

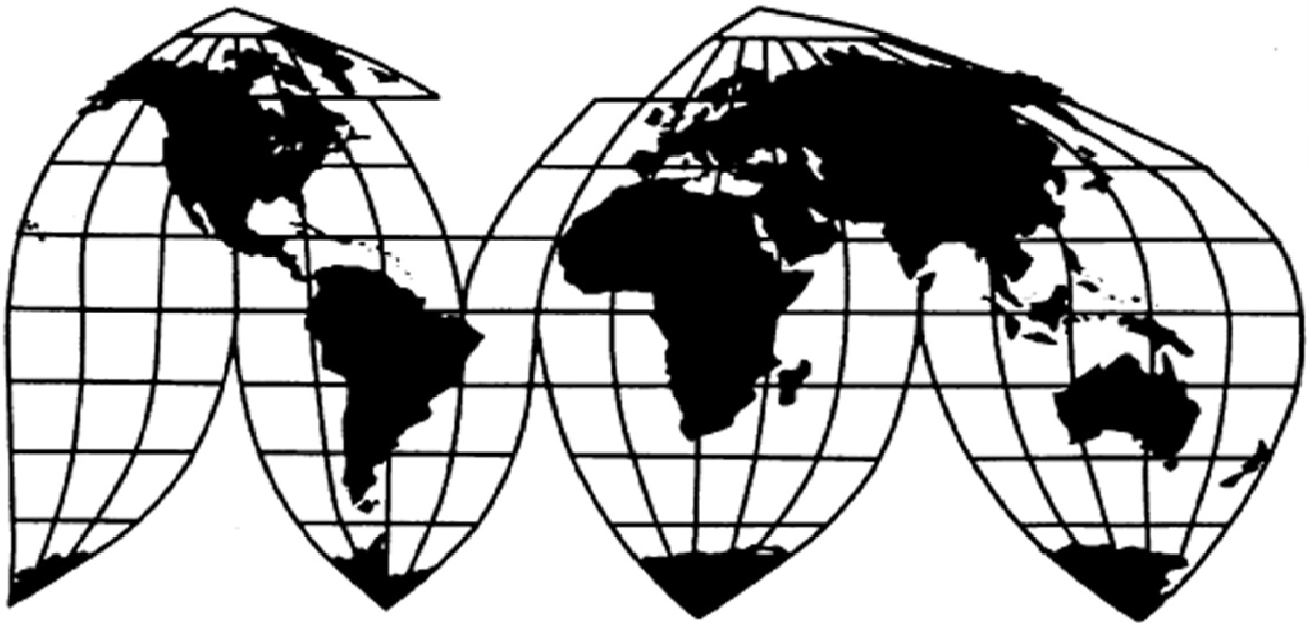
Glycine From India

Investigation No. 731-TA-1111 (Final)

Publication 3997

May 2008

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1111 (Final)

GLYCINE FROM INDIA

DETERMINATION

On the basis of the record¹ developed in the subject investigation, 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 India of glycine, provided for in subheading 2922.49 of the Harmonized Tariff Schedule of the United States, 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 this investigation 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 investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of glycine from India 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 investigation 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.

VIEWS OF THE COMMISSION

Based on the record in this investigation, 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 India that have been found by the Department of Commerce (“Commerce”) to be sold in the United States at less than fair value (“LTFV”).¹

I. THE COMMISSION ADOPTS THE VIEWS STATED IN *GLYCINE FROM JAPAN AND KOREA*

On March 30, 2007, GEO Specialty Chemicals, Inc. (“GEO”) filed a petition seeking the imposition of antidumping duties on imports of glycine from India, Japan, and Korea. On January 18, 2008, the Commission published its determinations with respect to Japan and Korea.² The Commission was required to issue its determinations in the investigations of glycine from Japan and Korea in January 2008 because Commerce issued its final determinations in those investigations earlier than it did in the current investigation of glycine from India. Under section 771(7)(G)(iii) of the Tariff Act of 1930, as amended, (“the Act”), we are required to make our material injury determinations in the instant investigation on the same record as that of the determinations regarding imports from Japan and Korea, except that the record in this investigation also includes Commerce’s final determination in the investigation of glycine from India and the parties’ final comments on that determination.³

