply depends on factors such as the level of excess capacity, the existence of inventories, and the availability of alternate markets for U.S.-produced glycine. Analysis of these factors indicated that the U.S. industry had a small ability to increase domestic shipments in response to price increases. The supply elasticity is estimated to be in the range of 1.0 to 2.0.³⁵

U.S. Demand Elasticity

The U.S. demand elasticity for glycine measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of glycine. This sensitivity depends on the availability and viability of substitute products as well as on the component share of glycine in the production of downstream products. There are almost no products that can be successfully substituted for glycine. Glycine is typically used to produce a wide range of products including food, feed, deodorant, cosmetics, and a wide range of other products. Demand elasticity is estimated to be in the -0.4 to -0.8 range.

Substitution Elasticity

The elasticity of substitution depends on the extent of product differentiation between the domestic and imported products. Product differentiation depends on factors such as the grade of product, quality, availability, and reliability of supply. The elasticity of substitution is estimated to be in the range of 4 to 8.

³⁴ A supply function is not defined in the case of a non-competitive market.

³⁵ ***.

PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

U.S. PRODUCERS

There are two U.S. producers of glycine: GEO and Chattem.¹ The Commission received completed questionnaire responses from both U.S. producers. GEO produces glycine using the HCN process at its Deer Park, TX facility,² while Chattem produces glycine using the MCA process at its Chattanooga, TN facility.³ Table III-1 presents U.S. producers' positions on the petition, ownership, plant locations, and shares of total reported U.S. production in 2006.

Table III-1

Glycine: U.S. producers, positions on the petition, ownership, plant locations, and shares of total reported U.S. production, 2006

Firm	Position on petition	Firm ownership	U.S. plant location(s)	U.S. production	
				Quantity (1,000 pounds)	Share (percent)
GEO	Supports (petitioner)	Privately owned corporation (U.S.) ¹	Deer Park, TX	***	***
Chattem	Supports ²	Owned by Elcat, Inc. (U.S.), a privately owned company ³	Chattanooga, TN	***	***

¹ GEO's website <http://www.geosc.com>.

² In the preliminary phase of these investigations in its questionnaire response and in public testimony, Chattem indicated that it supported the petition. Near the conclusion of the preliminary phase of these investigations, Chattem changed its position to indicate that it did not support the petition. In correspondence from ***, Chattem, May 2, 2007, Chattem indicated that it seems "****". In the final phase of these investigations, Chattem once again indicated in its questionnaire response that it supports the petition (questionnaire response, section I-3).

³ Chattem's website <http://www.chattemchemicals.com>.

Source: Compiled from data submitted in response to Commission questionnaires and from public websites.

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Table III-2 presents data on individual and overall U.S. producers' capacity, production, and capacity utilization between January 2004 and June 2007. Figure III-1 graphically presents data on overall U.S. producers' capacity, production, and capacity utilization between January 2004 and June

¹ Petition, pp. 4-7.

² GEO purchased the Deer Park facility from Hampshire Chemical Corporation ("Hampshire"), a subsidiary of DOW Chemicals, Inc. ("DOW"), on November 1, 2005. Prior to November 2005, DOW/ Hampshire was a U.S. producer of glycine. However, for the purposes of these investigations, officials at GEO provided consolidated data for the Deer Park facility under both ownership entities into a single questionnaire response. GEO's Deer Park facility produces a second product, naphthalene sulfonate formaldehyde condensate, which is better known by its trademark name, DAXAD. DAXAD is used as a dispersant in cements, wallboard, dyes, and other products. Both glycine and DAXAD use a common input, the chemical formaldehyde. ***. Staff field trip notes, GEO, April 12, 2007.

³ Petition, p. 4.

2007. Figure III-2 graphically presents data on U.S. producers' shares of U.S. capacity and U.S. production in 2006.

Table III-2

Glycine: U.S. capacity, production, and capacity utilization, 2004-06, January-June 2006, and January-June 2007

* * * * *

Figure III-1

Glycine: U.S. capacity, production, and capacity utilization, 2004-06, January-June 2006, and January-June 2007

* * * * *

Figure III-2

Glycine: Shares of U.S. capacity and U.S. production, 2006

* * * * *

Regardless of grade, U.S. production of glycine increased from approximately *** pounds in 2004 to approximately *** pounds in 2005. The increase in production in 2005 was mainly the result of the reintroduction of production that had exited the U.S. market in 2004 due to a production halt at the Deer Park facility under DOW/Hampshire ***.⁴ With the reintroduction of this production in 2005, the Deer Park facility operated at near full, ***, percent capacity utilization, pushing up the average capacity utilization for U.S. producers to *** percent in 2005 from *** percent in 2004. In 2006, U.S. production of glycine decreased to *** pounds. Both GEO and Chattem reported reduced production of glycine. GEO attributes its reduced production of *** pounds in 2006 to ***.⁵ Chattem attributes its reduced production of *** pounds in 2006 to ***.⁶

Due to the concentration of production in the U.S. industry, GEO's operations generally influenced the overall supply of U.S.-produced glycine, especially in the principal market for USP and technical grade glycine. In the latter half of the period of investigation, *i.e.*, 2006 to 2007, GEO accounted for an even larger portion of the U.S. glycine industry as Chattem developed its position as a niche producer for pharmaceutical grade glycine, and thus was able to "limp along" in the United States at lower volumes.⁷ Since Chattem's withdrawal from the USP and technical grade markets, GEO has been the sole U.S. producer to make and market its glycine production specifically to the USP and technical grade markets, but Chattem still sells some of its U.S. production to USP and technical grade end users willing to pay higher prices.

Over the period of investigation, while overall production by U.S. producers was changing due to raw material availability, demand conditions, and corporate strategy, U.S. producers' capacity to produce glycine remained relatively stable at approximately *** pounds. GEO reported that the Deer Park facility

⁴ *** U.S. producers' questionnaire response, section II-2. Specifically, in 2004, there was a shortage of hydrogen cyanide (a key raw material input), which resulted in a production halt for ***, and *** of production at reduced rates.

⁵ *** U.S. producers' questionnaire response, section II-2.

⁶ *** U.S. producers' questionnaire response, section IV-17. Chattem indicated that it began distributing Japanese origin glycine in 2006 to some of its U.S. customers in order to retain its high volume USP business. *See* hearing transcript, p. 85 (Kedrowski).

⁷ *Ibid.*

under Hampshire/DOW experienced a relatively small reduction in capacity due to the shutdown of a Glycine Recovery Unit (“GRU”) ***.⁸ According to officials at GEO, it was decided by *** instead of ***.⁹ The petitioner indicated a willingness to repair the GRU, a first step towards expanding its U.S. capacity, if the Deer Park facility begins operating at full existing capacity and if it makes economic sense to do so.¹⁰ Further, GEO indicated that it had developed specific, short-term plans “to cure equipment faults that in the past led to decreased production” and eliminate bottlenecks in its current production equipment.¹¹ In the long term, GEO indicated that it “also is studying a major expansion of its glycine production facility in order to create altogether new capacity,” which might be possible if “an antidumping duty order is in place.”¹²

U.S. PRODUCERS’ SHIPMENTS

Table III-3 presents information on U.S. producers’ shipments of glycine. Neither of the two U.S. producers reported any internal consumption of glycine nor transfers of glycine to related firms; therefore, the figures reported for total U.S. shipments also represent U.S. commercial shipments. In the period for which data were gathered, U.S. producers primarily supplied the U.S. market and did not export large quantities of glycine. Export markets include primarily ***.

Table III-3
Glycine: U.S. producers’ shipments, 2004-06, January-June 2006, and January-June 2007

* * * * *

U.S. producers’ U.S. shipments of glycine increased *** percent by quantity from 2004 to 2005 due in part to the resumption of normal production and shipments in 2005 following the disruptions at the Deer Park facility under DOW/ Hampshire in 2004. U.S. producers’ U.S. shipments decreased by *** percent between 2005 and 2006, reflecting in large part business from *** that *** lost to imports from India and Japan.¹³ U.S. producers’ U.S. shipments increased for the January-June 2007 period by *** percent over the comparable January-June period in 2006. Table III-4 presents information on U.S. producers’ U.S. shipments of glycine by grade.

⁸ GEO Specialty Chemicals, Inc. U.S. producers’ questionnaire response, section II-2.

⁹ Apparently, the longer the GRU remains down the more it will cost to repair ***. Staff field trip report, GEO, April 12, 2007.

¹⁰ Hearing transcript, p. 28 (Mahone) and p. 92 (Avraamides).

¹¹ Petitioner’s posthearing brief, responses to Commission’s questions, p. 24. GEO indicates that these improvements coupled with repairing the GRU could result in *** pounds of increased capacity.

¹² Ibid, pp. 24-25. This potential long-term capacity expansion is estimated to cost \$***.

¹³ GEO reported large decreases in U.S. shipments to *** applications. See GEO’s U.S. producers’ questionnaire, section II-14. These shipments likely reflect business from U.S. purchasers, ***. *** in turn reported decreases in U.S. purchases of glycine from *** in their respective questionnaire responses. *** U.S. purchasers’ questionnaire responses, section II-2. In its questionnaire response, *** indicated that it decreased its purchases from U.S. producers *** and that they *** *i.e.*, glycine. See *** U.S. purchasers’ questionnaire response, section II-3. Mr. Frey of CAF International indicated that part of *** shift from domestic sourcing to Indian glycine in 2005 related to a disagreement between *** and DOW/ Hampshire over the price of an annual contract which DOW/ Hampshire attempted to renegotiate, *i.e.*, due to an abrogated contract. See hearing testimony, p. 137 (Frey). *** indicated that it decreased its purchases from U.S. producers due to them being an *** and due to ***. *** U.S. purchasers’ questionnaire response, section II-3.

Table III-4

Glycine: U.S. producers' U.S. shipments, by grade, 2004-06, January-June 2006, and January-June 2007

* * * * *

In *** the unit values reported by Chattem for each “grade” of glycine are higher than those reported by GEO. The fact that Chattem produces glycine using the MCA process and, therefore, has a reportedly higher cost structure for producing glycine than GEO explains this difference in unit values.¹⁴ In 2006, Chattem abandoned much of its U.S. production for supplying customers with USP material, and entered into a distribution agreement with Showa Denko to continue to meet the demand for some of its USP customers (***), and focused primarily on supplying the pharmaceutical grade market with its U.S. production.¹⁵ In other words, Chattem no longer attempts to compete in the high volume USP and technical grade markets for glycine based on price, but still ships U.S.-produced glycine to USP grade and technical grade end users willing to pay higher unit values than are available for similar product through imports or other U.S. producers.¹⁶ This change in product mix explains in part the increase in the unit value reported by Chattem for its U.S. shipments of glycine. The average unit value of the three grades of U.S. producers' U.S. shipments of glycine increased generally over the period of investigation except, notably, for the high-volume USP grade glycine sold by GEO, which first increased in 2005 and then decreased in 2006. Since GEO's shipments of USP grade glycine accounted for *** percent of both U.S. producers' U.S. shipments in 2006, the decreasing average unit value of GEO's shipments of USP grade glycine in 2006 explains in large part the flattening of the average unit value of U.S. shipments between 2005 and 2006. Figure III-3 and figure III-4 graphically present information on U.S. shipments of glycine by grade.

Figure III-3

Glycine: Share of quantity of U.S. producers' U.S. shipments, 2006 and January-June 2007

* * * * *

Figure III-4

Glycine: U.S. producers' U.S. commercial shipments, by grade, 2004-06, January-June 2006, and January-June 2007

* * * * *

In the preliminary phase of these investigations, several U.S. importers asserted that, during the period of this investigation, GEO and/or its predecessor firm, DOW/ Hampshire, lost business because it was unable to meet customer demand due to plant shutdowns, quality problems, and problems such as

¹⁴ Hearing transcript, p. 29 (Avraamides), p. 79 (Kedrowski), and p. 80 (Eckman).

¹⁵ Hearing transcript, pp. 84-85 (Kedrowski). Chattem imports glycine from Japan for ***. Chattem's U.S. importers' questionnaire response, section III-18.

¹⁶ Staff telephone interview with *** and hearing transcript, pp. 86 (Kedrowski).

short shipping, unreliable deliveries, allocation, and denial of supply (abrogated contracts).¹⁷ In the final phase of these investigations, the largest U.S. purchasers confirmed that following the disruptions at the Deer Park facility under DOW/Hampshire they chose to begin sourcing material from foreign sources such as China, India, Japan, and Korea.¹⁸ Many of the large purchasers of glycine are concerned over GEO's inability to supply total U.S. demand for glycine if foreign sources are excluded from the U.S. market. Despite an improved record of customer service and fewer supply disruptions under GEO's ownership since November 2005, purchasers are hesitant to concentrate all their business through a single supplier of glycine.

Table III-5 and figure III-5 present information on GEO's shipment delays between November 2004 and September 2007. While GEO *** contract between 2004 and 2006,¹⁹ several U.S. purchasers of glycine have submitted questionnaire responses indicating otherwise. With respect to service issues, GEO reported that, while it recognizes that DOW/ Hampshire had a poor record of reliability, GEO has significantly improved the customer service record of its glycine facility in 2006, but then experienced more delays in shipments in 2007 due first to a planned plant maintenance shutdown (July and August) and then second to the rapid departure of imports from the market with the pendency of these proceedings (September and October).²⁰ GEO asserts that, in contrast to Hampshire/Dow's on-time delivery of *** percent of its shipments by quantity during the November 2004 to October 2005 period, GEO achieved on-time delivery of *** percent during the November 2005 to December 2006 period.²¹ GEO indicated that it experienced an extended shutdown required for mandatory inspection for raw material systems and ***.²²

**Table III-5
Glycine: DOW/Hampshire/GEO's shipments, by service levels and months, November 2004 to September 2007**

* * * * *

¹⁷ Conference transcript, p. 81 (Frey); *** preliminary phase importers' questionnaire response, section III-14; and letter dated April 17, 2007, attached to *** preliminary phase importers' questionnaire response. In the final phase of these investigations, Mr. Frey of CAF International repeated that he believed GEO lost market share to imports due to GEO's customer service record. Hearing transcript, pp. 135, 138-139 (Frey). Summit Research Labs also indicated that GEO's reliability as a supplier is suspect due to additional supply disruptions that have occurred under the new GEO ownership in 2007, which they admit had not been the case in 2006 when on-time deliveries and customer service metrics had originally improved compared to when the facility was operated by DOW/ Hampshire. Letter from Gary Coleman, Summit Research Labs, November 20, 2007.

¹⁸ *** U.S. purchasers' questionnaire response, sections II-3, II-4, and III-18. *** indicated that ***. See also *** U.S. purchasers' questionnaire responses, sections III-13 or III-19 for discussions of supply disruptions from DOW/ Hampshire and GEO. *** imported by World Wide Polymers. This business reflects ***. Staff telephone interview, *** November 1, 2007.

¹⁹ E-mail from David Schwartz, Thompson Hine, May 1, 2007.

²⁰ Hearing transcript, pp. 26-27 (Mahoney).

²¹ Petitioner's postconference brief, response to staff questions, p. 9, and table III-5. With the supply disruptions in 2007, GEO's service record deteriorated to *** percent for the period November 2005 to September 2007.

²² GEO's U.S. producers' questionnaire response, section IV-10. ***. In its supplementary response to section IV-10 of the U.S. producers' questionnaire, GEO reported the following tabulation relating to days delayed for shipments of glycine ***.

Figure III-5
Glycine: DOW/Hampshire/GEO's total shipments and delayed shipments, by months, November 2004-September 2007

* * * * *

Despite the shipment delays, GEO indicates that “no customer for glycine was ever left without ordered supply due to delays, whether under DOW or GEO Specialty.”²³ Nestle, the largest U.S. purchaser of glycine indicates, however, that in “May 2004 {DOW/} Hampshire informed Nestle Purina {that} no material would be shipped under {their annual} contract from June 1 to July 31” and that, due to that two month disruption in 2004, Nestle began diversifying their supply chain of glycine to mitigate the risk GEO represents to them.²⁴

U.S. PRODUCERS' IMPORTS AND PURCHASES

During the period of investigation, Chattem imported glycine from Showa Denko in Japan. *** imports of glycine from any source. *** reported purchases of glycine. Chattem entered into its relationship with Showa Denko so as to continue to supply certain customers (***) with glycine at a cost lower than its U.S.-produced material.²⁵ Chattem “became the authorized exclusive distributor of Showa Denko K.K. for selected applications in the USA under the terms of a formal 5 year agreement dated February 1, 2005.”²⁶ Currently, ***.²⁷ Table III-6 presents information on Chattem’s imports and ratio of imports to its U.S. production of glycine. During January-June 2007, the ratio of Chattem’s imports of glycine from Japan to its U.S. production ***.

Table III-6
Glycine: Chattem’s imports from Japan and ratio to production, 2004-06, January-June 2006, and January-June 2007

* * * * *

U.S. PRODUCERS' INVENTORIES

Table III-7, which presents end-of-period inventories for glycine during the period of investigation, shows that inventories were relatively low as a ratio to production and shipments in 2004 and 2005, increased in 2006 due to ***, and decreased in the first half of the year in 2007 when compared to the same period in 2006.

²³ Petitioner’s posthearing brief, responses to Commission’s questions, p. 2.

²⁴ Nestle’s posthearing submission, p. 1.

²⁵ Hearing transcript, p. 85 (Kedrowski) and Chattem’s importers’ questionnaire response, section III-18.

²⁶ Chattem’s posthearing brief, p. 1.

²⁷ E-mail from ***, December 3, 2007.

Table III-7

Glycine: U.S. producers' inventories, 2004-06, January-June 2006, and January-June 2007

* * * * *

U.S. PRODUCERS' EMPLOYMENT, WAGES, AND PRODUCTIVITY

Table III-8 presents data on U.S. producers' employment-related indicia.

Table III-8

Glycine: U.S. producers' employment-related data, 2004-06, January-June 2006, and January-June 2007

* * * * *

Employment of production related workers ("PRWs") in the U.S. glycine industry declined from *** individuals over the period of investigation. Corresponding to its share of production, ***. GEO indicated that additional employees may be affected if GEO's glycine production cannot operate profitably because remaining production of naphthalene sulfonate at the Deer Park facility might not be able to bear the burden of all of the indirect plant costs if glycine production is halted.²⁸ The decrease in the number of PRWs in the U.S. glycine industry between calendar year 2004 and the first half of 2007 ***.

²⁸ Conference transcript, pp. 41-42 (Eckman).

PART IV: U.S. IMPORTS, APPARENT U.S. CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

Table IV-1 presents information on U.S. importers.