We note that, in its final determination on India, Commerce modified the dumping margins somewhat from its preliminary determination. Specifically, the weighted-average margin for one of the 12 companies for which Commerce calculated individual dumping margins, Paras Intermediates, Ltd. (“Paras”), which was *de minimis* in Commerce’s preliminary determination, was 10.90 percent in Commerce’s final determination.⁴ Also, the “all other” margin, which was 45.82 percent in Commerce’s preliminary determination, was 10.90 percent in its final determination.⁵ The margin for the other 11 firms was unchanged in the final determination.⁶

¹ Commissioners Williamson and Pinkert dissent, determining that an industry in the United States is materially injured by reason of the subject imports from India. See Dissenting Views of Commissioner Irving A. Williamson and Commissioner Dean A. Pinkert.

² 73 Fed. Reg. 3484 (Jan. 18, 2008). See Glycine from Japan and Korea, Inv. Nos. 731-TA-1112-1113 (Final), USITC Pub. 3980 (Jan. 2008).

³ 19 U.S.C. §1677(7)(G)(iii). No party filed comments on Commerce’s final determination on glycine from India.

⁴ 72 Fed. Reg. 62826 (Nov. 7, 2007) (India amended preliminary), 73 Fed. Reg. 16640 (Mar. 28, 2008) (India final). Subject imports from India, without those from Paras, were *** pounds in 2004, *** pounds in 2005, *** pounds in 2006, and *** pounds in interim 2007, compared with *** pounds in interim 2006. Confidential Staff Report (India, Japan, and Korea) INV-EE-174 (Dec. 14, 2007) (“CR”) and Public Staff Report (“PR”) at Table IV-2. Including Paras, subject imports from India were 1.13 million pounds in 2004, 2.60 million pounds in 2005, 2.67 million pounds in 2006 and 421,000 in interim 2007, compared with 1.55 million pounds in interim 2006. INV-FF-036 at Table 3. Subject imports from India, without those from Paras included, undersold the domestic product in 12 of 16 comparisons, by margins ranging from 0.1 percent to 23.3 percent. CR/PR at Tables V-2, V-3, V-5. With Paras included, subject imports from India undersold the domestic product in 10 of 16 comparisons, by margins ranging from *** percent to 19.2 percent. CR/PR at Table V-3; INV-FF-036 at Tables 5 & 7.

⁵ Id.

⁶ The rate for the other 11 firms was 121.62 percent in Commerce’s preliminary and final determinations. Id.

For purposes of this determination, we adopt the findings and analysis in the Commission's views regarding glycine from Japan and Korea for domestic like product; domestic industry, including related parties; and conditions of competition.

II. CUMULATION

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.⁷

Because the petitions in the India, Japan, and Korea investigations were filed on the same day, the first statutory criterion for cumulation is satisfied. In addition, 3 of the 4 statutory exceptions to the general cumulation rule do not apply in the final phase of this investigation.⁸ However, the remaining statutory exception to cumulation, 19 U.S.C. § 1677(7)(G)(ii)(II), provides that the Commission "shall not cumulatively assess the volume and effect of imports . . . from any country with respect to which the investigation has been terminated." The Act further provides that, if either Commerce or the Commission reaches a final negative determination in an antidumping or countervailing duty investigation, "the investigation shall be terminated upon publication of notice of that negative determination"⁹ The Commission's notice of its final negative determinations in the antidumping duty investigations of imports from Japan and Korea was published in the *Federal Register* on January 18, 2008.¹⁰ Accordingly, we find that those investigations have been terminated and that section 1677(7)(G)(ii)(II) precludes cumulation of imports from those countries in the instant investigation of glycine from India.^{11 12}

⁷ 19 U.S.C. § 1677(7)(G)(i).