Table IV-1

Glycine: U.S. importers and imports, by subject sources, January 2004 to June 2007

* * * * *

Five of the importers that submitted data in response to the Commission's U.S. importers' questionnaire indicated that they imported glycine from India, including: ***,¹ CAF International Corp. ("CAF"),² ***,³ ***,⁴ and ***.⁵ The four firms that imported subject glycine from India (***) accounted for the vast majority (**% percent) of subject U.S. imports from India by quantity in the period January 2004 to June 2007. U.S. importer ***, which has not provided the Commission a completed U.S. importers' questionnaire response and whose main business telephone number is no longer in service, accounted for **% percent of the quantity of subject U.S. imports of glycine from India between January 2004 and June 2007, all of which ***.⁶

In the final phase of these investigations, six U.S. importers submitted data in response to the Commission's U.S. importers' questionnaire indicating that they imported glycine from Japan, including: U.S. producer Chattem,⁷ ***,⁸ ***,⁹ ***,¹⁰ and ***.¹¹ ***,¹² which submitted a U.S. importers' questionnaire in the preliminary phase of these investigations did not respond to the Commission's inquiry in the final phase of these investigations. The six responding firms' imports of glycine from Japan account for the majority (**% percent) of total U.S. imports from Japan by quantity in the January 2004 to June 2007 period.¹³

¹ ***. ** imports its glycine from Indian producer Paras, which was found by Commerce to have a zero preliminary antidumping margin. Data on U.S. imports of glycine by *** were therefore removed from the compilation of data presented in table IV-1.

² CAF, founded in 1994, is an importer of glycine from and agent for AICO Laboratories, India. Hearing transcript, p. 132 (Frey). CAF is located in Caldwell, NJ.

³ ***.

⁴ ***.

⁵ ***.

⁶ ***.

⁷ Chattem's import operations are located in **. See <http://www.chattemchemicals.com>.

⁸ ***.

⁹ ***.

¹⁰ ***.

¹¹ ***.

¹² ***.

¹³ The Commission also received a completed U.S. importers' questionnaire response in the preliminary phase of these investigations from **. In the final phase, ** did not provide a completed U.S. importers' questionnaire response. **. In 2005, **. Further, all imports of glycine from the U.K. in 2004 and 2005 were misclassified as

(continued...)

In the preliminary phase of these investigations, World Wide Polymers, Inc. (“World Wide”)¹⁴ submitted a completed questionnaire response indicating that it imported glycine from Korea. In the final phase of these investigations, World Wide did not submit a completed U.S. importers’ questionnaire response. World Wide’s imports of glycine from Korea accounted for the vast majority (***) percent) of U.S. imports from Korea by quantity in the January 2004 to June 2007 period, and World Wide imported glycine produced by Korea Bio-Gen Co., Ltd. (“Bio-Gen”). Bio-Gen was subject to a Customs transshipment investigation in 2001-02 and was apparently found to be an actual producer of glycine in Korea.¹⁵

U.S. IMPORTS

Table IV-2 and figures IV-1 and IV-2 present information relating to U.S. imports of glycine from January 2004 to June 2007. U.S. import data are based on official Commerce statistics with adjustments using proprietary Customs data to account for the misclassification of certain entries. Specifically, two major modifications were made. First, material imported from the United Kingdom under the statistical reporting number 2922.49.4020 was reclassified as subject imports from Japan to reflect the fact that this material was improperly classified as having been produced in the United Kingdom.¹⁶ U.S. imports of glycine from the United Kingdom totaled 235,674 pounds in 2004 and 37,040 pounds in 2005. Second, glycine imported *** from India was improperly classified under statistical reporting number 2922.49.1000 in the period of investigation.¹⁷ The quantities misclassified totaled 227,954 pounds in 2004, 567,734 pounds in 2005, 434,619 pounds in 2006, and 44,092 pounds in January-June 2007.¹⁸

¹³ (...continued)

country-of-origin U.K. in official import statistics when, in fact, they were of Japanese origin in their entirety ***. In 2007, ***. Staff telephone interview, ***, November 29, 2007.

¹⁴ World Wide is a chemicals distributor. World Wide is located in ***.

¹⁵ Letter from Mark Altenstadter, Chief, Trade Operations Branch, Customs, January 22, 2002.

¹⁶ Staff telephone interview with ***, April 18, 2007.

¹⁷ Staff telephone interview with ***, April 24, 2007.

¹⁸ Data used to report the misclassified imports of glycine from India in the preliminary phase of these investigations did not reflect all of *** imports of glycine from *** in India. The inclusion of these data revises slightly upward the quantities of subject imports in 2005 and does not change any of the overall trends.

Table IV-2
Glycine: U.S. imports, by sources, 2004-06, January-June 2006, and January-June 2007

Source	Calendar year			January-June	
	2004	2005	2006	2006	2007
Quantity (1,000 pounds)					
India, subject	***	***	***	***	***
Japan	991	2,084	2,610	1,436	2,439
Korea	1,060	992	1,124	626	405
Subtotal, subject	***	***	***	***	***
Belgium	1,151	238	347	187	62
China	555	1,915	2,177	1,181	1,573
India, nonsubject	***	***	***	***	***
All other	343	88	45	43	3
Subtotal, nonsubject	***	***	***	***	***
Total	5,233	7,915	8,971	5,021	4,903
Landed, duty-paid value (1,000 dollars)					
India, subject	***	***	***	***	***
Japan	1,273	2,897	3,310	1,835	2,918
Korea	1,107	1,278	1,300	722	528
Subtotal, subject	***	***	***	***	***
Belgium	1,643	374	607	310	143
China	599	2,397	2,598	1,319	2,022
India, nonsubject	***	***	***	***	***
All other	794	415	329	272	51
Subtotal, nonsubject	***	***	***	***	***
Total	7,219	11,046	11,692	6,517	6,171
Unit value (per pound)					
India, subject	\$***	\$***	\$***	\$***	\$***
Japan	1.28	1.39	1.27	1.28	1.20
Korea	1.04	1.29	1.16	1.15	1.30
Average, subject	***	***	***	***	***
Belgium	1.43	1.57	1.75	1.65	2.31
China	1.08	1.25	1.19	1.12	1.29
India, nonsubject	***	***	***	***	***
All other	2.31	4.73	7.25	6.26	17.36
Average, nonsubject	***	***	***	***	***
Average, all imports	1.38	1.40	1.30	1.30	1.26

Table continued on next page.

Table IV-2--Continued

Glycine: U.S. imports, by sources, 2004-06, January-June 2006, and January-June 2007

Source	Calendar year			January-June	
	2004	2005	2006	2006	2007
Share of quantity (percent)					
India, subject	***	***	***	***	***
Japan	18.9	26.3	29.1	28.6	49.8
Korea	20.3	12.5	12.5	12.5	8.3
Subtotal, subject	***	***	***	***	***
Belgium	22.0	3.0	3.9	3.7	1.3
China	10.6	24.2	24.3	23.5	32.1
India, nonsubject	***	***	***	***	***
All other	6.6	1.1	0.5	0.9	0.1
Subtotal, nonsubject	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
Share of value (percent)					
India, subject	***	***	***	***	***
Japan	17.6	26.2	28.3	28.2	47.3
Korea	15.3	11.6	11.1	11.1	8.6
Subtotal, subject	***	***	***	***	***
Belgium	22.8	3.4	5.2	4.8	2.3
China	8.3	21.7	22.2	20.2	32.8
India, nonsubject	***	***	***	***	***
All other	11.0	3.8	2.8	4.2	0.8
Subtotal, nonsubject	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0

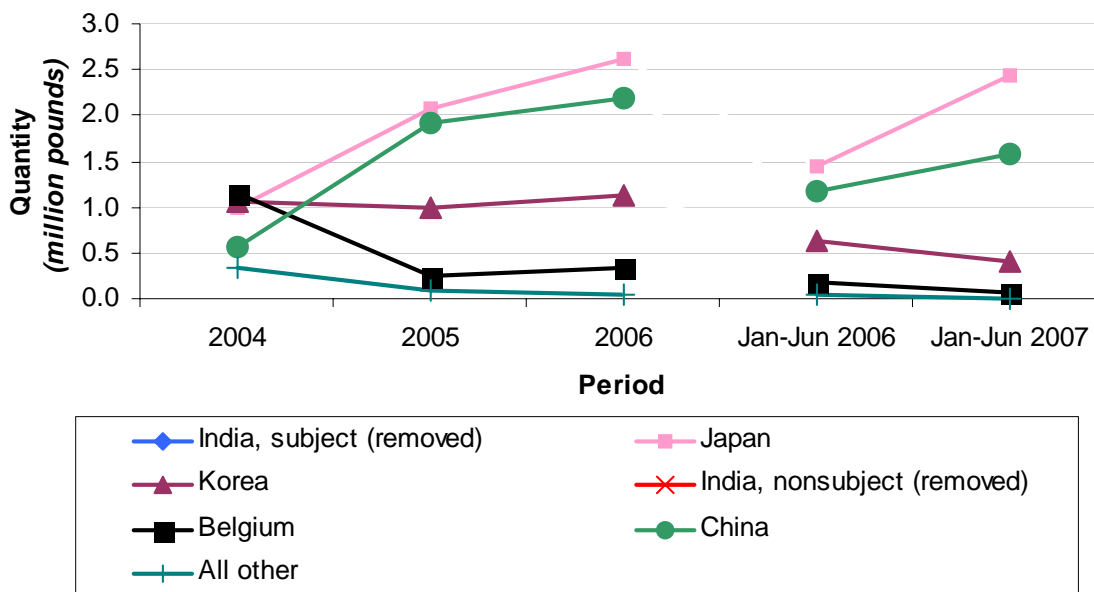
Source: Compiled from official Commerce statistics with adjustments based on proprietary Customs data.

Figure IV-1

Glycine: U.S. imports, 2004-06, January-June 2006, and January-June 2007

* * * * *

Figure IV-2
Glycine: U.S. imports, by principal sources, 2004-06, January-June 2006, and January-June 2007



Note.--Data on Indian subject and nonsubject import quantities removed from graph due to confidentiality concerns.

Source: Table IV-2.

Subject imports increased by *** percent between 2004 and 2005 and *** percent between 2005 and 2006, for a doubling of the presence of subject imports in the U.S. market comparing 2006 data with 2004 data. Subject imports from Japan and India account for most of the increase in subject imports over the period of investigation, as imports from Korea remained relatively stable.

Subject imports from Korea had the lowest average unit value during 2004, followed by imports from Japan, then India. During January-June 2007, however, subject U.S. imports from India and Japan had lower average unit values than imports from Korea. Imports from China (nonsubject) had approximately the same AUVs as imports from Korea over the entire period of investigation, and followed the same upward trend in the interim periods. Average unit values of subject U.S. imports from India decreased between 2004 and 2005 ***.

U.S. Shipments of Imports by Grade

Table IV-3 presents data on the U.S. shipments of imports from subject sources by grade during the period of investigation. Responding U.S. importers of glycine from subject India sources reported that their imports were all USP grade material.¹⁹ Two U.S. importers, ***, originally reported that their imports of glycine from Japan were of technical grade quality; however, these firms' shipments

¹⁹ U.S. importer *** reported some "technical" grade imports and shipments in 2004 in its preliminary phase questionnaire response. However, these materials, ***, were shipments of material to pet food, ***, and cosmetic (deodorant), ***, applications. For the purposes of this final phase, these imports are deemed USP grade glycine. E-mail correspondence with ***, October 22, 2007 and ***, November 1, 2007. The original data would have indicated that technical grade accounted for *** percent of reported U.S. shipments of Japanese glycine in 2006 and *** percent in the January-June 2007 period.

went to USP grade end users (***)²⁰ After revising data for Japan to reflect the end-use markets described above, all but minimal quantities of responding U.S. importers' reported shipments of glycine related to USP or food grade material. In the preliminary phase of these investigations, *** reported that its U.S. shipments of glycine were of pharmaceutical grade; however, they accounted for only a very small share of U.S. shipments of Japanese glycine over the period of investigation. While it did not provide a questionnaire response in the final phase of these investigations, World Wide reported that its U.S. shipments of glycine imported from Korea were *** in the preliminary phase of these investigations, and these data are reflected as such in the calendar years for 2004 through 2006 in table IV-3. The vast majority of U.S. imports of glycine from subject sources was USP grade material.

**Table IV-3
Glycine: U.S. importers' U.S. shipments of imports, by grades, 2004-06, January-June 2006, and January-June 2007**

* * * * *

NEGLIGENCE

The Tariff Act of 1930 provides for the termination of an investigation if imports of the subject product from a country are less than 3 percent of total imports, or, if there is more than one such country, their combined share is less than or equal to 7 percent of total imports, during the most recent 12 months for which data are available preceding the filing of the petition.²¹ Total U.S. imports of glycine amounted to *** million pounds during the period from March 2006 to February 2007, of which *** percent were imports from India, *** percent were imports from Japan, and *** percent were imports from Korea.²²

CUMULATION CONSIDERATIONS

In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors: (1) fungibility, (2) presence of sales or offers to sell in the same geographical market, (3) common or similar channels of distribution, and (4) simultaneous presence in the market. Issues concerning fungibility are addressed in Part II of this report and table IV-3, and channels of distribution are discussed in Parts I and II.

Table IV-4 presents data on U.S. imports by Customs district, and table IV-5 presents data on monthly presence of imports of glycine by source.

²⁰ Both U.S. importers confirmed that their "technical grade" shipments might otherwise meet the Commission's definition of "USP grade" glycine upon follow-up. E-mails from ***, November 2, 2007 and with Steve Brophy, counsel to Mitsui, November 1, 2007. ***.

²¹ 19 U.S.C. § 1677(24)(A)(ii).

²² Calculated from official Commerce statistics with modifications based on proprietary Customs data (i) to include *** imports of glycine misclassified under the wrong HTS number, (ii) to include *** U.S. imports of glycine from the United Kingdom in 2004 and 2005 as imports from Japan, and (iii) to exclude U.S. imports from Paras in India, which received a zero preliminary antidumping duty rate. Without adjusting official Commerce statistics, total U.S. imports amounted to 8.6 million pounds between March 2006 and February 2007, of which 22.7 percent were imports from India, 29.6 percent were imports from Japan, and 12.4 percent were imports from Korea.

Table IV-4**Glycine: U.S. imports from subject countries, by Customs districts, 2004-06, January-June 2006, and January-June 2007**

* * * * *

Table IV-5**Glycine: U.S. imports, monthly presence of imports, by sources, January 2004 - June 2007**

* * * * *

APPARENT U.S. CONSUMPTION, U.S. MARKET SHARES, AND RATIO OF IMPORTS TO U.S. PRODUCTION

Table IV-6 presents data on apparent U.S. consumption of glycine. Table IV-7 presents data on market shares. Figure IV-3 and figure IV-4 graphically present data on U.S. apparent consumption and U.S. market shares.

Over the period of investigation, apparent U.S. consumption fluctuated. Increases in imports, both subject and nonsubject, and in U.S. producers' U.S. shipments account for the increase in apparent U.S. consumption between 2004 and 2005. While U.S. producers increased their U.S. shipments in 2005, they lost market share because of the large increase in subject imports (primarily from India and Japan). Reportedly, increases in U.S. imports from India and Japan are the result of ***. Between 2005 and 2006, imports of subject merchandise increased from both subject (primarily Japan) and some nonsubject sources, while U.S. producers' total U.S. shipments decreased, resulting in a further decline

Table IV-6**Glycine: Apparent U.S. consumption, by sources, 2004-06, January-June 2006, and January-June 2007**

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
Quantity (1,000 pounds)					
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. imports:					
India, subject	***	***	***	***	***
Japan	991	2,084	2,610	1,436	2,439
Korea	1,060	992	1,124	626	405
Subtotal, subject sources	***	***	***	***	***
Belgium	1,151	238	347	187	62
China	555	1,915	2,177	1,181	1,573
India, nonsubject	***	***	***	***	***
All other sources	343	88	45	43	3
Subtotal, nonsubject sources	***	***	***	***	***
Total imports	5,233	7,915	8,971	5,021	4,903
Apparent U.S. consumption	***	***	***	***	***

Table continued on next page.

Table IV-6--Continued

Glycine: Apparent U.S. consumption, by sources, 2004-06, January-June 2006, and January-June 2007

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
Value (1,000 dollars)					
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. imports:					
India, subject	***	***	***	***	***
Japan	1,273	2,897	3,310	1,835	2,918
Korea	1,107	1,278	1,300	722	528
Subtotal, subject sources	***	***	***	***	***
Belgium	1,643	374	607	310	143
China	599	2,397	2,598	1,319	2,022
India, nonsubject	***	***	***	***	***
All other sources	794	415	329	272	51
Subtotal, nonsubject sources	***	***	***	***	***
Total imports	7,219	11,046	11,692	6,517	6,171
Apparent U.S. consumption	***	***	***	***	***
Unit value (per pound)					
U.S. producers' U.S. shipments	\$***	\$***	\$***	\$***	\$***
U.S. imports:					
India, subject	***	***	***	***	***
Japan	1.28	1.39	1.27	1.28	1.20
Korea	1.04	1.29	1.16	1.15	1.30
Subject average	***	***	***	***	***
Belgium	1.43	1.57	1.75	1.65	2.31
China	1.08	1.25	1.19	1.12	1.29
India, nonsubject	***	***	***	***	***
All other sources	2.31	4.73	7.25	6.26	17.36
Nonsubject average	***	***	***	***	***
Import average	1.38	1.40	1.30	1.30	1.26
Apparent U.S. consumption average	***	***	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires, official Commerce statistics, and proprietary Customs data.					

in U.S. producers' market share. The average unit values of imports from India, Japan, and Korea were lower than the average unit values for U.S. producers' U.S. shipments in each comparison, except for India in 2004. The average unit values of nonsubject imports from China, currently subject to a U.S. antidumping duty order, are also lower than the average unit values of U.S. producers' U.S. shipments. Tessengerlo, the sole Belgium producer of glycine, apparently exited the U.S. market for glycine during the first part of the period of investigation, while two Chinese producers with lower firm-specific rates under the AD orders (Baoding and Nantong Dongchang) were increasing their exports to the United States.

Table IV-7

Glycine: Market shares, by sources, 2004-06, January-June 2006, and January-June 2007

* * * * *

Figure IV-3

Glycine: Apparent U.S. consumption, by sources, 2004-06, January-June 2006, and January-June 2007

* * * * *

Figure IV-4

Glycine: Market shares, by sources, 2004-06, January-June 2006, and January-June 2007

* * * * *

Table IV-8 presents information on the ratio of subject and nonsubject imports to U.S. production of glycine. Over the period of investigation, subject imports increased from approximately *** of U.S. production in 2004 to *** of U.S. production in 2006. In the January-June 2007 period, the ratio of subject imports to U.S. production declined somewhat compared to the same period of the previous year. As a ratio to U.S. production, imports from India and Japan increased by a larger degree than imports from Korea. As a ratio to U.S. production, nonsubject imports also increased over the period of investigation.