⁸ These exceptions concern imports from Israel, countries as to which Commerce has made preliminary negative determinations, and countries designated as beneficiaries under the Caribbean Basin Economic Recovery Act. 19 U.S.C. § 1677(7)(G)(ii).

⁹ 19 U.S.C. §§ 1671d(c)(2) and 1673d(c)(2).

¹⁰ 67 Fed. Reg. 58074 (Sept. 13, 2002).

¹¹ We have considered the statutory provision regarding what constitutes the record in staggered investigations, 19 U.S.C. § 1677(7)(G)(iii), and find that it does not alter the operation of the statutory bar to cumulation for terminated investigations. The statutory exception to cumulation for terminated investigations necessarily contemplates that the Commission will take into account determinations it makes after the date specified for closing the record to new factual information since the determinations that result in the termination of an investigation (whether based on negligibility or a negative final determination) ordinarily are made after that closing date. Indeed, the Commission's rules define the entire record in an investigation to include the determination. 19 CFR § 207.2(f)(2). This approach is consistent with Commission practice. See, e.g., Certain Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines, Invs. Nos. 731-TA-865-867 (Final), USITC Pub. 3387 (Jan. 2001) at 6, n. 28; Certain Cold-Rolled Steel from Turkey and Venezuela, Invs. Nos. 731-TA-839 to 840 (Final), USITC Pub. 3297 (May 2000) at 4; Certain Cold-Rolled Steel from China, Indonesia, Slovakia, and Taiwan, Invs. Nos. 731-TA-831, 832, 835, 837 (Final), USITC Pub. 3320 (July 2000) at 4-5; Melamine Institutional Dinnerware from China, Indonesia, and Taiwan, Invs. Nos. 731-TA-741-743 (Final), USITC Pub. 3106 (Feb. 1997) at 20-21.

¹² We note that, even if we viewed imports from Japan and Korea to be eligible for cumulation with those from India, consideration of the imports on a cumulative basis would not have changed our determination here.

III. NO MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

In the final phase of an antidumping duty investigation, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.¹³ 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.¹⁴ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”¹⁵ 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.¹⁶ 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.”¹⁷

A. 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.”¹⁸

In our determinations on glycine from Japan and Korea, we found that the volume of cumulated subject imports from India, Japan, and Korea, when viewed in isolation, was significant, both in absolute terms and relative to consumption and production in the United States, and that the increase in that subject import volume also was significant. We found, however, that the significance of the subject import volume was diminished when viewed in light of the conditions of competition in the industry and our findings on the price effects and impact of the subject imports.¹⁹

For purposes of our determination on glycine from India, we find the volume of subject imports from India and the increase in that volume may be significant, when viewed in isolation, although of lesser significance than the cumulated volume and the increase of that volume observed in the determinations on glycine from Japan and Korea. However, for the reasons expressed in our earlier views, which we adopt here by reference, we find the significance of the volume of subject imports from India alone is diminished when viewed in light of the conditions of competition in the industry – most

¹³ 19 U.S.C. § 1673d(b).

¹⁴ 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).

¹⁵ 19 U.S.C. § 1677(7)(A).

¹⁶ 19 U.S.C. § 1677(7)(C)(iii).

¹⁷ Id.

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

¹⁹ USITC Pub. 3980 at 16-17. The absolute volume of subject imports from India alone (including Paras) increased over the period of investigation from 1.13 million pounds in 2004 to 2.60 million pounds in 2005, and then increased to 2.67 million pounds in 2006. The volume of subject imports from India was lower in interim 2007, at 421,000 pounds, than in interim 2006, at 1.55 million pounds. INV-FF-036 at Table 3. The share of apparent U.S. consumption accounted for by subject imports from India similarly increased from *** percent in 2004 to *** percent in 2005, and then increased to *** percent in 2006. India’s share of apparent U.S. consumption was lower in interim 2007, *** percent, than in interim 2006, *** percent. The ratio of subject imports from India to U.S. production was *** percent in 2004, *** percent in 2005, and *** percent in 2006. The ratio of subject imports to production was *** percent in interim 2007 compared with *** percent in interim 2006. INV-FF-036 at I-7, Table 4.

notably, the domestic industry's continued inability to supply purchasers' demand on a reliable basis – and our findings on the price effects and impact of the subject imports.

B. 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.²⁰

In our determinations on glycine from Japan and Korea, we found underselling not to be particularly significant, notwithstanding underselling by the cumulated subject imports in 35 of 42 comparisons, because increased subject import volumes -- and instances in which end users were willing to pay more for the subject imports to assure supply -- were largely outgrowths of the domestic industry's inability to reliably meet domestic demand. We attached limited significance to instances in which subject imports undersold Chattem's prices because Chattem had not attempted to compete on the basis of price in its sales of the principal, non-pharmaceutical, glycine grade. We also based our finding of no consistent evidence of significant price depressing or suppressing effects on the overall increase in domestic producers' prices over the period of investigation and trends in unit cost of goods sold (COGS) and the ratio of COGS to net sales.²¹

For purposes of our determination on glycine from India alone, we find that underselling by subject imports from India did not significantly depress or suppress domestic producers' prices for the reasons explained with respect to the cumulated imports in our earlier determinations, which we adopt here by reference.²² Accordingly, we find that the subject imports from India have not had significant adverse price effects on the domestic industry.

C. Impact of the Subject Imports on the Domestic Industry²³

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.”²⁴ These factors include output, sales, inventories, capacity utilization, market

²⁰ 19 U.S.C. § 1677(7)(C)(ii).

²¹ See USITC Pub. 3980 at 18-19.

²² Subject imports from India undersold the domestic like product in 10 of 16 comparisons. INV-FF-036 at Tables 5, 7; CR/PR at Table V-3. As noted above, with Paras included, underselling for India is even less than it was in our earlier determinations.

²³ 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 subject imports. 19 U.S.C. § 1677(7)(C)(iii)(V). As noted above, the final margins were 10.90 percent for Paras, 121.62 percent for the other individual firms, and 10.90 percent for all others. INV-FF-036 at I-2.

²⁴ 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.

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.”²⁵

In our determinations on glycine from Japan and Korea, we found that the cumulated subject imports were not contributing significantly to the domestic industry’s poor financial condition. We found, for instance, that the industry’s loss of market share resulted from customers seeking foreign sources of supply in response to the inability of one domestic producer to assure a reliable supply of glycine, and the inability of the other domestic producer to compete due to its higher cost production process. Also, as noted above, we did not find that the subject imports had a significant adverse effect on domestic prices during the period examined. Accordingly, we found that subject imports were not having a significant adverse impact on the domestic industry and determined that the domestic industry producing glycine was not materially injured by reason of the subject imports.²⁶

For purposes of our determination on glycine from India alone, we find, for the reasons expressed in our earlier views, which we adopt here by reference, that the lesser volume of subject imports at issue here is 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 India.

IV. NO THREAT OF MATERIAL INJURY BY REASON OF 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 would occur unless an order is issued or a suspension agreement is accepted.”²⁷ The Commission may not make such a determination “on the basis of mere conjecture or supposition,” and considers the threat factors “as a whole.”²⁸ In making our determination, we have considered all factors that are relevant to

²⁵ 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).

²⁶ USITC Pub. 3980 at 19-22.