Table IV-8

Glycine: Ratios of U.S. imports to U.S. production, by sources, 2004-06, January-June 2006, and January-June 2007

* * * * *

As discussed in Part III, U.S. importers asserted, in both the preliminary and final phases of these investigations, that increases in imports over the period of investigation were due to Hampshire/Dow and GEO's inability to meet customer demand due to plant shutdowns, quality problems, and problems such as short shipping, unreliable deliveries, allocation, and denial of supply.²⁴ Figures IV-5 and IV-6 graphically depict the relationship between Hampshire/ Dow/ GEO's level of missed deliveries and U.S. imports of glycine from the subject countries, on a monthly basis by source, for the period November 2004 to August 2007. Imports from India and Japan increased in 2005 following the 2004 and 2005 supply disruptions from DOW/Hampshire.

²⁴ As previously reported, the largest U.S. purchasers confirmed that they actively sought to diversify their source of glycine following supply disruptions at the Deer Park facility during the late DOW/Hampshire ownership period (specifically, ***).

Figure IV-5

Glycine: Hampshire/DOW/GEO's delayed shipments and U.S. imports, by subject sources and months, November 2004-August 2007

* * * * *

Figure IV-6

Glycine: DOW/Hampshire/GEO's delayed shipments and U.S. imports from subject sources, by months, November 2004-August 2007

* * * * *

CRITICAL CIRCUMSTANCES

In its final affirmative determination of LTFV sales of the subject product from Japan, Commerce found that critical circumstances exist for all imports of glycine from Japan.²⁵

If the Commission determines that an industry in the United States is materially injured by reason of LTFV imports of glycine from Japan, it must further determine “whether the imports subject to the affirmative {Commerce critical circumstances} determination . . . are likely to undermine seriously the remedial effect of the antidumping duty order to be issued.”²⁶ The statute further provides that in making this determination, the Commission shall consider:

- (I) the timing and the volume of the imports,
- (II) a rapid increase in inventories of the imports, and
- (III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.²⁷

Table IV-9 presents data on monthly imports of glycine from Japan and two importers' end-of-period (*i.e.*, monthly) inventories of Japanese-origin glycine for the period before and after the filing of the petition (October 2006 to September 2007). Figure IV-7 graphically presents U.S. imports of Japanese-origin glycine. Figure IV-8 graphically presents U.S. importers' monthly inventories of Japanese-origin glycine. Figure IV-9 presents U.S. imports from Japan by individual firms.

²⁵ *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Glycine from Japan*, 72 FR 67271, November 28, 2007.

²⁶ Section 735(b)(4)(A)(i) of the Act (19 U.S.C. § 1673d(b)(4)(A)(i)).

²⁷ Section 735(b)(4)(A)(iii) of the Act (19 U.S.C. § 1673d(b)(4)(A)(ii)).

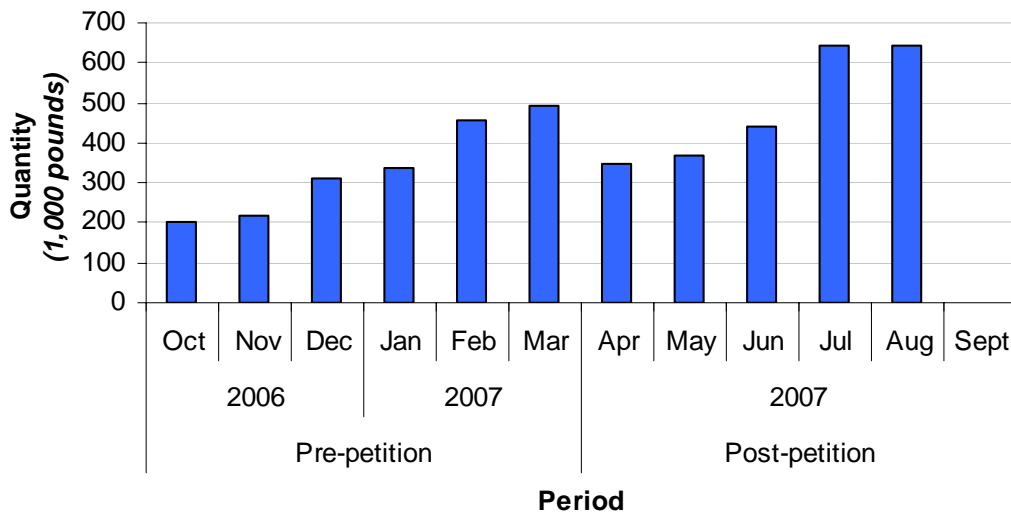
Table IV-9
Glycine: U.S. imports and end-of-period inventories of imports from Japan, October 2006 - September 2007

Year/month		U.S. imports	U.S. importers' end-of-period inventories ¹
		Quantity (1,000 pounds)	
2006	October	202	***
	November	215	***
	December	312	***
2007	January	335	***
	February	454	***
	March	493	***
	April	350	***
	May	368	***
	June	440	***
	July	664	***
	August	642	***
	September	0	***

¹ Only two (***) U.S. importers, ***, reported inventories. A third firm, ***, had some inventories in October and November 2006 only. The largest importers in the October 2006 to September 2007 period, ***, did not report inventories. For ***, its imports of glycine from Japan were shipped to *** directly after entry. For ***, its exports of Japanese-origin glycine from the United Kingdom were consigned temporarily in third-party warehouse facilities each month after entry on their way for consumption at ***, and *** does not keep data on inventory levels in the United States.

Source: Compiled from official Commerce statistics and data submitted in response to the Commission's critical circumstances inquiry.

Figure IV-7
Glycine: Monthly imports from Japan, October 2006-September 2007



Note.—There were no imports of glycine from Japan in September 2007 due to the pendency of the antidumping duty investigation.

Source: Table IV-9.

Figure IV-8

Glycine: End-of-period inventories of imports from Japan, October 2006-September 2007

* * * * *

Figure IV-9

Glycine: Monthly imports from Japan, by firms, October 2006-September 2007

* * * * *

Chattem reported that *** and that Chattem ***. Further, increases in Chattem’s imports related to increased demand from ***, which sought alternative sources of glycine in the lead-up to GEO’s production shutdown in the April to June 2007 period and which experienced ***.^{28 29} *** reported ***.³⁰ Both *** are potentially affected by the critical circumstance duty collections as they both imported some glycine in the June 15, 2007 to September 13, 2007 90-day period.³¹ A review of proprietary Customs data indicates that neither *** increased their U.S. imports of glycine from Japan in the lead up to Commerce’s preliminary LTFV determination on Japan in the October 2006 through September 2007 period (*see* figure IV-9).

²⁸ E-mail correspondence from ***, November 30, 2007 and letter from ***, November 29, 2007.

²⁹ In the final phase of these investigations, GEO testified that in the lead-up to the production shutdown it experienced in 2007 “{w}e were trying to notify customers beforehand and be a responsible supplier so that they were aware of the fact that we were going to go through a shutdown. In some cases we asked our customers -- those customers that we knew had alternate supply lines -- to purchase their demand elsewhere for that period of time.” Hearing transcript, p. 44 (Avraamides).

³⁰ E-mail from ***. While *** did not provide the Commission with a completed U.S. importers’ questionnaire response in the final phase of these investigations, it did respond to the critical circumstances allegations. In its e-mail, ***.

*** further asserted “***.”

³¹ *** imported two containers in this 90-day period, while *** imported only one container of glycine in this 90-day period. Between October 2006 and September 2007, ***, while *** (*see* figure IV-9).

*** asserts “***.” E-mail from ***, December 4, 2007.

*** asserts “***.” E-mail from ***, December 5, 2007.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

The cost of glycine depends largely on the costs of chemicals and energy. Glycine is produced using two basic methods, the hydrogen cyanide method which is used by GEO, and the MCA method which is used by Chattem. Chattem reports that production using the hydrogen cyanide method is less expensive but requires a larger investment.

Transportation Costs to the U.S. Market

Transportation costs as a share of customs value for glycine from subject countries to the United States (excluding U.S. inland costs) in 2006 were 6.5 percent for India, 5.6 percent for Japan, and 5.2 percent for Korea. These estimates are derived from official Commerce statistics and representing the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.

U.S. Inland Transportation Costs

Both U.S. producers reported their U.S. inland transportation costs for glycine, reporting that such costs accounted for *** percent of the total delivered cost. The seven responding importers reported inland transportation costs ranged from 1 to 4 percent.

Exchange Rates

Quarterly real and nominal exchange rates reported by the International Monetary Fund for the currencies of India, Japan, and Korea relative to the U.S. dollar during January 2004 to June 2007 are shown in figure V-1.

PRICING PRACTICES

*** and ***. Eight of the 10 responding importers reported no discount policy, one reported quantity discounts, and one reported discounts on a case-by-case basis.

Figure V-1
Exchange rates: Indices of the nominal and real exchange rates between the currencies of India, Japan, and Korea relative to the U.S. dollar, by quarters, January 2004-June 2007

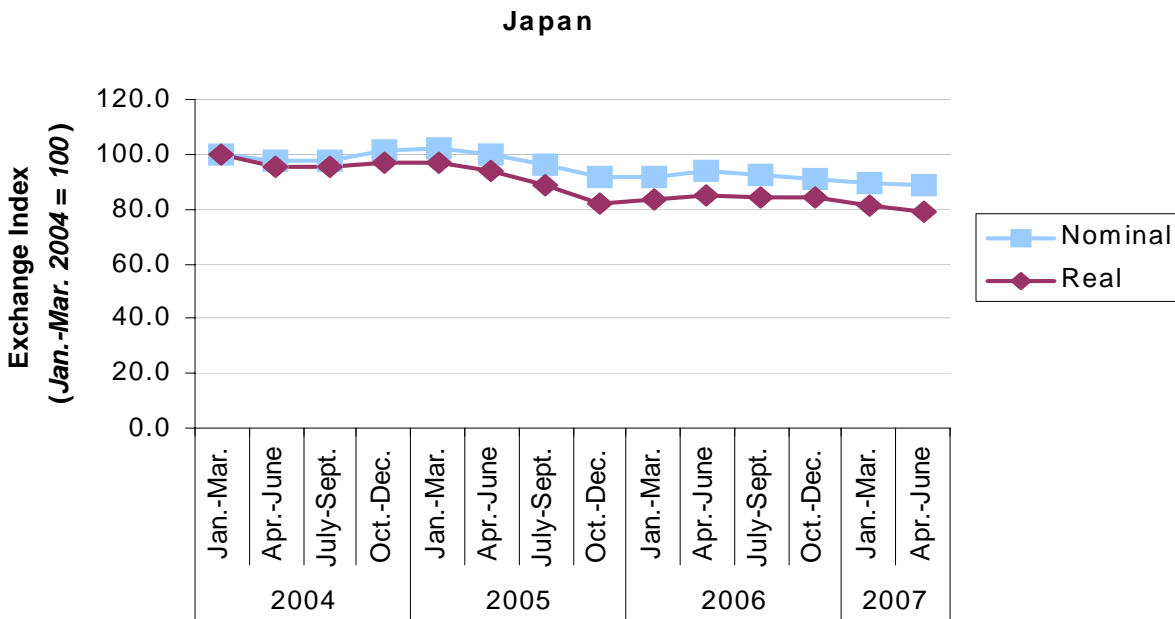
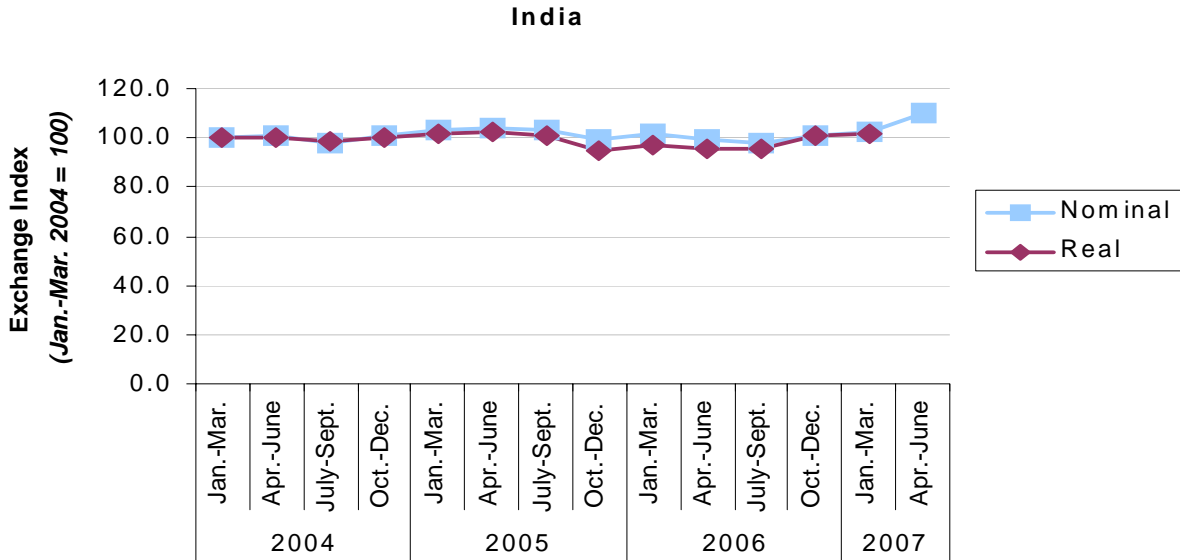
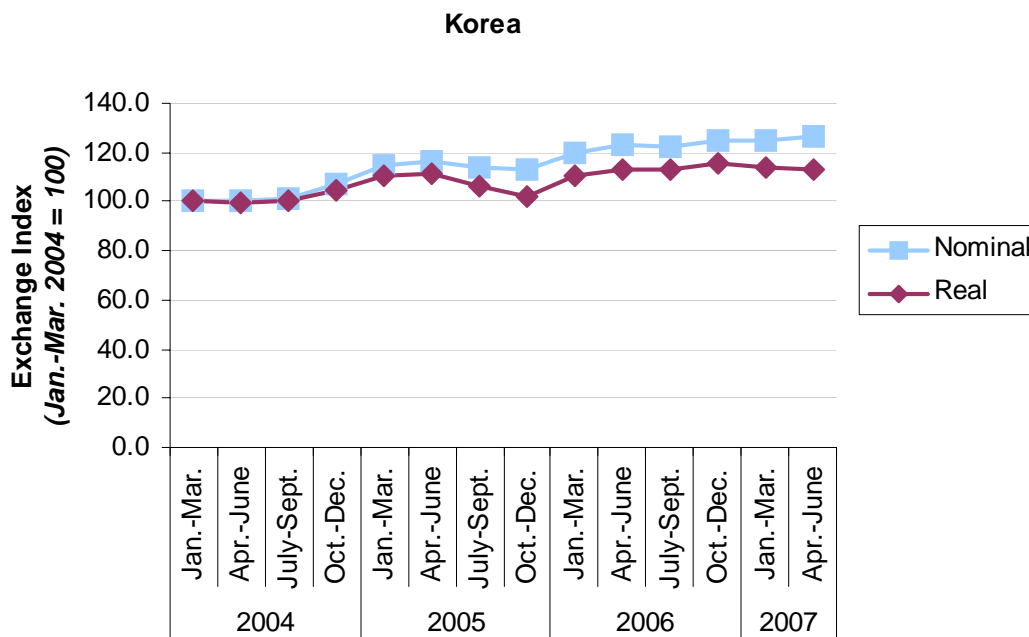


Figure continued on next page.

Figure V-1--Continued

Exchange rates: Indices of the nominal and real exchange rates between the currencies of India, Japan, and Korea relative to the U.S. dollar, by quarters, January 2004-June 2007



Source: International Monetary Fund, *International Financial Statistics*, <http://ifs.apdi.net/imf/ifsbrowser.aspx?branch=ROOT>, retrieved on October 23, 2007.

***. Nine of the 10 responding importers reported transaction by transaction prices; four of the nine also reported contract prices, and one importer reported only contract prices.

Pricing Methods

Chattam reported that it does not sell on a contract basis but that it typically had a long term relationship with many of its purchasers.¹ ***. Three of nine importers sell mainly using long-term contracts, one sells mainly using short-term contracts, and five sell only on a spot basis.

Sales Terms

***. Seven of the nine responding importers reported selling on a delivered basis while the other two reported selling on an f.o.b. basis. *** and all 9 responding importers reported sales terms of net 30 days.

***. ***² One of the three responding importers reported meet-or-release clauses in long term contracts, this firm reported the price changed in 65 percent of its long-term contracts, while two out of five responding importers reported meet-or-release clauses for its short-term contracts, both reported price changes in 5 percent of their short-term contracts.

¹ Conference transcript, p. 52 (Kendrowski).

² Petitioner’s posthearing brief, app. 1, p. 17. *** Nestle’s letter, November 30, 2007.

PRICE DATA

The Commission requested U.S. producers and importers of glycine to provide quarterly quantity and f.o.b. value data for shipments of the following products to unrelated U.S. customers during January 2004-June 2007:

Product 1.--Glycine sold to Pharmaceutical grade end users -- A white, odorless, crystalline powder with a sweet taste, having an assay (glycine content) of 98.5 percent to 101.5 percent (dry basis), and with no more than 7 ppm chloride, no more than 65 ppm sulfate, and no more than 1 ppm heavy metals.

Product 2.-- Glycine sold to USP grade end users -- A white, odorless, crystalline powder with a sweet taste, having an assay (glycine content) of 98.5 percent to 101.5 percent (dry basis), and with no more than 70 ppm chloride, no more than 65 ppm sulfate, no more than 20 ppm heavy metals.

Product 3.-- Glycine sold to Technical grade end users -- A white, off-white, or slightly yellow crystalline powder, having an assay (glycine content) of 98.5 percent to 101.5 percent (dry basis), with maximum chlorides of 0.4 percent.

***.³ Ten importers provided usable price data; three reported price data for product 2 from subject Indian sources and two of those firms reported data for product 3; six importers reported prices for product 2 from Japan and one importer provided data for product 2 from Korea.⁴ Three importers also reported imports from nonsubject countries China and Hungary and nonsubject Indian imports. By quantity, reported pricing data for January 2004-June 2007 accounted for *** percent of reported U.S. producers' shipments of glycine, *** percent of Indian, *** percent of Japanese, and *** percent of Korean product. Data for the United States, India, Japan, and Korea are presented in tables V-1 to V-3 and figure V-2.

Table V-1

Glycine: Weighted-average f.o.b. prices and quantities of domestic product 1, by quarters, January 2004-June 2007

* * * * * * *

Table V-2

Glycine: Weighted-average f.o.b. prices and quantities of domestic and imported product 2, and margins of (overselling)/underselling by quarters, January 2004-June 2007

* * * * * * *

³ ***.

⁴ ***.

Table V-3

Glycine: Weighted-average f.o.b. prices and quantities of domestic and imported product 3, and margins of (overselling)/underselling by quarters, January 2004-June 2007

* * * * *

Figure V-2

Glycine: Weighted-average f.o.b. prices of domestic and subject imported products 1-3, January 2004-June 2007

* * * * *

Price Trends

U.S. producer prices increased by *** to *** percent during January 2004-June 2007. Indian price changes ranged from a decrease of *** percent⁵ to an increase of *** percent, Japanese prices increased by *** percent, and Korean prices increased by *** percent. A summary of price trends is shown in table V-4.

Table V-4

Glycine: Summary of weighted-average f.o.b. prices, by products and by sources

Sources	Number of quarters	Highest price	Lowest price	Increase in price (decrease)
		<i>Per pound</i>	<i>Per pound</i>	<i>Percent</i>
Product 1				
United States	14	\$***	\$***	***
Product 2				
United States	14	***	***	***
India	14	***	***	***
Japan	14	***	***	***
Korea	12	***	***	***
Product 3				
United States	14	***	***	***
India	2	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Price Comparisons

Overall, there were 42 quarterly price comparisons between U.S.-produced glycine and imports from India, Japan, and Korea. For those quarters for which data were reported, subject imports undersold domestic products in 35 quarters and oversold domestic products in 7 quarters. Table V-5 provides a summary of underselling/overselling by country.

⁵ This reduction in price reflects changes in Indian product 3 that occurred in 2004 which was when the two Indian sales of product 3 were reported.

Table V-5
Glycine: Summary of underselling/(overselling)

Source/period	Number of quarters of underselling	Number of quarters of overselling	Simple average margin of underselling/(overselling)	Weighted average margin of underselling/(overselling) ¹
India:				
2004	3	3	***	***
2005	4	0	***	***
2006	4	0	***	***
2007	1	1	***	***
Total India	12	4	***	***
Japan:				
2004	4	0	***	***
2005	4	0	***	***
2006	3	1	***	***
2007	0	2	***	***
Total Japan	11	3	***	***
Korea:				
2004	4	0	***	***
2005	4	0	***	***
2006	4	0	***	***
2007	0	0	-	-
Total Korea	12	0	***	***
All subject sources:				
2004	11	3	(2.2)	6.2
2005	12	0	13.2	13.6
2006	11	1	8.9	9.5
2007	1	3	(6.3)	(2.4)
Total subject sources	35	7	3.9	8.9

¹ Margins are weighted by the volume of sales by importers.

Note— Number of quarters of underselling and overselling for “all subject countries” was calculated by adding the number of quarters of underselling and overselling for each individual country. Average margins of underselling/(overselling) for “all subject countries” was computed using the combined weighted average price for all subject countries in each quarter.

Source: Compiled from data submitted in response to Commission questionnaires.

LOST SALES AND LOST REVENUES

The petitioner provided *** allegations of lost revenues (table V-6) and *** allegations of lost sales (table V-7). The total value of the lost sales allegations was \$*** and the total value of the lost revenues allegations was \$***. *** agreed with *** lost sales allegation, *** disagreed with ***, ***. Two purchasers disagreed with the lost revenue allegations, and one neither agreed nor disagreed to the allegation. In addition, ***.

Table V-6

Glycine: U.S. producers' allegations of lost revenue due to imports from India, Japan, and Korea

* * * * *

Table V-7

Glycine: U.S. producers' lost sales allegations

* * * * *

*** was cited in *** lost sales allegation. *** disagreed with the allegation reporting that it did not purchase any glycine from subject countries in 2006. *** also reported that it had not switched from U.S. produced product to subject imported product and that the U.S. producers had not reduced price because of competition from importers.⁶

*** was cited in *** lost sales allegation. *** agreed with the allegation. He reported that the offered U.S. price was \$*** not \$*** (as reported in the allegation) and that the competing import price was \$***, not \$***. He stated, however, that *** did not shift sales away from a U.S. producer, since it had also purchased imported product in 2004 and 2005. *** reported that it had shifted purchases from U.S.-produced product to imported *** product since January 2004 because of price. He also noted that the U.S. producer had reduced prices because of imported product from ***. In particular, he stated that “***.”

*** was cited in *** lost sales allegation. *** disagreed with the allegation, reporting that for the last year and a half to two years, *** had purchased from ***, which offered the lowest prices. He also reported that the quantity listed of *** pounds is much too high and is more than *** consumes in 10 years. *** also reported that it had not switched from a U.S. producer to subject imported product because of price, since the U.S. price offered by *** was lower. *** reported that U.S. producers had not reduced their price because of competition from subject imports, since the price of imports was above the U.S. price.⁷

*** was cited in \$*** lost sales allegation. *** disagreed with the allegation; reporting that *** “***.”

*** was cited in \$*** lost sales allegation. *** disagreed with the allegation, however, it reported purchasing subject *** product from ***, an importer of glycine. *** reported it purchased *** pounds of glycine not *** pounds as reported in the allegation and the price it paid for the *** glycine was \$*** per pound not \$***. *** reported that it had not switched from U.S. producer to subject imported product because of price and that U.S. producers had not reduced their price because of competition from subject imports.

⁶ The information *** provides is contradicted in *** importer's questionnaire. *** reported that in 2006, it sold *** percent of its imported product to ***, approximately *** pounds. ***.

⁷ The information *** provides is contradicted in *** importer questionnaire. *** reported it sold *** percent of its 2006 sales, approximately *** pounds.

*** was cited in \$*** lost revenue allegation. *** disagreed with the allegation, reporting that “***,” and it ***. In addition, *** reports no documentation of an import quote of \$*** per pound. *** thought that the U.S. producer may have misstated the year as 2008 instead of 2007, so it also provided information about 2007 purchases. *** made a purchase order of *** pounds of glycine USP grade at \$*** per pound (delivered) that was accepted by ***. At that time, the price from *** supplier was \$*** per pound (delivered). *** reports that “***.” *** reports that the price reduction from \$*** per pound to \$*** was due to ***.

*** was cited in ***. *** denied all allegations reporting that it did not purchase imported product since ***.

*** was named in \$*** lost revenue allegation. *** denied the allegation, reporting that the numbers did not correspond to those for sales for 2008, but did match 2007 information. Thus, its response is for its 2007 purchase. *** reported it was ***. It received a price offer of \$*** per pound from ***. *** did not have any price offer for *** material at that time but ***. Later *** was offered a price of \$*** per pound. ***. *** did not have any current price bids for subject product to compare the U.S. price. Thus, *** believes that *** rather than subject imports may have initiated any price decline. “***.”

*** was named in ***. *** when asked if it agreed or disagreed it reported “***.” In addition, *** reported that “***.”

PART VI: FINANCIAL CONDITION OF U.S. PRODUCERS

BACKGROUND

Two producers provided financial results for their operations on glycine. The responding producers are believed to represent all of U.S. production.¹ None of the sales of glycine were either internally consumed or transferred to related companies.

The questionnaire data of GEO were verified with company records at its production facilities. The verification adjustments were incorporated into this report. The financial data of GEO were changed to ***.

OPERATIONS ON GLYCINE

Results of operations of the U.S. producers on their glycine operations are presented in table VI-1 which includes data on a per-pound basis as well as operating income (loss) to net sales ratios.

Table VI-1

Glycine: Results of operations of U.S. producers, fiscal years 2004-06, January-June 2006, and January-June 2007

* * * * *

The financial results of the producers fluctuated from 2004 to 2006, but the industry reported *** each period.² The quantity and value sold increased, and the *** decreased between 2004 and 2005, due to the increase in per-unit sales values combined with decreased per-unit total costs (cost of goods sold (“COGS”) and selling, general, and administrative (“SG&A”) expenses) during the period.

Sales quantity and value both decreased from 2005 to 2006 and the *** increased between the two periods, as average unit sales values increased only *** (\$*** per pound) while the average per-unit total cost increased by \$*** per pound. The increase in total costs was attributable to the increase of raw materials cost during this period. While the operating *** decreased from 2004 to 2005 (from *** percent in 2004 to *** percent in 2005), the operating *** increased in 2006 (*** percent).

Sales quantity and value both increased from interim 2006 (January-June 2006) to interim 2007 (January-June 2007) and *** decreased moderately between the two interim periods, as average unit sales values decreased slightly (from \$*** to \$*** per pound) while average unit total cost decreased by an even larger amount (from \$*** to \$*** per pound). The *** margin decreased somewhat from interim 2006 to interim 2007, and the *** margin for interim 2007 was *** percent, compared to the ratio for interim 2006 which was *** percent. The results of operations of the two firms are presented in table VI-2. The table presents selected financial data on a company-by-company basis for net sales (quantity and value), operating income/(loss), the ratio of operating income/(loss) to net sales value, and average unit sales values, COGS, and SG&A expenses. These average unit financial data are quite different for the two producers, due primarily to differences in production processes and product mix. With respect to production processes, as discussed in earlier sections of this report, Chattem uses the higher cost MCA process while GEO uses the less costly HCN process. With respect to product mix, there are three grades of glycine: pharmaceutical, USP, and technical. In 2006, *** percent of GEO’s sales (in terms of sales value), but *** percent of Chattem’s sales were USP grade glycine (*** percent in January-June 2007); during the same period, approximately *** percent of Chattem’s sales were the higher-cost and higher-

¹ ***.

² ***.

priced pharmaceutical grade glycine (*** percent in January-June 2007). Therefore, average unit selling prices and COGS as well as average unit total costs for Chattem for all periods were *** than those of GEO. These comparable data are presented in table VI-2. In fact, in 2006, GEO's raw materials cost per pound was \$***, while Chattem's was \$*** and GEO's conversion costs (direct labor and factory overhead combined) per pound was \$*** compared to Chattem's \$***. GEO's depreciation expense per pound was \$***, while Chattem's was \$***. Even in 2004, when Dow operated the production facility and before they wrote off the production facility in 2004 and 2005, Dow's depreciation expense per pound was \$***, while Chattem's was \$***.

Table VI-2
Glycine: Results of operations of U.S. producers, by firms, fiscal years 2004-06, January-June 2006, and January-June 2007

* * * * *

*** for 2004 and 2006 while *** experienced an operating ***,³ Corporate interest expenses of both producers were allocated based on the ratio of the subject merchandise sales value to total corporate sales value. Other expenses reported by ***. *** for both interim periods, interim 2006 and interim 2007.

Selected aggregate per-unit cost data of the producers on their operations, i.e., unit COGS and unit SG&A expenses, are presented in table VI-3. Total unit cost decreased from 2004 to 2005 and increased from 2005 to 2006. While raw materials cost continuously and substantially increased between 2004 and 2006, factory overhead decreased from 2004 to 2005. ***.⁴ ***.⁵ The combined effects for both producers resulted in a decrease in factory overhead in 2005.

Table VI-3
Glycine: Unit costs (per pound) of U.S. producers, fiscal years 2004-06, January-June 2006, and January-June 2007

* * * * *

As indicated in table VI-3, while unit raw materials cost increased by \$*** per pound from 2004 to 2006, during the same period the two producers reduced their conversion costs by a total of \$*** per pound. Even though unit raw materials cost increased only slightly between two interim periods (from \$*** to \$*** per pound), during the same period the two producers reduced their conversion costs by a total of \$*** per pound. The increase of G&A expenses from 2005 to 2006 mainly resulted from GEO's G&A expenses after it purchased its production facilities from Dow in November 2005.

A variance analysis showing the effects of prices and volume on the producers' sales of glycine, and of costs and volume on their total cost, is shown in table VI-4. The analysis is summarized at the bottom of the table. The analysis indicates that the increase in operating *** between 2005 and 2006 was attributable mainly to the *** of increased costs and expenses, which overcame the *** of increased sales prices (i.e., per-unit total cost increased *** than the increase of per-unit selling price), while the decrease in operating *** from 2004 to 2006 was largely attributable to an increase in selling price. However, the

³ ***.
⁴ ***.
⁵ ***.

decrease in operating *** between interim 2006 and interim 2007 resulted from the *** of decreased costs and expenses, despite the *** of decreased sales prices (per-unit cost decreased *** than the decrease of per-unit selling price).

Table VI-4

Glycine: Variance analysis of operations of U.S. producers, fiscal years 2004-06, January-June 2006, and January-June 2007

* * * * *

**CAPITAL EXPENDITURES, R&D EXPENSES,
AND INVESTMENT IN PRODUCTIVE FACILITIES**

U.S. producers' capital expenditures and R&D expenses, by firm, are presented in table VI-5. Capital expenditures increased substantially from 2004 to 2005, due mainly to the acquisition of glycine production facilities by GEO in November 2005,⁶ and decreased subsequently in 2006. ***, *** reporting R&D expenses.

Table VI-5

Glycine: Capital expenditures and R&D expenses, by firms, of U.S. producers, fiscal years 2004-06, January-June 2006, and January-June 2007

* * * * *

ASSETS AND RETURN ON INVESTMENT

U.S. producers were requested to provide data on their assets used in the production and sales of glycine during the period for which data were collected, to assess their return on investment ("ROI"). Although ROI can be computed in different ways, a commonly used method is income earned during the period divided by the total assets utilized for the operations. Therefore, staff calculated ROI as operating income (loss) divided by total assets used in the production and sales of glycine. Data on the U.S. producers' total assets and their ROI are presented in table VI-6.

Table VI-6

Glycine: Value of assets and return on investment of U.S. producers, fiscal years 2004-06

* * * * *

The value of total assets, especially for the original cost and net book value of property, plant, and equipment ("PPE") decreased substantially from 2004 to 2005, because GEO purchased these assets at *** when these assets were purchased from the Hampshire Chemical Company (which formerly had been a subsidiary of Dow Chemical Company) on November 1, 2005. GEO's original cost of PPE decreased by ***, while net book value decreased from ***. The *** return on investment decreased from 2004 to 2005 (from *** percent to *** percent), then increased from 2005 to 2006 to (***) percent).

⁶ The amount of capital expenditures of GEO for 2005 was derived from *** reported when GEO purchased these facilities from Dow in November 2005.

The trend of ROI over the period was the same as the trend of the operating *** margin shown in table VI-1.

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual negative effects on their return on investment, or on growth, investment, ability to raise capital, existing development and production efforts, or the scale of capital investments as a result of imports of glycine from India, Japan, and Korea. The firms' comments are as follows:

Chattem ***.

GEO ***.

In addition, the firms were asked, "Does your firm anticipate any negative impact of imports of glycine from India, Japan, or Korea?" Their comments are as follows:

Chattem *** .

GEO ***.

PART VII: THREAT CONSIDERATIONS AND BRATSK INFORMATION

Section 771(7)(F)(I) of the Act (19 U.S.C. § 1677(7)(F)(I)) provides that—

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors¹--

(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,

(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,

(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,

(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,

(V) inventories of the subject merchandise,

(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,

(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw

¹ Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that “The Commission shall consider {these factors} . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition.”

agricultural product or the processed agricultural product (but not both),

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).²

Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

THE INDUSTRY IN INDIA

The petition identified 13 alleged producers of glycine in India, as presented in the following tabulation:

Aditya Chemicals ("Aditya")
Amishi Drugs & Chemicals, Ltd. ("Amishi")
Ashok Alco-Chem, Ltd. ("Ashok")
Bimal Pharma, Pvt. Ltd. ("Bimal")
Euro Asian Industrial Co. ("EA Industrial")
EPIC Enzymes Pharmaceuticals & Industrial Chemicals, Ltd. ("EPIC")
Indian Chemical Industries ("IC Industries")
Frezco Corporation ("Frezco")
Salvi Chemical Industries ("Salvi")
Kumar Industries ("Kumar")
Paras Intermediates Pvt. Ltd. ("Paras")
Sisco Research Laboratories Pvt., Ltd. ("Sisco")
Suru Chemicals and Pharmaceuticals, Pvt. Ltd. ("Suru")

An additional three firms were identified as potential foreign manufacturers of glycine in India using proprietary Customs data, including: ***. Four firms in India accounted for *** percent of U.S. imports of glycine from India between January 2004 and June 2007 as reported in table IV-1: AICO accounted for *** percent, Kumar accounted for *** percent, Nutracare accounted for *** percent, and Paras

² Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

accounted for *** percent.³ The Commission received completed questionnaire responses from AICO⁴ and Paras in the final phase of these investigations, and Kumar's completed foreign producers' questionnaire response from the preliminary phase of these investigations was used, with modifications to provide estimates for the partial year periods.⁵

Table VII-1 presents information on all responding Indian producers' production and exports to the United States in 2006.

Table VII-1
Glycine: Indian producers' production and export shipments to the United States, 2006

* * * * *

Table VII-2 presents information on subject Indian producers' glycine operations (*i.e.*, all responding Indian producers excluding Paras).

Table VII-2
Glycine: Subject Indian producers' operations, 2004-06, January-June 2006, January-June 2007, and projected 2007-08

* * * * *

Indian producers increased production of glycine between 2004 and 2006, with most of the increase occurring between 2004 and 2005 ***. In the preliminary phase of these investigations, *** indicated that AICO operations were in fact re-export operations of Chinese-produced glycine,⁶ while officials at CAF testified that AICO actually has Indian glycine production facilities.⁷ Over the period of investigation, exports to the United States accounted for the vast majority of reporting Indian producers' shipments. *** indicated that there was not a large domestic Indian market for glycine.⁸ In the preliminary phase of these investigations, *** alleged that most, *** percent, of U.S. imports from India are transshipments of glycine produced in China.⁹ Exports to the United States reported in table VII-2 account for approximately *** percent of subject U.S. imports from India reported in table IV-1 for the period of investigation.

THE INDUSTRY IN JAPAN

The petition identified five alleged producers of glycine in Japan as identified in the following tabulation:

³ Calculated from proprietary Customs data.

⁴ AICO has a business relationship with the U.S. importer CAF. Hearing transcript, p. 132 (Frey).

⁵ ***.

⁶ Staff telephone interview with ***, April 17, 2007, and *** foreign producers'/exporters' questionnaire response, section II-2:

⁷ Hearing transcript, pp. 160-161 (Frey).

⁸ Staff telephone interview with ***, April 17, 2007.

⁹ ***.

Ajinomoto Co., Inc. (“Ajinomoto”)
 Hayashi Pure Chemical Industries Co., Ltd. (“Hayashi Pure”)
 Kyowa Hakko Kogyo Co., Ltd. (“Kyowa Hakko”)
 Showa Denko K.K. (“Showa Denko”)
 Yuki Gosei Kogyo Co., Ltd. (“Yuki Gosei”)

In addition to these firms, the Commission sent questionnaires to five firms that were identified as potential foreign manufacturers of glycine in Japan using proprietary Customs data, including: ***. Five firms accounted for *** percent of U.S. imports of glycine from Japan between January 2004 and June 2007 as reported in table IV-1: ***.¹⁰ As a distributor of glycine ***. In its U.S. importers’ questionnaire response from the preliminary phase, *** identified Showa Denko and Yuki Gosei as the actual foreign manufacturers of their shipments of glycine to the United States.¹¹ In fact, a review of U.S. importers’ questionnaire responses submitted in both the preliminary and final phases of these investigations indicates that apparently all U.S. imports of glycine from Japan were produced by either Showa Denko or Yuki Gosei. Of the Japanese firms contacted, four provided completed foreign producers’/exporters’ questionnaire responses, including: Ajinomoto, Kowa, Mitsui, and Yuki Gosei.¹² Of the four responding firms, only Yuki Gosei was an actual producer of glycine; the other three firms were exporters of glycine from Japan. Similar to the preliminary phase of these investigations, Showa Denko (which has a business relationship with Chattem) has not provided the Commission with a completed foreign producers’/exporters’ questionnaire response in the final phase of these investigations. Table VII-3 presents information on all responding Japanese firms’ reported glycine production and shipments to the United States.