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

²⁸ 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).

these investigations.²⁹ For the reasons discussed below, we determine that the domestic industry is not threatened with material injury by reason of subject imports from India.³⁰

In our determinations on glycine from Japan and Korea, we found that the volume and the increases in the volume of the cumulated subject imports during the period of investigation were significant when viewed in isolation but that the significance was diminished in light of prevailing conditions of competition – most notably, the domestic industry’s continued inability to supply purchasers’ demand on a reliable basis – and our findings on price effects. We found that, in light of existing unused capacity in the subject countries and the export orientation of the industries in India and Japan, about which we had information, some increase in the volume of subject imports from India, Japan, and Korea was likely.³¹

²⁹ 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 this investigation.

³⁰ For the reasons we were foreclosed from cumulating subject imports from India with those in the terminated investigation on glycine from Japan and Korea for purposes of our analysis of present material injury, we are without discretion to cumulate them for purposes of our analysis of threat of material injury.

³¹ USITC Pub. 3980 at 19-22. With respect to India, we noted in that earlier determination that the United States is the destination for between *** percent and *** percent of total reported subject production in India. We also observed that Indian producers projected unused capacity of *** pounds in 2007 and *** pounds in 2008. However,

We also found that the industry was vulnerable to material injury but that the vulnerability was lessened by the improvements in its operations that GEO has already made or intended to make in the near term. We also found that the increasing cumulated import levels did not depress or suppress domestic prices to a significant degree and that there was nothing in the record to suggest that this would change in the imminent future, even at increased import volumes. 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 found that material injury by reason of the cumulated subject imports would not likely occur absent issuance of antidumping duty orders against subject imports. We therefore concluded that the domestic glycine industry was not threatened with material injury by reason of the cumulated imports of glycine.³²

For purposes of our determination on glycine from India, for the reasons expressed in our earlier views, which we adopt here by reference, we find that the domestic glycine industry is not threatened with material injury by reason of the imports of glycine from India alone.

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 India that have been found by the Department of Commerce to be sold in the United States at less than fair value.

they also projected exports to the United States of *** pounds for both 2007 and 2008, which is below the *** pounds they exported to the United States in 2006. USITC Pub. 3980 at 25, 24-25 n.147.

³² See USITC Pub. 3980 at 24-26.

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

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

For purposes of this current determination regarding subject imports from India, we adopt the Commission’s original findings and analysis on domestic like product and domestic industry, including related parties, in its Views regarding subject imports from Japan and Korea.¹ We dissent, however, as to the Commission’s current findings regarding cumulation and its negative material injury and threat of material injury determinations. We write separately to explain our findings and determinations with respect to those issues.

I. CUMULATION²

A. In General

For purposes of evaluating the volume and price effects for a determination of material injury by reason of subject imports, section 771(7)(G)(i) of the Tariff Act of 1930, as amended (“the Act”), requires the Commission to assess cumulatively the volume and effect of imports of the subject merchandise from all countries as to which petitions were filed and/or investigations were self-initiated by Commerce on the same day, unless one of the statutory exceptions applies and provided such imports compete with each other and with the domestic like product in the U.S. market.³ As discussed below, we conclude that the cumulation exception for countries for which the investigation has been terminated does not apply in cases in which the Commission has made a negative determination in an earlier investigation that is part of a set of staggered investigations. As there is no other exception to consider, and as we continue to find that the other requirements for cumulation are met, we cumulate imports from Japan, Korea, and India for purposes of the present determination.

B. Imports Eligible for Cumulation

We (and the Commission as a whole) cumulated subject imports from Japan, Korea, and India in the first set of staggered investigations. The issue now before us is whether subject imports from Japan and Korea remain eligible for cumulation with India after the Commission reached negative determinations with respect to Japan and Korea.

The petition for Japan, Korea, and India was filed on March 30, 2007, and petitioner requested relief with respect to imports from all three countries. In that petition, petitioner emphasized the combined negative effect of imports from all three countries and urged the Commission to cumulate such

¹ Glycine from Japan and Korea, Inv. Nos. 731-TA-1112-1113 (Final), USITC Pub. 3980 (Jan. 2008).

² In this investigation, subject imports from India 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, subject imports from India are not negligible under 19 U.S.C. § 1677(24).

³ 19 U.S.C. § 1677(7)(G)(i)&(ii).

imports. The Commission subsequently cumulated subject imports from the three countries in its preliminary determination of material injury.

Although Commerce's investigations of the three countries started out on a single schedule, Commerce delayed its preliminary determination with respect to India.⁴ The delay in the preliminary determination for India resulted in Commerce's final determination for India being delayed beyond the deadline for Commerce's final determinations for Korea and Japan. The delays at Commerce required the Commission to delay its final determination for India, thereby separating the determination for India from the determinations for Japan and Korea.⁵

In the Uruguay Round Agreements Act ("URAA"), Congress provided some guidance as to how the Commission is to handle investigations that start out together but then become staggered. First, the statute provides that countries for which petitions were filed on the same day are eligible for cumulation.⁶ This provision was designed to ensure that cumulation is based on the petition filing date, not the date of the ultimate vote. The URAA Statement of Administrative Action ("SAA") explains that this provision "eliminates the incentive in multi-country investigations for respondents to seek extensions of individual Commerce determinations just to avoid cumulation."⁷ Second, the statute provides that, in the subsequent investigation, the Commission shall make its determination "based on the record compiled in the first investigation in which it makes a final determination," with the addition of information and argument on Commerce's final margins for the later investigation.⁸ This provision enables the Commission to continue to cumulate subject imports in the later investigation(s), using the record (properly modified) compiled in the first investigation(s).

With this background in mind, we turn to the relevant statutory exception to cumulation. The statute, 19 U.S.C. § 1677(7)(G)(ii)(II), provides that "the Commission shall not cumulatively assess the volume and effect of imports ... from any country with respect to which the investigation has been terminated." As a result of the Commission's negative determinations with respect to Japan and Korea, those investigations were "terminated" within the meaning of that term in 19 U.S.C. § 1673d(c)(2).⁹ We find, however, that "terminated" in the cumulation provisions refers to something different: situations where investigations are concluded prior to a final Commission determination of material injury or threat of material injury, in particular as a result of negligible imports or *de minimis* margins. The SAA states

⁴ 72 Fed. Reg. 48257 (Aug. 23, 2007). The petitioner requested postponement of the preliminary determination in order to allow Commerce additional time to determine whether the two mandatory Indian respondents would supply complete responses and participate fully in the investigation.

⁵ See 73 Fed. Reg. 16640 (Mar. 28, 2008); Notice of Final Determination of Sales at Less than Fair Value: Glycine from India.

⁶ 19 U.S.C. § 1677(7)(G)(i).

⁷ SAA, H.R. Rep. 103-316, vol. I at 848 (1994). In the URAA, Congress stated that the SAA "shall be regarded as an authoritative expression by the United States concerning the interpretation and application of the [URAA] in any judicial proceeding in which a question arises concerning such interpretation or application." 19 U.S.C. § 3512(d).

⁸ 19 U.S.C. § 1677 (7)(G)(iii).

⁹ In our final determinations with respect to Japan and Korea, we cumulated subject imports from Japan, Korea, and India. At that time, the Commission made final negative determinations with respect to Japan and Korea pursuant to 19 U.S.C. § 1673d(b)(1). We dissented from those determinations. As required by statute, 19 U.S.C. § 1673d(d), the Commission issued a Federal Register notice as to its negative determinations. 73 Fed. Reg. 3484 (Jan. 18, 2008). The statute provides that if the Commission's final determination is negative, "the investigation shall be terminated upon the publication of notice of that negative determination," and that Commerce will terminate the suspension of liquidation, release any related bond or other security and refund any cash deposit. 19 U.S.C. § 1673d(c)(2).

that the exception for investigations that are terminated “implements the requirement of the Agreements that negligible or *de minimis* imports not be cumulated.”¹⁰ In nearly identical terms, the related House and Senate committee reports specifically tie this cumulation exception to negligibility and *de minimis* determinations, and refer to no other purpose.¹¹

Thus, the intent of Congress in including the exception for terminated investigations in the statute is clear, and there is no indication that the provision was meant to apply to a situation in which simultaneously filed petitions become staggered in time due to the manner in which Commerce schedules the investigations. In fact, the statute, as described above, enables the Commission to preserve cumulation and to treat subsequent investigations as if they had been rendered at the same time as the earlier investigations.