Table VII-3
Glycine: Japanese producers’ and exporters’ production and export shipments to the United States, 2006

* * * * *

Table VII-4 presents information on Japanese producers’ and exporters’ glycine operations.

Table VII-4
Glycine: Japanese producers’ and exporters’ operations, 2004-06, January-June 2006, January-June 2007, and projected 2007-08

* * * * *

Yuki Gosei first increased its production of glycine between 2004 and 2005 and then decreased its production of glycine between 2005 and 2006, resulting in a period low capacity utilization rate of *** percent in 2006. Yuki Gosei projects ***. Over the period of investigation, home market sales accounted for the majority of reported shipments of glycine in Japan; however, reported home market shipments might be over reported for Japanese glycine to the degree that some of the remaining home market shipments might have been then exported by firms other than those that have responded to the

¹⁰ ***. See *** foreign producers’/exporters’ questionnaire response.

¹¹ *** U.S. importers’ preliminary phase questionnaire response, section II-5b.

¹² Despite repeated attempts by Commission staff both in the preliminary and final phases of these investigations, Showa Denko has remained unresponsive to Commission inquiries. In addition, requests through U.S. producer Chattem, with whom Showa Denko has a business relationship, have not produced results.

Commission's inquiry.¹³ Originally reported export shipments to the United States were minimal as a share of total shipments in Japan; however, modified export shipments to the United States (as presented in table VII-4)¹⁴ were generally increasing over the period of investigation, with an apparent high of *** percent in the January-June 2007 period, but then essentially disappear in the projected data for 2008.¹⁵

THE INDUSTRY IN KOREA

The petition identified three alleged producers of glycine in Korea as identified in the following tabulation:

Korea Bio-Gen Co., Ltd. ("Bio-Gen")
DHOW International ("DHOW")
Haerim Industrial Co. Ltd. ("Haerim")

Proprietary Customs data identified *** as the foreign manufacturer for the vast majority (*** percent) of U.S. imports from Korea. The other firm identified in proprietary Customs data was ***. No Korean firm provided the Commission with a completed foreign producers'/exporters' questionnaire response.¹⁶ In the preliminary phase of these investigations, *** alleged that all U.S. imports from Korea were transshipments of glycine produced in China.¹⁷ World Wide provided documentation from a U.S. Customs determination in 2002 indicating that Bio-Gen does have glycine production facilities in Korea.¹⁸ U.S. import data from Korea are, however, on an average unit value basis nearly identical to average unit value data for U.S. imports from China.

¹³ Additional firms reported in proprietary Customs data may be exporting product that Yuki Gosei or the other known Japanese producer, Showa Denko, produced.

¹⁴ Exports to the United States were modified in table VII-4 to include reported export shipments to the European Union by the Japanese firm ***. Apparently, *** exported glycine from Japan to a subsidiary in Europe, ***, which then reportedly sold that material to *** in the United Kingdom, which, in turn, then exported that glycine to the United States. E-mail correspondence from ***, April 20, 2007.

¹⁵ *** did not report projected shipments to the European Union for calendar year 2008.

¹⁶ In the preliminary phase of these investigations, officials at World Wide, ***. Staff telephone interview with ***, April 16, 2007. In the final phase of these investigations, World Wide itself did not respond to the Commission's repeated inquiries.

¹⁷ *** postconference submission, p. 2.

¹⁸ Letter from Mark Altenstadter, Chief, Trade Operations Branch, Customs, January 22, 2002.

U.S. IMPORTERS' INVENTORIES

Table VII-5 presents information on U.S. importers' inventories. The majority of U.S. importers' inventories in 2005 relate to inventories *** imported by *** in 2005 but sold in 2006, while the majority of inventories in 2006 relate to inventories of *** imported by *** in 2006 which ***.¹⁹ *** decaked these inventories in 2007 and sold that material into the U.S. market.

In many instances, U.S. imports of glycine are shipped directly to the end-use customers, such as ***. These purchasers, in turn, may stock inventory as a buffer to avoid production halts.²⁰

Table VII-5

Glycine: U.S. importers' inventories, 2004-06, January-June 2006, and January-June 2007

* * * * *

U.S. IMPORTERS' CURRENT ORDERS

Four U.S. importers reported that they had placed orders for glycine from India (subject) and Japan, totaling 846,000 pounds, scheduled for entry into the United States after June 2007. Table VII-6 presents U.S. importers' orders for glycine after June 2007.

Table VII-6

Glycine: U.S. importers' current orders, after June 2007

* * * * *

ANTIDUMPING AND COUNTERVAILING DUTY ORDERS IN THIRD-COUNTRY MARKETS

There are no known antidumping or countervailing duty orders on glycine in third-country markets. The EU had instituted preliminary antidumping duties on imports of glycine into the EU from China on May 19, 2000, but then removed the provisional duties on November 16, 2000 following a negative final determination.²¹

¹⁹ Staff telephone interview with ***, April 17, 2007.

²⁰ *** increased the amount of inventory it stored as buffer from one to three months' worth of glycine consumption at its production facilities in 2005 as a result of the supply disruptions it had experienced following DOW/ Hamsphire's production shutdown in 2004. Staff telephone interview with ***, October 31, 2007. In its response to the critical circumstance allegations, U.S. importer Chattem indicated that ***. E-mail from ***, December 3, 2007.

²¹ *Glycine from China, Inv. No. 731-TA-718 (Second Review)*, USITC Publication 3810, October 2005, p. I-4 and e-mail from ***, May 2, 2007.

INFORMATION ON NONSUBJECT SOURCES

“Bratsk” Considerations

As a result of the Court of Appeals for the Federal Circuit (“CAFC”) decision in *Bratsk Aluminum Smelter v. United States* (“Bratsk”), the Commission is directed to:

undertake an “additional causation inquiry” whenever certain triggering factors are met: “whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market.” The additional inquiry required by the Court, which we refer to as the Bratsk replacement/benefit test, is “whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers.”^{22 23}

Nonsubject Source Information

During the final phase of these investigations, the Commission sought pricing data from U.S. importers of glycine from nonsubject sources, including China and Belgium. Those data are presented in Part V of this report. With respect to foreign industry data, the Commission sought foreign producers’/exporters’ questionnaire responses from the major firms identified in proprietary Customs data. The Belgian producer *** provided the Commission with a response to its inquiry, while the Chinese producers of glycine failed to provide the Commission with responses.

China

China is the largest producer of glycine in the world. In 1995, it was estimated that China had the capacity to produce 22 to 33 million pounds of glycine, while it was estimated that in 2002 China had a capacity to produce 50 million pounds of glycine.²⁴ GEO estimates that the two main Chinese exporters, Nantong Dongchang and Baoding Mantong, have a capacity to produce *** pounds between them.²⁵ While most firms in China are currently subject to the discipline of antidumping duties at 155.89 percent *ad valorem*, Natong Dongchang and Baoding Mantong received lower rates: in September 2007, Nantong Dongchang received a 38.67 percent antidumping duty rate following an administrative review

²² *Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand)*, USITC Publication 3910, March 2007, p. 2; citing *Bratsk Aluminum Smelter v. United States*, 444 F.3d at 1375.

²³ In the silicon metal remand, Chairman Pearson noted “consistent with his views in *Lined Paper School Supplies From China, India, and Indonesia, Inv. Nos. 701-TA-442-443 and 731-TA-1095-1097 (Final)*, USITC Pub. 3884 (Sept. 2006) at 51, that while he agrees with the Commission that the Federal Circuit’s opinion suggests a replacement/benefit test, he also finds that the Federal Circuit’s opinion could be read, not as requiring a new test, but rather as a reminder that the Commission, before it makes an affirmative determination, must satisfy itself that it has not attributed material injury to factors other than subject imports.” *Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand)*, USITC Publication 3910, March 2007, p. 2, fn. 17. Commissioner Okun joined in those separate and dissenting views in *Lined Paper*.

²⁴ *Glycine from China, Inv. No. 731-TA-718 (Second Review)*, USITC Publication 3810, October 2005, pp. I-20 to I-21.

²⁵ Petitioner’s posthearing brief, responses to Commission’s questions, p. 38.

at Commerce;²⁶ and Baoding Mantong received a 2.95 percent antidumping duty rate following an amended administrative review at Commerce in 2005.²⁷ The increase in U.S. imports from China in 2005 relates to imports from ***, while the increase in U.S. imports from China in 2006 relates to imports from ***. Table VII-7 presents information on the quantity of U.S. imports from China, by exporting firm, between January 2004 and June 2007.

Table VII-7
Glycine: U.S. imports from China, by exporting firm, 2004-06, January-June 2006, and January-June 2007

* * * * *

Since preliminary duties have been put into place on most exporters in India, Japan, and Korea, three U.S. importers and one U.S. purchaser have expressed an interest in beginning to do business with Baoding in China. Specifically, U.S. purchaser, ***, queried Commission staff as to the current rate in effect on Baoding,²⁸ and three U.S. importers, ***, also requested information in relation to the antidumping duty rates in effect currently on Baoding.²⁹

Belgium

The Tessenderlo Group operates a glycine plant in Limburg, Belgium.³⁰ The 2005 annual report of the Tessenderlo Group states that it is the only European manufacturer of glycine.³¹ Tessenderlo has a capacity to produce *** of glycine and is currently operating at *** percent capacity utilization.³² Tessenderlo, ***,³³ Tessenderlo is the only known producer of glycine in Europe.³⁴ The quantity of U.S. imports from Belgium decreased from 1.2 million pounds in 2004 to 0.2 million pounds in 2005 and 0.4 million pounds in 2006 (*see* table IV-2). Tessenderlo attributes this decrease in its exports to the United States to ***.³⁵ Tessenderlo also claims that, in the case of antidumping duties on imports from India,

²⁶ *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809, October 17, 2007. Prior to October 2007 since 2001, Nantong Dongchang had been subject to a 18.60 percent antidumping duty rate. *Glycine From the Peoples Republic of China: Amended Final Results of New Shipper Administrative Review*, 66 FR 13284, March 5, 2001.

²⁷ *Glycine From the People's Republic of China: Notice of Amended Final Results of Antidumping Duty Administrative Review*, 70 FR 54012, September 13, 2005.

²⁸ E-mail from ***, October 29, 2007.

²⁹ E-mail from ***, November 6, 2007; Staff telephone interview with ***, November 2, 2007; and voicemail message from ***, October 30, 2007.

³⁰ Tessenderlo Group, "Locations," found at, http://www.tessenderlogroup.com/S02_Markets%20&%20Applications/S05_Fine%20Chemicals/S07_Locations/ retrieved on April 30, 2007.

³¹ Tessenderlo Group, "Annual Report 2005," p. 35, found at, http://www.tessenderlogroup.com/S01_Corporate/S04_Publications/S01_Annual%20reports/S02_Annual%20report%202005/content.asp# retrieved on April 30, 2007.

³² E-mail from ***, May 2, 2007.

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ *Ibid.*

Japan, and Korea in the United States, “***”.³⁶ Table VII-8 presents information on Tessenderlo’s operations relating to glycine.

Table VII-8

Glycine: Tessenderlo’s operations, 2004-06, January-June 2006, January-June 2007, and projected 2007-08

* * * * *

France and Germany

The following firms in France and Germany were also identified in proprietary Customs data as exporters of glycine during the period of investigation: ***,³⁷ ***,³⁸ ***,³⁹ and ***.⁴⁰ Based on a review of secondary source information, these firms do not appear to be actual producers of glycine. ***.

³⁶ Ibid.

³⁷ This is an organic chemicals company that makes perfume ingredients. It does not appear to be producing glycine, but it is possible that this firm may use glycine in its cosmetics. The company is owned by the cosmetics company ***.

³⁸ This firm appears to be a glass making plant that makes glass perfume and cosmetics bottles. Available information does not indicate that this firm produces glycine.

³⁹ This firm is a pharmaceuticals wholesaler. Available information does not indicate that this firm produces glycine. It is possible that this firm uses glycine as an inactive ingredient in their medicines.

⁴⁰ This company became part of ***. Available information does not indicate that this firm produces glycine. This firm does make some other amino acids, but not glycine.

APPENDIX A
FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-1111-1113 (Final)]

Glycine From India, Japan, and Korea

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation Nos. 731-TA-1111-1113 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from India, Japan, and Korea of glycine, provided for in statistical reporting number 2922.49.4020 of the Harmonized Tariff Schedule of the United States.¹

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

DATES: *Effective Date:* September 13, 2007.

FOR FURTHER INFORMATION CONTACT:

Russell Duncan (202-708-4727; russell.duncan@usitc.gov), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting

¹ For purposes of these investigations, the Department of Commerce has defined the subject merchandise as “* * * glycine, which in its solid (*i.e.*, crystallized) form is a free-flowing crystalline material. Glycine is used as a sweetener/taste enhancer, buffering agent, reabsorbable amino acid, chemical intermediate, metal complexing agent, dietary supplement, and is used in certain pharmaceuticals. The scope of each of these investigations covers glycine in any form and purity level. Although glycine blended with other materials is not covered by the scope of each of these investigations, glycine to which relatively small quantities of other materials have been added is covered by the scope. Glycine's chemical composition is C₂H₅NO₂ and is normally classified under subheading 2922.49.4020 of the Harmonized Tariff Schedule of the United States (HTSUS). The scope of each of these investigations also covers precursors of dried crystalline glycine, including, but not limited to, glycine slurry (*i.e.*, glycine in a non-crystallized form) and sodium glycinate. Glycine slurry is classified under the same HTSUS subheading as crystallized glycine (2922.49.4020) and sodium glycinate is classified under subheading HTSUS 2922.49.8000.”

the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background. The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that imports of glycine from Japan and Korea are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on March 30, 2007, by GEO Specialty Chemicals, Lafayette, IN.

Although the Department of Commerce has postponed its preliminary determination as to whether imports of glycine from India are being, or are likely to be sold, in the United States at less than fair value,² for purposes of efficiency the Commission is scheduling the final phase of that investigation so that it may proceed concurrently with the Commission's investigations concerning Japan and Korea.

Participation in the investigations and public service list. Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO)

² *Glycine from India: Postponement of Preliminary Determination of Antidumping Duty Investigation*, 72 FR 48257, August 23, 2007. Commerce is scheduled to make its preliminary determination by October 26, 2007.

and BPI service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report. The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on November 13, 2007, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing. The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Wednesday, November 28, 2007, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before November 20, 2007. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on November 21, 2007, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions. Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is Wednesday, November 20, 2007. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing

posthearing briefs is Wednesday, December 5, 2007; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before December 5, 2007. On December 19, 2007, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before December 21, 2007, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: September 25, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7-19182 Filed 9-27-07; 8:45 am]

BILLING CODE 7020-02-P

DATES: *Effective Dates:* November 7, 2007.

SUMMARY: We preliminarily determine that imports of glycine from India are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act).

Interested parties are invited to comment on this preliminary determination. We will make our final determination within 75 days after the date of this preliminary determination.

FOR FURTHER INFORMATION CONTACT: George Callen or Kristin Case, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0180 and (202) 482-3174, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 26, 2007, the Department of Commerce (the Department) published in the **Federal Register** the initiation of an antidumping investigation on glycine from India. See *Glycine from India, Japan, and the Republic of Korea: Initiation of Antidumping Duty Investigations*, 72 FR 20816 (April 26, 2007) (*Initiation Notice*). The Department set aside a period for all interested parties to raise issues regarding product coverage. See *Initiation Notice*, 72 FR at 20817. We did not receive comments regarding product coverage from any interested party.

On May 17, 2007, we issued the quantity-and-value (Q&V) questionnaire to all companies identified in the petition. In addition, we issued the Q&V questionnaire to companies in India for which we obtained public information indicating that the companies produced and/or exported glycine or pharmaceuticals. See the June 22, 2007, Memorandum to the File entitled "Issuance of Quantity and Value Questionnaires to Potential Indian Respondents." We received responses from seven companies. Based on an analysis of U.S. Customs and Border Protection (CBP) import statistics of Indian glycine under the Harmonized Tariff Schedule of the United States (HTSUS) number 2922.49.4020,

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-845]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Glycine From India

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

Advanced Exports/Aico Laboratories (AICO), Nutracare International/Salvi Chemical Industries (Salvi), and Paras Intermediates (Paras) account for more than 75 percent of imports. AICO and Paras responded to our Q&V questionnaire; Salvi did not respond. We selected AICO and Paras as mandatory respondents.

On May 25, 2007, the International Trade Commission (ITC) published its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of glycine from India. See *Glycine from India, Japan, and Korea*, 72 FR 29352 (May 25, 2007).

Period of Investigation

The period of investigation is January 1, 2006, through December 31, 2006.

Scope of Investigation

The merchandise covered by this investigation is glycine, which in its solid, *i.e.*, crystallized, form is a free-flowing crystalline material. Glycine is used as a sweetener/taste enhancer, buffering agent, reabsorbable amino acid, chemical intermediate, metal complexing agent, dietary supplement, and is used in certain pharmaceuticals. The scope of this investigation covers glycine in any form and purity level. Although glycine blended with other materials is not covered by the scope of this investigation, glycine to which relatively small quantities of other materials have been added is covered by the scope. Glycine's chemical composition is C₂H₅NO₂ and is normally classified under subheading 2922.49.4020 of the HTSUS.

The scope of this investigation also covers precursors of dried crystalline glycine, including, but not limited to, glycine slurry, *i.e.*, glycine in a non-crystallized form, and sodium glycinate. Glycine slurry is classified under the same HTSUS subheading as crystallized glycine (2922.49.4020) and sodium glycinate is classified under subheading HTSUS 2922.49.8000.

While HTSUS subheadings are provided for convenience and CBP purposes, our written description of the scope of this investigation is dispositive.

Issuance of Questionnaire

On June 26, 2007, we issued sections A, B, C, D, and E¹ of the antidumping

¹ Section A of the antidumping duty questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all of the company's home-

questionnaire to AICO and Paras. Although we received timely responses from Paras, we did not receive timely responses from AICO, as described in detail below, despite granting several extensions of the applicable deadlines.

Use of Facts Otherwise Available

For the reasons discussed below, we determine that the use of facts otherwise available with an adverse inference is appropriate for the preliminary determination with respect to Salvi and AICO.

A. Use of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information and in the form or manner requested, subject to sections 782(c)(1) and (e) of the Act, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in section 782(i) of the Act, the administering authority shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Act provides that, if the administering authority determines that a response to a request for information does not comply with the request, the administering authority shall promptly inform the responding party and provide an opportunity to remedy the deficient submission. Section 782(e) of the Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Salvi—Salvi did not respond to our Q&V questionnaire and, therefore, did not provide any information necessary to calculate an antidumping margin for the preliminary determination. On June 1, 2007, we sent Salvi a follow-up letter

market sales of the foreign like product or, if the home market is not viable, of sales of the foreign like product in the most appropriate third-country market. Section C requests a complete listing of the company's U.S. sales of subject merchandise. Section D requests information about the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E requests information on further-manufacturing activities.

informing it that failure to respond might result in the application of facts available, including an adverse inference, in accordance with section 776 of the Act and pursuant to 19 CFR 351.308. Salvi still did not respond to our Q&V questionnaire and, thus, withheld requested information and significantly impeded this proceeding. Pursuant to section 776(a) of the Act, in reaching our preliminary determination, we have used total facts available for Salvi because it did not provide the data we needed to decide whether it should be selected as a mandatory respondent.

AICO—In this case, AICO did not provide pertinent information we requested that is necessary to calculate an antidumping margin for the preliminary determination. The following is a summary of our attempts to receive a complete response from AICO. On April 19, 2007, we initiated the less-than-fair value (LTFV) investigation of glycine from India. In that initiation, we also initiated an investigation of sales at prices below the cost of production in the comparison market. The statutory date of the preliminary determination at this time was September 6, 2007. On June 26, 2007, we issued our standard questionnaire. The section A response was due on July 16, 2007, 21 days from the issuance of the questionnaire, and the section B, C, and D responses were due on August 2, 2007, 39 days from the issuance of the questionnaire.

On July 10, 2007, AICO requested an extension of 45–60 days to submit its section A response. We granted AICO an additional 14 days, and the revised due date for its section A response was July 30, 2007. Four days after the extended deadline for its section A response and one day after the due date for AICO's sections B, C, and D responses, on August 3, 2007, we received from AICO an incomplete, two-page section A response and a request for a "4–5 week" extension of the deadline to submit section B, C, and D responses. We granted AICO a two-week extension until August 16, 2007, for its sections B, C, and D responses and also requested that it file a complete section A response at the same time it submitted its section B, C, and D responses.

On August 16, 2007, we received AICO's revised section A response and a request from AICO for a one-month extension for the submission of its section B, C, and D responses. We gave AICO a two-week extension for its section B, C, and D responses until August 30, 2007. On September 5, 2007, six days after the deadline, we received AICO's section B and C responses and a request for a two-week extension for

its submission of its section D response, *i.e.*, until September 15, 2007.

On September 14, 2007, we informed AICO that, despite the fact that we had given it several extensions and a total of 66 days to respond to our original questionnaire, we had received AICO's section B and C responses six days after the due date. We also informed it that we had received its request for an additional extension of time to respond to section D of our questionnaire six days after the already-extended due date for the section D response. We declined to give AICO any further extensions and returned its sections B and C responses as untimely.

AICO did not file its sections B and C responses in a timely matter despite having been granted multiple extensions of time. Therefore, AICO failed to provide information requested by the established deadlines. See section 776(a)(2)(B) of the Act. Also, AICO did not respond at all to section D of our questionnaire, thereby withholding, among other things, cost-of-production information that is necessary for reaching the applicable determination. See section 776(a)(2)(A) of the Act. In granting extensions, we informed AICO repeatedly that, if we did not receive submissions by the stated deadline, we may reject the submission and use facts available in the preliminary determination.

By not providing its submissions by the applicable deadlines, AICO did not provide information we need to calculate an antidumping margin for the preliminary determination. Thus, in reaching our preliminary determination, pursuant to sections 776(a)(2)(A) and (B) of the Act, we have based the dumping margin on facts otherwise available for AICO.

B. Application of Adverse Inferences for Facts Available

In applying the facts otherwise available, section 776(b) of the Act provides that, if the administering authority finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority, in reaching the applicable determination under this title, the administering authority may use an inference adverse to the interests of that party in selecting from among the facts otherwise available.

Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No.

103-316, vol. 1 (1994) at 870 (SAA). Further, "affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference." See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27340 (May 19, 1997). Pursuant to section 782(d) of the Act, the Department provided Salvi and AICO with notice informing them of the consequences of their failure to respond adequately to the Department's request for information. Nevertheless, Salvi did not respond to the Q&V questionnaire and AICO did not respond adequately, completely, or in a timely manner to the standard questionnaire. This constitutes a failure on the part of Salvi and AICO to cooperate to the best of their ability to comply with requests for information by the Department within the meaning of section 776(b) of the Act. Because Salvi and AICO did not provide information we requested, section 782(e) of the Act is not applicable. Based on the above, the Department has preliminarily determined that Salvi and AICO failed to cooperate to the best of their ability and, therefore, in selecting from among the facts otherwise available, an adverse inference is warranted. See, *e.g.*, *Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000).

C. Selection and Corroboration of Information Used as Facts Available

Where the Department applies adverse facts available because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. See also 19 CFR 351.308(c) and the SAA at 870. In this case, because we are unable to calculate a margin for Salvi and AICO and because an adverse inference is warranted, we have assigned to Salvi and AICO a margin of 121.62 percent, the highest margin alleged in the petition. See *Petition for the Imposition of Antidumping Duties on Imports of Glycine from India, Japan, and the Republic of Korea* dated March 30, 2007 (*Petition*), and the supplements to the *Petition* filed on behalf of Geo Specialty Chemicals, Inc. (the petitioner), and dated April 3, 12, 13, 17, and 18, 2007, as recalculated in the April 19, 2007, "Office of AD/CVD Operations Initiation Checklist for the Antidumping Duty Petition on Glycine from the India

"(*Initiation Checklist*) on file in Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

When using facts otherwise available, section 776(c) of the Act provides that, when the Department relies on secondary information (such as information contained in the petition) rather than on information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably available at its disposal.

The SAA clarifies that "corroborate" means the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. As stated in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997)), to corroborate secondary information, the Department will examine, to the extent practicable, the reliability and relevance of the information used. The Department's regulations state that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. See 19 CFR 351.308(d) and the SAA at 870.

For the purposes of this investigation, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the *Petition* during our pre-initiation analysis and for purposes of this preliminary determination. See *Initiation Checklist*. We examined evidence supporting the calculations in the *Petition* to determine the probative value of the margins alleged in the *Petition* for use as adverse facts available for purposes of this preliminary determination. During our pre-initiation analysis, we examined the key elements of the export-price and

normal-value calculations used in the *Petition* to derive margins. Also, during our pre-initiation analysis, we examined information from various independent sources provided either in the *Petition* or, based on our requests, in supplements to the *Petition*, that corroborates key elements of the export-price and normal-value calculations used in the *Petition* to derive estimated margins.

The petitioner calculated export prices using lost sales reports from sales staff. See the *Petition* at 27–29. The Petitioner adjusted U.S. prices for foreign inland freight, international freight, U.S. inland freight, distributor mark-up, and credit charges using publicly available data. See *Petition* at Exhibits 1–4 and 6. The petitioner arrived at adjusted, per pound, U.S. dollar figures per pound for technical grade glycine, food grade glycine, and pharmaceutical grade glycine, the same unit and currency on which normal value was calculated. See Volume I of the *Petition* at pages 27–29, Volume II of the *Petition* at DOC Exhibits 1–7, the April 12, 2007, supplement to the *Petition*, at Exhibit A, and the April 13, 2007, supplement to the *Petition*, at Exhibit L.

Based on our review of the information contained in the *Petition*, we recalculated net export prices (based on price quotes) by excluding an adjustment to export price for U.S. credit expenses. Because the petitioner did not provide supporting documentation for its home-market interest rate, we did not make an adjustment to normal value for home-market credit expenses. We also recalculated the net export prices based on price quotes by revising the reported value associated with a distributor's mark-up. See Volume II of the *Petition*, at Exhibits DOC–1, DOC–27 through DOC–29, and the April 13, 2007, supplement to the *Petition*, at Exhibits L, M, and N. In addition, we recalculated the distributor's mark-up value using a reseller's average mark-up percentage based on the industry practice of glycine sales in the United States. See *Initiation Checklist*, Attachment VI. Based on our examination of the aforementioned information, we consider the petitioner's calculation of net U.S. prices corroborated.

With respect to normal value, the petitioner stated that, because it does not sell glycine in the Indian market, it does not have specific knowledge of how glycine is sold, marketed, or packaged in the Indian market. Therefore, the petitioner determined the price of glycine sold in the Indian

market and the cost of production (COP) based on market research of Indian manufactures of glycine. The petitioner was able to determine domestic Indian prices based on price quotes, obtained by a market researcher, from two Indian manufacturers of glycine. See the Memorandum to the File entitled "Telephone Call to Market Research Firm Regarding the Antidumping Petition on Glycine from India," dated April 19, 2007. These price quotations identified specific terms of sale and payment terms. See Volume II of the *Petition*, at Exhibits DOC–17, DOC–18, DOC–22, and DOC–23. These per pound price quotes were for technical grade glycine, USP grade glycine (food grade), and pharmaceutical grade glycine.

Based on our review of the information contained in the *Petition*, we recalculated normal value for Indian glycine (when based on price quotations) by excluding the adjustment for home-market and U.S. credit expenses. See *Initiation Checklist*.

Based on the petitioner's initial cost model, all of the domestic Indian prices of glycine were found to be above cost, and, therefore, there was no allegation of sales at prices below COP. See, e.g., Volume I of the *Petition*, at page 33, Volume II of the *Petition*, at Exhibits DOC–17—DOC–20, and the April 13, 2007, supplement to the *Petition*, at pages 2–3 and Exhibits B, F, and I, and the discussion of export price above. In its April 13, 2007, supplement to the *Petition*, in response to questions by the Department regarding cost methodology, however, the petitioner revised its cost-calculation methodology and calculated Indian COP based on publicly available cost information. Based on the new cost methodology, the petitioner recalculated the cost of USP grade glycine and this resulted in the Indian market prices of USP grade glycine being significantly below the COP for that specific product. The petitioner alleged that these sales in the Indian market did not form an adequate basis for comparison to the U.S. prices and that normal value in those instances should be based on the constructed value of the merchandise. See the April 13, 2007, supplement to the *Petition*, at 5 and Exhibit I, and Volume II of the *Petition*, at Exhibits DOC–17 and DOC–18.

Further, because this methodology provided information demonstrating reasonable grounds to believe or suspect that sales of glycine in India were made at prices below the fully absorbed COP within the meaning of section 773(b) of the Act, the petitioner requested that the Department conduct a cost investigation for respondents in India. See the April 13, 2007, supplement to the *Petition*, at

5, Exhibit I, and Volume II of the *Petition* at Exhibits DOC–17 and DOC–18.

Further, section 773(b)(1) of the Act requires that the Department have "reasonable grounds to believe or suspect" that below-cost sales have occurred before initiating such an investigation. Reasonable grounds exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices. See section 773(b)(2)(A) of the Act.

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM), selling, general, and administrative (SG&A) expenses, and packing expenses. To calculate the COM, the petitioner multiplied the usage quantity of each input needed to produce one metric ton (MT) of glycine by the value of that input. The petitioner obtained all of the quantity and value data it used to calculate the COM from public sources. The petitioner obtained the input-usage factors from the public record of the 1997–1998 administrative review of glycine from the People's Republic of China (PRC). See *Initiation Notice*, 72 FR 20819. The petitioner asserted that the producer in the PRC 1997–1998 review produced glycine by the same production method that producers in India use. The petitioner obtained the values for the inputs from various public sources. The petitioner calculated factory overhead, SG&A, and the financial-expense ratios based on the Indian surrogate ratios that the Department used in the preliminary results of the 2005–2006 administrative review of the antidumping duty order on glycine from the PRC. Where the Department used constructed value to determine normal value in that review, the petitioner added an amount for profit from the same financial statements the Department used.

We adjusted petitioner's calculation of SG&A expenses to apply the SG&A rate to COM inclusive of factory overhead. We did not include a separate financial-expense amount as the petitioner did because the SG&A ratio already included financial expense. See the *Initiation Checklist* for a full description of the petitioner's methodology and the adjustments the Department made to the petitioner's calculations.

Because it alleged sales below cost, pursuant to sections 773(a)(4), (b) and (e) of the Act, the petitioner also based normal value for Indian sales of a certain grade glycine on constructed

value. The petitioner calculated constructed value using the same COM, SG&A, and financial-expense figures it used to compute the COP. Consistent with section 773(e)(2) of the Act, the petitioner included an amount for profit in constructed value. See the April 13, 2007, supplement to the *Petition*, pages 1–5, Exhibit I.

The petitioner obtained the values for the inputs from various public sources. Specifically, the petitioner valued raw materials using import statistics in the World Trade Atlas for the year 2006, exclusive of imports from non-market and heavily subsidized economies, which is the latest Indian import data available. See *Initiation Checklist* at 9. The petitioner valued labor costs using the average per-hour wages for India for 2004 using the International Labour Organization's Yearbook of Labour Statistics and per-capita gross national income obtained from the World Bank. The petitioner did not adjust the labor data for wage inflation. See *Initiation Checklist* at 10. The petitioner valued electricity and water consumption using data from page 43 of the Key World Energy Statistics 2003, published by the International Energy Agency, which were attached to the 2005–2006 *Preliminary Results of Antidumping Duty Administrative Review and Preliminary Rescission of Glycine from the People's Republic of China, Surrogate Value Memo*, at Exhibit 6, dated April 2, 2007. The petitioner did not adjust the electricity data for inflation. See *Initiation Checklist* at 10.

Because the petitioner demonstrated, and we confirmed, the validity of the input-usage quantities it used in its COP/constructed-value build-up, used public sources of information, such as official import statistics, that we confirmed were accurate to value inputs of production, and used documents that were used in the Department's prior decisions and that we consider to be accurate to compute factory overhead, SG&A, financial expense, and profit, we consider the petitioner's calculation of normal value corroborated. Further, we consider the petitioner's calculation of normal value corroborated because the bulk of the calculations relied on publicly available information or import statistics which do not require further corroboration. Therefore, because we confirmed the accuracy and validity of the information underlying the derivation of margins in the *Petition* by examining source documents as well as publically available information, we preliminarily determine that the margins in the *Petition* are reliable for the purposes of this investigation.

In making a determination as to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin as "best information available" (the predecessor to "facts available") because the margin was based on another company's uncharacteristic business expense that resulted in an unusually high dumping margin.

In *Am. Silicon Techs. v. United States*, 273 F. Supp. 2d 1342, 1346 (CIT 2003), the court found that the adverse facts-available rate bore a "rational relationship" to the respondent's "commercial practices" and was, therefore, relevant. In the pre-initiation stage of this investigation, we confirmed that the calculation of margins in the *Petition* reflects commercial practices of the particular industry during the period of investigation. Further, no information has been presented in the investigation that calls into question the relevance of this information. As such, we preliminarily determine that the highest margin in the *Petition*, which we determined during our pre-initiation analysis was based on adequate and accurate information and which we have corroborated for purposes of this preliminary determination, is relevant as the adverse facts-available rate for Salvi and AICO in this investigation.

Similar to our position in *Polyethylene Retail Carrier Bags from Thailand: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53405 (September 11, 2006) (unchanged in *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review*, 72 FR 1982 (January 17, 2007)), because this is the first proceeding involving Salvi and AICO, there are no probative alternatives. Accordingly, by using information that was corroborated in the pre-initiation stage of this investigation and preliminarily determined to be relevant to Salvi and AICO in this investigation, we have corroborated the adverse facts-available rate "to the extent practicable." See section 776(c) of the Act, 19 CFR 351.308(d), and *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1336 (CIT 2004), which states,

"pursuant to the 'to the extent practicable' language * * * the corroboration requirement itself is not mandatory when not feasible." Therefore, we find that the estimated margin of 121.62 percent in the *Initiation Notice* has probative value. Consequently, in selecting a rate to apply as adverse facts available, with respect to Salvi and AICO, we have applied the margin rate of 121.62 percent, the highest estimated dumping margin set forth in the notice of initiation. See *Initiation Notice*, 72 FR 20820.

Fair-Value Comparison

Paras was the sole selected respondent which provided timely responses to all sections of our questionnaire and supplemental questionnaires. We have calculated a margin for Paras using the information and methodology we describe below.

Comparison-Market Sales

In order to determine whether there was a sufficient volume of sales of glycine in the comparison market to serve as a viable basis for calculating the normal value, we compared the volume of Paras's home-market sales of the foreign like product to its volume of the U.S. sales of the subject merchandise in accordance with section 773(a)(1) of the Act. Paras's quantity of sales in the home market was greater than five percent of its sales to the U.S. market. Based on this comparison of the aggregate quantities of the sales in comparison market (India) and the United States and absent any information that a particular market situation in the exporting country did not permit a proper comparison, we determined that the quantity of the foreign like product sold by the respondent in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a)(1) of the Act. Thus, we determined that Paras's home market was viable during the period of investigation. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based normal value for the respondent on the prices at which the foreign like product was first sold for consumption in the exporting country in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the U.S. sales.

Export Price

We calculated export price in accordance with section 772(a) of the Act because Paras sold the merchandise

to unaffiliated purchasers in the United States prior to importation. We based export price on the packed, delivered, duty-unpaid price to the unaffiliated purchasers in the United States. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. We added duty drawback to the gross unit price. See section 772(c)(1)(B) of the Act.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products covered by the scope of the order which were produced and sold by Paras in the home market during the period of investigation to be foreign like products for the purpose of determining appropriate product comparisons to glycine sold in the United States. We compared U.S. sales to sales made in the comparison market during the period of investigation.

We found there were sales of identical merchandise in the comparison market made in the ordinary course of trade to compare to Paras's U.S. sales. In making product comparisons, we defined identical foreign like products based on the physical characteristics reported by Paras in the following order of importance: type, grade, specification, and nominal grade. For more information, see "Analysis Memorandum of Paras Intermediates, Pvt. Ltd., for the Preliminary Determination of the Less-Than-Fair-Value Investigation on Glycine from India" dated October 26, 2007 (*Prelim Memo*).

Cost of Production

Based on allegations contained in the petition and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that glycine sales were made in India at prices below the COP. See *Initiation Notice*, 72 FR at 20818. As a result, the Department has conducted an investigation to determine whether Paras made home-market sales at prices below its COP during the period of investigation within the meaning of section 773(b) of the Act. For Paras, we conducted the COP analysis as described below. We were unable to conduct a cost investigation of Salve and AICO because of their failure to respond to our questionnaire in a timely manner.

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the costs of materials and labor employed in producing the foreign like product, the SG&A expenses, and all costs and expenses incidental to

packing the merchandise. In our COP analysis, we used the home-market sales and COP information Paras provided in its questionnaire responses, including its home-market and COP databases. The Department issued a detailed supplemental section D questionnaire on October 9, 2007, to Paras to address various questions and fundamental issues, including transactions with affiliated parties and further processing of imported materials, after reviewing the original section D response dated August 27, 2007. The due date for the response to the supplemental questionnaire is October 30, 2007, which is later than the statutory deadline for this preliminary determination. Upon receipt of a response from Paras, we will analyze these issues, provide a memorandum discussing the results of our analysis to the respondents and the petitioner, and allow the parties to comment prior to the final determination.