We conclude based on the statute as a whole that, although an earlier investigation resulting in a negative determination is terminated for purposes of 19 U.S.C. § 1673d(c)(2) (following Commission negative determination), it is not thereby terminated for purposes of 19 U.S.C. § 1677(7)(G)(ii)(II) (exceptions to cumulation).¹²

Our conclusion that the same term can have different meanings in different parts of the statute is not unprecedented. In *USEC Inc v. United States*, the CIT affirmed Commerce’s interpretation of the term “producer” for purposes of industry support (19 U.S.C. § 1673a(c)(4)(A)) even though it was different from Commerce’s interpretation of that term for purposes of determining export price or constructed export price (19 U.S.C. § 1677a). The Court affirmed Commerce’s view that, in the context of the less than fair value determination, “the purpose and intent of the statute warrants application of a different definition of ‘producer’ than is used in the industry support context.”¹³ The Federal Circuit similarly accepted divergent interpretations of that term.¹⁴

Based on the foregoing analysis, we find that subject imports from Japan and Korea are eligible for cumulation with those from India for purposes of this investigation.

C. Reasonable Overlap of Competition

Next, we turn to whether there is a reasonable overlap of competition between subject imports from Japan, Korea, and India and the domestic like product that is sufficient to support cumulation of those imports. Based on the findings and analyses with respect to this issue in our (and the majority’s) determination and views on subject imports from Japan and Korea,¹⁵ we find that there is a reasonable overlap of competition between subject imports from these three countries and the domestic like product. Nothing in the record indicates that the additional subject imports from India produced by now-subject producer Paras differ significantly from other subject imports from India in terms of the four factors (fungibility, geographic market overlap, channels of distribution, and simultaneous presence) generally considered by the Commission in determining whether there is a reasonable overlap of competition. Accordingly, we cumulate imports from Japan, Korea, and India for purposes of our material injury analysis.

¹⁰ SAA, H.R. Rep. 103-316, vol. I at 849 (1994).

¹¹ H.R. Rep. 103-826 (Part I), 103rd Congress, 2nd Sess. at 75; S.Rep. 103-412, 103rd Congress, 2nd Sess. at 59.

¹² We note that withdrawal of a petition would also result in the termination of an investigation in a manner that would warrant not cumulating the affected subject imports. 19 U.S.C. § 1673c(a)(1)(A).

¹³ 281 F. Supp. 2d 1334, 1345-46 (2003).

¹⁴ *Eurodif et al. v. United States*, 411 F.3d 1355, 1359-1362 (Fed. Cir. 2005).

¹⁵ Glycine from Japan and Korea, Inv. Nos. 731-TA-1112-1113 (Final), USITC Pub. 3980 (Jan. 2008).

II. MATERIAL INJURY BY REASON OF THE CUMULATED SUBJECT IMPORTS

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.¹⁶ 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).¹⁷ The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."¹⁸ 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.¹⁹ 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."²⁰

We have considered the new facts placed on the record as a result of Commerce's final antidumping duty margin determinations on subject imports from India. In those final determinations, Commerce modified its results for one of the 12 companies that had received their own margins. Specifically, the weighted-average margin for Paras Intermediates, Ltd. ("Paras"), which was *de minimis* in Commerce's preliminary determination, was 10.90 percent in its final determination.²¹ Also, the "all other" margin, which was 45.82 percent on a preliminary basis, was 10.90 percent in the final determination.²² The margin for the other 11 firms was unchanged in the final determination.²³ The record here is otherwise identical to that in the investigations regarding subject imports from Japan and Korea.