After calculating the COP and in accordance with section 773(b)(1) of the Act, we tested home-market sales of the foreign like product to determine whether they were made at prices below the COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. The home-market prices were exclusive of any applicable movement charges, billing adjustments, discounts, and indirect selling expenses. Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of Paras's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in substantial quantities within an extended period of time. Where 20 percent or more of Paras's sales of a given product were at prices less than the COP, we disregarded the below-cost sales of that product because we determined that the below-cost sales were made in substantial quantities within an extended period of time, pursuant to sections 773(b)(2)(B) and (C) of the Act and because, based on comparisons of prices to weighted-average COPs for the period of investigation, we determined that these below-cost sales were made at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. See *Prelim Memo*.

Consequently, we disregarded Paras's below-cost sales of products where 20 percent or more of the product were at prices less than the COP and used the remaining sales as the basis for

determining normal value, in accordance with section 773(b)(1) of the Act.

Normal Value

We based normal value for Paras on the prices of the foreign like products sold to its comparison-market customers. When applicable, we made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. In addition, we made adjustments for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. For comparisons to export price, we made circumstance-of-sale adjustments by deducting home-market direct selling expenses incurred on home-market sales from, and adding U.S. direct selling expenses to, normal value.

Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determined normal value based on sales in the home market at the same level of trade as the export-price sales. Pursuant to 19 CFR 351.412(c)(1), the normal-value level of trade is based on the starting price of the sales in the home market or, when normal value is based on constructed value, the starting price of the sales from which we derive SG&A expenses and profit. For export-price sales, the U.S. level of trade is based on the starting price of the sales to the U.S. market.

To determine whether normal-value sales are at a different level of trade than the export-price sales, the Department examines stages in the marketing process and selling functions along the chain of distribution between the producer and the customer. If the comparison-market sales are at a different level of trade than the export-price sales and the difference affects price comparability, as manifested by a pattern of consistent price differences between comparison-market sales at the normal-value level of trade and comparison-market sales at the level of trade of the export transaction, the Department makes a level-of-trade adjustment under section 773(a)(7)(A) of the Act. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732 (November 19, 1997).

In determining whether Paras made sales at different levels of trade, we obtained information from Paras regarding the marketing stages for the reported U.S. and home-market sales,

including a description of the selling activities it performed for each channel of distribution. Generally, if the reported levels of trade are the same, the selling functions and activities of the seller at each level of distribution should be similar. Conversely, if a party reports that levels of trade are different for different groups of sales, the selling functions and activities of the seller for each distribution group should be dissimilar.

Export-Price Sales

Sales Process and Marketing Support

Paras reported export-price sales to the United States through two channels of distribution, end-users and traders. We examined the chain of distribution and the selling activities associated with sales reported by Paras to these two channels of distribution in the United States. Based on Paras's response, we determined that it provided relatively equal levels of support for most sales-process and marketing-support functions. These functions include, among other functions, sales forecasting, advertising, and sales promotion. It provided less training for end-users than it did for traders and slightly less inventory maintenance for end-users.

Paras did not report any billing adjustments, early-payment discounts, quantity discounts, or rebates for its sales to the United States. Based on the limited information we received from Paras, we determine that the degree of sales process and marketing support provided is medium.

Freight and Delivery

Paras provided less freight and delivery for end-users. For traders, Paras may ship, at the trader's request, the order directly to the trader's customers. We determine that the degree of freight and delivery services provided is higher for traders than for end-users.

Warehousing

Paras reported that none of the subject merchandise sold in United States during the period of investigation was shipped to a warehouse or other intermediate location to either channel of distribution.

We found that both distribution channels for sales to the U.S. market were similar with respect to sales process and marketing support but different with respect to freight services. Consequently we find that these channels constituted two distinct levels of trade.

Home-Market Sales

Sales Process and Marketing Support

Paras reported home-market sales during the period of investigation through two channels of distribution, end-users and traders. We examined the chain of distribution and the selling activities associated with sales reported by Paras to these two channels of distribution in the home market. Based on Paras's response, we determine that it provided relatively equal levels of support for most sales-process and marketing-support functions. These functions include, among other functions, sales forecasting, advertising, and sales promotion. It provided less training for end-users than it did for traders, however, as well as less technical assistance and market research for end-users than traders. With respect to inventory maintenance, Paras provided slightly less inventory maintenance for end-users.

Based on the limited information we received from Paras, we determine that the degree of sales process and marketing support provided is medium although it is slightly higher for traders.

Freight and Delivery

Paras provided less freight and delivery for end-users. For traders, Paras may ship, at the trader's request, the order directly to the trader's customers. We determine that the degree of freight and delivery services provided is higher for traders than for end-users.

Warehousing

Paras reported that none of the subject merchandise sold in the home market during the period of investigation was shipped to a warehouse or other intermediate location.

We found that both distribution channels in the home market were similar with respect to sales process and warehousing services but different with respect to freight services. Therefore, we find that these two channels constitute two distinct levels of trade.

Paras reported export-price sales through two channels of distribution. To the extent practicable, we compare normal value at the same level of trade as the U.S. price. The export-price level of trade for end-users is similar to the home-market level of trade for end-users with respect to sales process, freight services, and warehousing services. The export-price level of trade for traders differed from end-users with respect to freight and delivery and warehousing but was similar to the level of trade for home-market traders. We were able to

match all export-price sales to identical sales in the home-market but not always at the same level of trade. For those comparison-market sales for which we matched export-price sales at a different level of trade, we found that there was a pattern of price difference and we made a level-of-trade adjustment.

All-Others Rate

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-averaged dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated. In this case, the only individually investigated companies have margins which are zero or determined entirely under section 776. Under these circumstances, we have assigned, as the all-others rate, the simple average of the margins in the *Petition*. See *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Japan and Thailand*, 65 FR 5520, 5527–28 (February 4, 2000); see also *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Canada*, 64 FR 15457 (March 31, 1999). Consistent with our practice, we calculated a simple average of the rates in the *Petition*, as recalculated in the *Initiation Checklist* at Attachment VI and ranged in the *Initiation Notice*, and assigned this rate to all other manufacturers/exporters. See *Initiation Notice*, 72 FR at 20820. For details of these calculations, see the memorandum from George Callen to the File entitled "Antidumping Duty Investigation on Glycine from India—Analysis Memo for All-Others Rate," dated October 26, 2007.

Currency Conversion

Pursuant to section 773A(a) of the Act, we converted amounts expressed in foreign currencies into U.S. dollar amounts based on the exchange rates in effect on the date of the U.S. sale, as reported by the Federal Reserve Bank.

Preliminary Determination

We preliminarily determine that the following weighted-average dumping margins exist for the period January 1, 2006, through December 31, 2006:

Manufacturer/Exporter	Weighted-average margin (percent)
Paras Intermediates Ltd	0.00
Nutracare International/Salvi Chemical Industries	121.62
Advanced Exports/Aico Laboratories	121.62
All Others	45.82

Suspension of Liquidation

In accordance with section 733(d) of the Act, we will instruct CBP to suspend liquidation of all entries of glycine from India that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margin, as indicated in the chart above, as follows: (1) The rates for the mandatory respondents except Paras (see below) will be the rates we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 45.82 percent. These suspension-of-liquidation instructions will remain in effect until further notice.

In accordance with 19 CFR 351.204(e)(2), because the weighted-average margin for Paras is zero, we will not instruct CBP to suspend liquidation of merchandise produced and exported by Paras.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary determination of sales at less than fair value. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threatening material injury to, the U.S. industry. The deadline for the ITC's determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the final verification report in this proceeding. Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline for the submission of case

briefs. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide us with a copy of the public version of such briefs on diskette. Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing normally will be held two days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. We will make our final determination within 75 days after the date of this preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: October 26, 2007.

David M. Spooner,
Assistant Secretary for Import Administration.

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Avenue, NW., Washington, DC 20230; telephone: (202) 482-0180 and (202) 482-4477, respectively.

SUPPLEMENTARY INFORMATION:

Background

We initiated an antidumping investigation on glycine from India. See *Glycine from India, Japan, and the Republic of Korea: Initiation of Antidumping Duty Investigations*, 72 FR 20816 (April 26, 2007). On October 26, 2007, we issued our preliminary determination of sales at less than fair value (not yet published). We stated in our October 26, 2007, preliminary determination that we used total facts available, including an adverse inference, for one firm, Nutracare International/Salvi Chemical Industries (Salvi), which did not respond to our quantity and value (Q&V) questionnaire and, therefore, withheld requested information and significantly impeded this proceeding pursuant to section 776(a) of the Act. We stated further that, because it did not cooperate by not acting to the best of its ability, in reaching our preliminary determination we applied total adverse facts available to Salvi pursuant to section 776(b) of the Act.

There were nine firms in addition to Salvi which did not respond to our Q&V questionnaire and, to clarify our inadvertent error of omission of these firms, we are amending our preliminary determination. The firms which failed to respond to our request for information and for which we are applying adverse facts available in accordance with sections 776(a) and 776(b) of the Act are as follows: Abhiyan Media Pvt. Ltd., Ashok Alco-Chem, Ltd., Bimal Pharma, Pvt., Ltd., Euro Asian Industrial Co., EPIC Enzymes Pharmaceuticals & Industrial, Indian Chemical Industries, Kumar Industries, Sisco Research Laboratories Pvt. Ltd, and Sealink International, Inc.

Amended Preliminary Determination

We preliminarily determine that the following weighted-average dumping margins exist for the period January 1, 2006, through December 31, 2006:

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-845]

Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Glycine From India

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

DATES: *Effective Date:* November 7, 2007.

SUMMARY: The purpose of this amended preliminary determination is to clarify an inadvertent error in the preliminary determination we issued on October 26, 2007, that imports of glycine from India are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act).

FOR FURTHER INFORMATION CONTACT: George Callen or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution

Manufacturer/exporter	Weighted-average margin (percent)
Paras Intermediates Ltd.	0.00
Abhiyan Media Pvt. Ltd.	121.62
Advanced Exports/Aico Laboratories	121.62
Ashok Alco-Chem, Ltd.	121.62
Bimal Pharma, Pvt., Ltd.	121.62
Euro Asian Industrial Co.	121.62
EPIC Enzymes Pharmaceuticals & Industrial	121.62
Indian Chemical Industries	121.62
Kumar Industries	121.62

Manufacturer/exporter	Weighted-average margin (percent)
Nutracare International/Salvi Chemical Industries	121.62
Sisco Research Laboratories Pvt. Ltd.	121.62
Sealink International, Inc.	121.62
All Others	45.82

Suspension of Liquidation

In accordance with section 733(d) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of glycine from India that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margin, as indicated in the chart above, as follows: (1) The rates for the mandatory respondents except Paras will be the rates we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 45.82 percent. These suspension-of-liquidation instructions will remain in effect until further notice.

In accordance with 19 CFR 351.204(e)(2), because the weighted-average margin for Paras is zero, we will not instruct CBP to suspend liquidation of merchandise produced and exported by Paras.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our amended preliminary determination of sales at less than fair value. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threatening material injury to, the U.S. industry. The deadline for the ITC's determination would be the later of 120 days after the date of the preliminary determination or 45 days after the date of our final determination.

Public Comment

Interested parties are invited to comment on the amended preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the final verification report in this proceeding. Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the

deadline for the submission of case briefs. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide us with a copy of the public version of such briefs on diskette.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing normally will be held two days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. We will make our final determination within 75 days after the date of the preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: November 1, 2007.

David M. Spooner,
Assistant Secretary for Import Administration.

[FR Doc. E7-21872 Filed 11-6-07; 8:45 am]

BILLING CODE 3510-DS-P

in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final weighted-average dumping margins are listed below in the section entitled "Final Determination of Investigation." In addition, the Department of Commerce has determined that critical circumstances exist with respect to imports of glycine from Japan.

FOR FURTHER INFORMATION CONTACT:

Dmitry Vladimirov or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0665 or (202) 482-4477, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 13, 2007, the Department of Commerce (the Department) published the preliminary determination of sales at less than fair value (LTFV) in the antidumping investigation of glycine from Japan. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Glycine from Japan*, 72 FR 52349 (September 13, 2007) (*Preliminary Determination*). We invited parties to comment on *Preliminary Determination*. We did not receive any case or rebuttal briefs from any interested parties. On October 25, 2007, the petitioner in this investigation, Geo Specialty Chemicals, Inc., submitted an allegation of critical circumstances with respect to imports of glycine from Japan.

Period of Investigation

The period of investigation is January 1, 2006, through December 31, 2006.

Scope of Investigation

The merchandise covered by this investigation is glycine, which in its solid (i.e., crystallized) form is a free-flowing crystalline material. Glycine is used as a sweetener/taste enhancer, buffering agent, reabsorbable amino acid, chemical intermediate, metal complexing agent, dietary supplement, and is used in certain pharmaceuticals. The scope of this investigation covers glycine in any form and purity level. Although glycine blended with other materials is not covered by the scope of this investigation, glycine to which relatively small quantities of other materials have been added is covered by the scope. Glycine's chemical composition is C₂H₅NO₂ and is normally classified under subheading

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-868]

Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Glycine from Japan

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

EFFECTIVE DATE: November 28, 2007.

SUMMARY: The Department of Commerce determines that imports of glycine from Japan are being, or are likely to be, sold

2922.49.4020 of the Harmonized Tariff Schedule of the United States (HTSUS).

The scope of this investigation also covers precursors of dried crystalline glycine including, but not limited to, glycine slurry (*i.e.*, glycine in a non-crystallized form) and sodium glycinate. Glycine slurry is classified under the same HTSUS subheading as crystallized glycine (2922.49.4020) and sodium glycinate is classified under subheading HTSUS 2922.49.8000.

While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Adverse Facts Available

For the final determination, we continue to find that, by failing to provide information we requested, Nu-Scaan Nutraceuticals Ltd. (Nu-Scaan) and Yuki Gosei Co., Ltd. (Yuki Gosei), the mandatory respondents in this investigation, along with other producers and/or exporters of glycine from Japan (Showa Denko K.K., Hayashi Pure Chemical Industries Co. Ltd., CBC Co., Ltd., Seino Logix Co. Ltd., Estee Lauder Group Companies K.K., and Chelest Corporation) did not act to the best of their ability. Thus, the Department continues to find that the use of adverse facts available is warranted for these companies under sections 776(a)(2) and (b) of the Act. See *Preliminary Determination*, 72 FR at 52350.

As we explained in *Preliminary Determination*, the rate of 280.57 percent we selected as the adverse facts-available rate is the highest margin alleged in the petition, as recalculated in the April 19, 2007, "Office of AD/CVD Operations Initiation Checklist for the Antidumping Duty Petition on Glycine from Japan" (the Initiation Checklist) on file in Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. See also *Petition for the Imposition of Antidumping Duties on Imports of Glycine from India, Japan, and the Republic of Korea* filed on March 30, 2007 (the Petition), and the April 3, 12, 13, 17, and 18, 2007, supplements to the Petition filed on behalf of Geo Specialty Chemicals, Inc. We included the range of margins we re-calculated in the Initiation Checklist in *Glycine from India, Japan, and the Republic of Korea: Initiation of Antidumping Duty Investigations*, 72 FR 20816 (April 26, 2007) (*Initiation Notice*). Further, as discussed in *Preliminary Determination*, we corroborated the adverse facts-

available rate pursuant to section 776(c) of the Act.

All-Others Rate

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-averaged dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated. Our recent practice under these circumstances has been to assign, as the all-others rate, the simple average of the margins in the petition. See *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Japan and Thailand*, 65 FR 5520, 5527-28 (February 4, 2000); see also *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Canada*, 64 FR 15457 (March 31, 1999), and *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Italy*, 64 FR 15458, 15459 (March 31, 1999). Consistent with our practice we calculated a simple average of the rates in the Petition, as recalculated in the Initiation Checklist at Attachment VI and as listed in *Initiation Notice*, and assigned this rate to all other manufacturers/exporters. For details of these calculations, see the memorandum from Dmitry Vladimirov to the File entitled "Antidumping Duty Investigation on Glycine from Japan - Analysis Memo for All-Others Rate," dated September 6, 2007.

Final Determination of Investigation

We determine that the following weighted-average dumping margins exist for the period January 1, 2006, through December 31, 2006:

Manufacturer or Exporter	Margin (percent)
Nu-Scaan Nutraceuticals Co., Ltd.	280.57
Yuki Gosei Co., Ltd.	280.57
Showa Denko K.K.	280.57
Hayashi Pure Chemical Industries Co., Ltd.	280.57
CBC Co., Ltd.	280.57
Seino Logix Co., Ltd.	280.57
Estee Lauder Group Companies K.K.	280.57
Chelest Corporation	280.57
All-Others	165.34

Final Critical-Circumstances Determination

On October 25, 2007, the petitioner in this investigation, Geo Specialty Chemicals, Inc., alleged that there is a reasonable basis to find that critical circumstances exist with respect to imports of glycine from Japan. In accordance with 19 CFR 351.206(e), because the petitioner submitted an allegation of critical circumstances at least 21 days before the scheduled date of the final determination, the Department must make a final finding on critical circumstances not later than the date of the final determination, pursuant to section 735(a)(3) of the Act.

Section 735(a)(3) of the Act provides that the Department will determine that critical circumstances exist if the following criteria are met: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales and (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been "massive," the Department normally will examine (i) the volume and value of the imports, (ii) seasonal trends, and (iii) the share of domestic consumption accounted for by the imports. In addition, 19 CFR 351.206(h)(2) provides that an increase in imports of 15 percent during the "relatively short period" of time may be considered "massive."

Section 351.206(i) of the regulations defines "relatively short period" as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later. The regulations also provide that, if the Department finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may consider a period of not less than three months from that earlier time.

Because we are not aware of any antidumping duty order in any country on glycine from Japan, we do not find that there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise.

For this reason, the Department does not find a history of injurious dumping of glycine from Japan pursuant to section 735(a)(3)(A)(i) of the Act. Therefore, we must look to the second criterion for determining importer knowledge of dumping.

To determine whether the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value in accordance with section 735(a)(3)(A)(ii) of the Act, the Department normally considers margins of 25 percent or more for export-price sales or 15 percent or more for constructed export-price transactions sufficient to impute knowledge of dumping. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons From Japan*, 68 FR 71072, 71076 (December 22, 2003) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons from Japan*, 69 FR 11834, 11835 (March 12, 2004)), and *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from Indonesia*, 71 FR 15162, 15166 (March 27, 2006) (*Lined Paper Products from Indonesia*) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Lined Paper Products from Indonesia*, 71 FR 47171, 47173 (August 16, 2006)). For the reasons explained above, we have assigned a margin of 280.57 percent to the mandatory respondents, Nu-Scaan and Yuki Gosei. Consequently, we have imputed knowledge of dumping to importers of subject merchandise from these companies because the assigned margins for these companies exceed the 15-percent threshold.

Similar to the Department's normal practice of conducting its critical-circumstances analysis of companies in the all-others group based on the experience of investigated companies, as discussed below and because we have assigned a margin of 280.57 percent to other Japanese exporters/producers of glycine (Showa Denko K.K., Hayashi Pure Chemical Industries Co. Ltd., CBC Co., Ltd., Seino Logix Co. Ltd., Estee Lauder Group Companies K.K., and Chelest Corporation), we have imputed knowledge of dumping to

importers of subject merchandise from these companies.

In determining whether to find that an importer knew or should have known that there would be material injury by reason of dumped imports, the Department normally will look to the preliminary injury determination of the U.S. International Trade Commission (ITC). If the ITC finds a reasonable indication of present material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that there would be material injury by reason of dumped imports. See *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Japan*, 64 FR 30574, 30578 (June 8, 1999). In this case, the ITC has found that a reasonable indication of present material injury due to dumping exists for Japan. See *Glycine From India, Japan, and Korea*, 72 FR 29352 (May 25, 2007) (Investigation Nos. 731-TA-1111-1113 (Preliminary)) (*ITC Prelim*). As a result, the Department has determined that importers knew or should have known that there would be material injury by reason of dumped imports of subject merchandise from Japan.

In determining whether there have been "massive imports" over a "relatively short period," the Department normally compares the import volume and value of the subject merchandise for three months immediately preceding and following the filing of the petition. Imports normally will be considered massive when imports have increased by 15 percent or more during this "relatively short period." Because we do not have verifiable data from any of the uncooperative Japanese respondents, we must base our "massive imports" determination as to these companies on the basis of facts otherwise available, pursuant to section 776(a) of the Act.¹ Because these companies failed to cooperate by not acting to the best of their ability to respond to our requests for information, we may make an adverse inference in selecting from the facts otherwise available pursuant to section 776(b) of the Act. Therefore, consistent with our practice, we have made an adverse inference, as facts available, that there were massive imports from these companies over a relatively short period. See *Notice of Final Determination of Sales at Less*

Than Fair Value: Collated Roofing Nails from Taiwan, 62 FR 51427 (October 1, 1997), and accompanying Issues and Decision memorandum at Comment 20.

Based on our determination that importers knew or should have known that producers/exporters Nu-Scaan, Yuki Gosei, Showa Denko K.K., Hayashi Pure Chemical Industries Co. Ltd., CBC Co., Ltd., Seino Logix Co. Ltd., Estee Lauder Group Companies K.K., and Chelest Corporation were selling glycine from Japan at less than fair value, that there would be material injury by reason of such dumped imports, and that there have been massive imports of glycine from these producers/exporters over a relatively short period, we determine affirmatively that critical circumstances exist for imports from Japan of glycine produced and/or exported by the companies in question.

It is the Department's normal practice to conduct its critical-circumstances analysis of companies in the all-others group based on the experience of investigated companies (see *Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars from Turkey*, 62 FR 9737, 9741 (March 4, 1997) (the Department found that critical circumstances existed for the majority of the companies investigated and therefore concluded that critical circumstances also existed for companies covered by the all-others rate)). Notwithstanding that practice, however, the Department does not automatically extend an affirmative critical-circumstances determination to companies covered by the all-others rate. See *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Japan*, 64 FR 30574, 30585 (June 8, 1999) (*Stainless Steel from Japan*). Instead, the Department considers the traditional critical-circumstances criteria with respect to the companies covered by the all-others rate. Consistent with *Stainless Steel from Japan*, in this case we have applied the traditional critical-circumstances criteria to the all-others category for the antidumping investigation of glycine from Japan.

First, in determining whether there is a reasonable basis to find that an importer knew or should have known that the exporter was selling glycine at less than fair value, we look to the all-others rate. The dumping margin for the all-others category in the instant case, 165.34 percent, exceeds the 15-percent threshold necessary to impute knowledge of dumping. Second, based on the ITC's preliminary material-injury determination, we also find that

¹ Because the non-cooperating respondents in question did not respond to our requests for information during the course of this investigation we did not request monthly shipment data from these companies.

importers knew or should have known that there would be material injury caused by the dumped merchandise.

Finally, with respect to massive imports, we are unable to base our determination on our findings for the mandatory respondents because our determinations for all companies in this investigation were based on adverse facts available. We have not inferred, as adverse facts available, that massive imports exist for companies under the all-others category because, unlike the uncooperative companies in question, the all-others companies have not failed to cooperate in this investigation. Therefore, an adverse inference with respect to a finding of a massive surge in imports by the all-others companies is not appropriate. Instead, consistent with the approach taken in *Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan*, 64 FR 24329 (May 6, 1999), and *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Japan and Thailand*, 65 FR 5520, 5527 (February 4, 2000), we examined U.S. Customs and Border Protection data² on aggregate imports from Japan for the five months preceding and the five months following the filing of the petition in order to ascertain whether an increase in shipments of greater than 15 percent or more occurred within a relatively short period following the point in time at which importers had reason to know that a proceeding has commenced.³ We

² With respect to HTSUS 2922.49.8000 (covered by the scope of this investigation) the Department did not use information supplied by U.S. Customs and Border Protection because information publicly available indicates that this is a basket category that includes non-subject merchandise. Thus, the Department cannot make an accurate analysis to determine whether there were massive imports of subject merchandise classified under this HTSUS number for the all-others category. See *Lined Paper Products from Indonesia*, 71 FR at 15167, *Stainless Steel from Japan*, 64 FR at 30585, *Preliminary Determinations of Critical Circumstances: Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan and South Africa*, 65 FR 12509, 12511 (March 9, 2000) (where the Department determined that massive imports did not exist for imports from companies in the all-others category because it could not rely on the U.S. Customs data) (unchanged in *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan; and Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan and the Republic of South Africa*, 65 FR 25907, 25908 (May 4, 2000)).

³ In its October 25, 2007, submission, the petitioner alleged an importer's prior knowledge of likelihood of the imminent filing of the petition at a time preceding the actual filing of the petition on March 30, 2007. Accordingly, in alleging a surge in

determined that, with respect to HTSUS number 2922.49.4020, there have been massive imports of glycine from Japan over a relatively short period. For further discussion, see memorandum from Dmitry Vladimirov to Laurie Parkhill entitled "Antidumping Duty Investigation on Glycine from Japan - Affirmative Final Determination of Critical Circumstances - All-Others Producers/Exporters," dated November 20, 2007.

Based on our determination that massive imports of glycine from the producers/exporters included in the all-others category have occurred and, consequently, that the third criterion necessary for determining affirmative critical circumstances has been met, we have determined affirmatively that critical circumstances exist for imports of glycine from Japan under HTSUS number 2922.49.4020 for producers/exporters in the all-others category.

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act and 19 CFR 351.211(b)(1), we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from Japan entered, or withdrawn from warehouse, for consumption on or after September 13, 2007, the date of the publication of *Preliminary Determination*. Pursuant to section 735(c)(4) of the Act we will direct CBP to suspend liquidation of all entries, for all importers of subject merchandise that are entered, or withdrawn from warehouse, on or after 90 days before the date of publication of *Preliminary Determination*. We will instruct CBP to require a cash deposit or the posting of a bond equal to the

imports of glycine from Japan, the petitioner relied on import data comprising the base and comparison periods, the selection of which was guided by the point in time of the alleged knowledge. We did not rely on import data comprising the base and comparison periods the petitioner used in our evaluation of the massive surge in imports. We find that the petitioner's claim of prior knowledge was not supported by evidence sufficient in demonstrating conclusively that importers had knowledge that a petition was likely to be filed. See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Negative Preliminary Determination of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products From South Africa*, 67 FR 31243 (May 9, 2002), and the applicable April 26, 2002, critical-circumstances decision memorandum from Richard W. Moreland to Faryar Shirzad entitled "Antidumping Duty Investigation on Certain Cold-Rolled Carbon Steel Flat Products From The Republic of South Africa - Preliminary Negative Determination of Critical Circumstances." A public version of this memorandum is on file at the Import Administration Central Records Unit in Room B-099 of the Department of Commerce main building.

weighted-average margin, as indicated in the chart above, as follows: (1) the rates for companies identified in the chart above will be the rates we have determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 165.34 percent. These suspension-of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our final determination. As our final determination is affirmative and in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

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

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: November 20, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7-23127 Filed 11-27-07; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-580-858]

Notice of Final Determination of Sales at Less Than Fair Value: Glycine from the Republic of Korea

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

EFFECTIVE DATE: November 28, 2007.

SUMMARY: The Department of Commerce determines that imports of glycine from the Republic of Korea are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final weighted-average dumping margins are listed below in the section entitled "Final Determination of Investigation."

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0665 or (202) 482-4477, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On September 13, 2007, the Department of Commerce (the Department) published the preliminary determination of sales at less than fair value (LTFV) in the antidumping investigation of glycine from the Republic of Korea. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Glycine from the Republic of Korea*, 72 FR 52345 (September 13, 2007) (*Preliminary Determination*). We invited parties to comment on *Preliminary Determination*. We did not receive any case or rebuttal briefs from any interested parties.

Period of Investigation

The period of investigation is January 1, 2006, through December 31, 2006.

Scope of Investigation

The merchandise covered by this investigation is glycine, which in its solid (*i.e.*, crystallized) form is a free-flowing crystalline material. Glycine is used as a sweetener/taste enhancer, buffering agent, reabsorbable amino acid, chemical intermediate, metal complexing agent, dietary supplement, and is used in certain pharmaceuticals. The scope of this investigation covers glycine in any form and purity level. Although glycine blended with other

materials is not covered by the scope of this investigation, glycine to which relatively small quantities of other materials have been added is covered by the scope. Glycine's chemical composition is C₂H₅NO₂ and is normally classified under subheading 2922.49.4020 of the Harmonized Tariff Schedule of the United States (HTSUS).

The scope of this investigation also covers precursors of dried crystalline glycine including, but not limited to, glycine slurry (*i.e.*, glycine in a non-crystallized form) and sodium glycinate. Glycine slurry is classified under the same HTSUS subheading as crystallized glycine (2922.49.4020) and sodium glycinate is classified under subheading HTSUS 2922.49.8000.

While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Adverse Facts Available

For the final determination, we continue to find that, by failing to provide information we requested, a producer and/or exporter of glycine from the Republic of Korea, Korea Bio-Gen Co., Ltd., also a mandatory respondent in this investigation, did not act to the best of its ability in responding to our questionnaire. Thus, the Department continues to find that the use of adverse facts available is warranted for this company under sections 776 (a)(2) and (b) of the Act. See *Preliminary Determination*, 72 FR at 52346. As we explained in *Preliminary Determination*, the rate of 138.83 percent we selected as the adverse facts-available rate is the highest margin alleged in the petition, as recalculated in the April 19, 2007, "Office of AD/CVD Operations Initiation Checklist for the Antidumping Duty Petition on Glycine from the Republic of Korea" (the Initiation Checklist) on file in Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. See also *Petition for the Imposition of Antidumping Duties on Imports of Glycine from India, Japan, and the Republic of Korea* filed on March 30, 2007 (the Petition), and the April 3, 12, 13, 17, and 18, 2007, supplements to the Petition filed on behalf of Geo Specialty Chemicals, Inc. We included the range of margins we re-calculated in the Initiation Checklist in *Glycine from India, Japan, and the Republic of Korea: Initiation of Antidumping Duty Investigations*, 72 FR 20816 (April 26, 2007) (*Initiation Notice*). Further, as discussed in *Preliminary Determination*, we

corroborated the adverse facts-available rate pursuant to section 776(c) of the Act.

All-Others Rate

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-average dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated. Our recent practice under these circumstances has been to assign, as the all-others rate, the simple average of the margins in the petition. See *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Japan and Thailand*, 65 FR 5520, 5527-28 (February 4, 2000); see also *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Canada*, 64 FR 15457 (March 31, 1999), and *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Italy*, 64 FR 15458, 15459 (March 31, 1999). Consistent with our practice we calculated a simple average of the rates in the Petition, as recalculated in the Initiation Checklist at Attachment VI and as listed in *Initiation Notice*, and assigned this rate to all other manufacturers/exporters. For details of these calculations, see the memorandum from Dmitry Vladimirov to the File entitled "Antidumping Duty Investigation on Glycine from the Republic of Korea - Analysis Memo for All-Others Rate," dated September 6, 2007.

Final Determination of Investigation

We determine that the following weighted-average dumping margins exist for the period January 1, 2006, through December 31, 2006:

Manufacturer or Exporter	Margin (percent)
Korea Bio-Gen Co., Ltd.	138.83
All-Others	138.60

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act and 19 CFR 351.211(b)(1), we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from the Republic of Korea entered, or withdrawn from warehouse,

for consumption on or after September 13, 2007, the date of the publication of *Preliminary Determination*. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margin, as indicated in the chart above, as follows: (1) the rate for the mandatory respondent will be the rate we have determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 138.60 percent. These suspension-of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative and in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

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

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: November 20, 2007.

David M. Spooner,
*Assistant Secretary for Import
Administration.*

[FR Doc. E7-23144 Filed 11-27-07; 8:45 am]

BILLING CODE 3510-DS-S

APPENDIX B
HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject: Glycine from India, Japan, and Korea
Inv. Nos.: 731-TA-1111-1113 (Final)
Date and Time: November 28, 2007 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, D.C.

OPENING REMARKS:

Petitioner (**Gregory Husisian**, Thompson Hine LLP)
Respondent (**Christopher A. Frey**, CAF International Corp.)

In Support of the Imposition of Antidumping Duties:

Thompson Hine LLP
Washington, D.C.
on behalf of

GEO Specialty Chemicals, Inc.

Alex Avraamides, Senior Vice President, Construction
and Industrial Chemicals, GEO Specialty
Chemicals, Inc.

William Eckman, Executive Vice President and Chief
Financial Officer, GEO Specialty Chemicals, Inc.

**In Support of the Imposition of
Antidumping Duties (continued):**

Judy Jackson, Sales Representative, GEO Specialty
Chemicals, Inc.

William Mahoney, Marketing Manager, Construction
and Industrial Additives, GEO Specialty Chemicals,
Inc.

John G. Reilly, Economic Consultant, Nathan Associates, Inc.

Jason Hungerford)
Gregory Husisian)
) – OF COUNSEL
David Schwartz)
Jennifer Stein)

Chattem Chemicals, Inc.
Chattanooga, TN

James H. Kedrowski, Vice President, Commercial
Department, Chattem Chemicals, Inc.

**In Opposition to the Imposition of
Antidumping Duties:**

CAF International Corp.
Caldwell, NJ

Christopher A. Frey, President

REBUTTAL/CLOSING REMARKS:

Petitioner (**Gregory Husisian**, Thompson Hine LLP)

APPENDIX C
SUMMARY DATA

Table C-1
Glycine: Summary data concerning the U.S. market, 2004-06, January-June 2006, and January-June 2007

(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound; period changes=percent, except where noted)

Item	Reported data					Period changes			
	2004	2005	2006	January-June		2004-06	2004-05	2005-06	Jan.-June 2006-07
				2006	2007				
U.S. consumption quantity:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***
Importers' share (1):									
India (subject)	***	***	***	***	***	***	***	***	***
Japan	***	***	***	***	***	***	***	***	***
Korea	***	***	***	***	***	***	***	***	***
Subtotal (subject)	***	***	***	***	***	***	***	***	***
Belgium	***	***	***	***	***	***	***	***	***
China	***	***	***	***	***	***	***	***	***
India (non-subject)	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***
Subtotal (non-subject)	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***
Importers' share (1):									
India (subject)	***	***	***	***	***	***	***	***	***
Japan	***	***	***	***	***	***	***	***	***
Korea	***	***	***	***	***	***	***	***	***
Subtotal (subject)	***	***	***	***	***	***	***	***	***
Belgium	***	***	***	***	***	***	***	***	***
China	***	***	***	***	***	***	***	***	***
India (non-subject)	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***
Subtotal (non-subject)	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. imports from:									
India (subject):									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Japan:									
Quantity	991	2,084	2,610	1,436	2,439	163.4	110.3	25.2	69.8
Value	1,273	2,897	3,310	1,835	2,918	160.0	127.5	14.3	59.1
Unit value	\$1.28	\$1.39	\$1.27	\$1.28	\$1.20	-1.3	8.2	-8.7	-6.3
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Korea:									
Quantity	1,060	992	1,124	626	405	6.1	-6.4	13.3	-35.4
Value	1,107	1,278	1,300	722	528	17.4	15.4	1.7	-26.9
Unit value	\$1.04	\$1.29	\$1.16	\$1.15	\$1.30	10.7	23.3	-10.3	13.0
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Subtotal (subject):									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Belgium:									
Quantity	1,151	238	347	187	62	-69.9	-79.3	45.7	-67.0
Value	1,643	374	607	310	143	-63.0	-77.2	62.4	-53.9
Unit value	\$1.43	\$1.57	\$1.75	\$1.65	\$2.31	22.6	10.0	11.5	39.7
China:									
Quantity	555	1,915	2,177	1,181	1,573	292.6	245.3	13.7	33.2
Value	599	2,397	2,598	1,319	2,022	333.5	300.0	8.4	53.3
Unit value	\$1.08	\$1.25	\$1.19	\$1.12	\$1.29	10.4	15.8	-4.7	15.1
India (non-subject):									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All other sources:									
Quantity	343	88	45	43	3	-86.8	-74.4	-48.3	-93.3
Value	794	415	329	272	51	-58.5	-47.7	-20.7	-81.4
Unit value	\$2.31	\$4.73	\$7.25	\$6.26	\$17.36	213.4	104.5	53.3	177.2
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Subtotal (non-subject):									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All sources:									
Quantity	5,233	7,915	8,971	5,021	4,903	71.4	51.3	13.3	-2.4
Value	7,219	11,046	11,692	6,517	6,171	62.0	53.0	5.8	-5.3
Unit value	\$1.38	\$1.40	\$1.30	\$1.30	\$1.26	-5.5	1.2	-6.6	-3.0
Ending inventory quantity	***	***	***	***	***	***	***	***	***

Table continued on next page.

Table C-1--Continued

Glycine: Summary data concerning the U.S. market, 2004-06, January-June 2006, and January-June 2007

Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound; period changes=percent, except where no

Item	Reported data			January-June		Period changes			Jan.-June
	2004	2005	2006	2006	2007	2004-06	2004-05	2005-06	2006-07
U.S. producers:									
Average capacity quantity	***	***	***	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***	***	***	***
U.S. shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Export shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***	***	***	***
Production workers	***	***	***	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***	***	***	***
Wages paid (\$1,000s)	***	***	***	***	***	***	***	***	***
Hourly wages	***	***	***	***	***	***	***	***	***
Productivity (pounds per hour)	***	***	***	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***	***	***	***
Net sales:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***	***	***	***
COGS/sales (1)	***	***	***	***	***	***	***	***	***
Operating income or (loss)/ sales (1)	***	***	***	***	***	***	***	***	***

(1) "Reported data" are in percent and "period changes" are in percentage points.

(2) Not applicable.

(3) Undefined.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics (adjusted).