We adopt the conditions of competition analysis set forth in our Dissenting Views with respect to subject imports from Japan and Korea.²⁴ There is nothing on the record to indicate that the additional subject imports from India alter those conditions of competition.

¹⁶ 19 U.S.C. § 1673d(b).

¹⁷ 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).

¹⁸ 19 U.S.C. § 1677(7)(A).

¹⁹ 19 U.S.C. § 1677(7)(C)(iii).

²⁰ Id.

²¹ 72 Fed. Reg. 62826 (Nov. 7, 2007) (India amended preliminary), 73 Fed. Reg. 16640 (Mar. 28, 2008) (India final). Subject imports from India, without those from Paras, were *** pounds in 2004, *** pounds in 2005, *** pounds in 2006, and *** pounds in interim 2007, compared with *** pounds in interim 2006. CR/PR at Table IV-2. Including Paras, subject imports from India were 1.13 million pounds in 2004, 2.60 million pounds in 2005, 2.67 million pounds in 2006 and 421,000 in interim 2007, compared with 1.55 million pounds in interim 2006. INV-FF-036 at Table 4. Subject imports from India, without those from Paras included, undersold the domestic product in 12 of 16 comparisons, by margins ranging from 0.1 percent to 23.3 percent. CR/PR at Tables V-2, V-3, V-5. With Paras included, subject imports from India undersold the domestic product in 10 of 16 comparisons, by margins ranging from *** percent to 19.2 percent. CR at Table V-3, Confidential Memorandum INV-FF-036 (Glycine from India) (April 10, 2008) ("INV-FF-036") at Tables 5 & 7.

²² 72 Fed. Reg. 62826 (Nov. 7, 2007) (India amended preliminary), 73 Fed. Reg. 16640 (Mar. 28, 2008) (India final).

²³ The rate for the other 11 firms was 121.62 percent in Commerce's preliminary and final determinations. Id.

²⁴ Dissenting Views of Commissioner Irving A. Williamson and Commissioner Dean A. Pinkert, Glycine from Japan and Korea, Inv. Nos. 731-TA-1112-1113 (Final), USITC Pub. 3980 (Jan. 2008) ("Dissenting Views").

Turning to material injury, we incorporate the analysis from our Dissenting Views. The additional volume of subject imports from India produced by Paras does not alter our finding that the volume of cumulated subject imports is significant; it only strengthens that finding. As for price effects, although under the new margins aggregated subject imports from India have a somewhat lower incidence of underselling, this new information does not alter our findings regarding price effects. The additional volume from India, even at a somewhat lower incidence of underselling, only increases the significant negative price effects of the cumulated subject imports that undersold the domestic like product in 33 out of 42 instances.²⁵ We also continue to adhere to the findings on impact in our Dissenting Views. The causation link between the subject imports and material injury is strengthened by the new facts on the record which reflect a higher volume of cumulated subject imports that undersold the domestic like product in most instances. Finally, we adopt the analysis of the application of *Bratsk Aluminum Smelter v. United States* contained in our Dissenting Views for purposes of our determination in this investigation.

CONCLUSION

For the reasons stated above, we determine that an industry in the United States is materially injured by reason of imports of glycine from India that have been found by the Department of Commerce to be sold in the United States at less than fair value.

²⁵ INV-FF-036 at Table 7.

INTRODUCTION

BACKGROUND

This antidumping duty investigation results 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 glycine from India, Japan, and Korea. Information relating to the background of this investigation is provided below.

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 9, 2007	Commission's first revised schedule on India (72 FR 65060, November 19, 2007)
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
December 18, 2007	Commission's second revised schedule on India (72 FR 73883, December 28, 2007)
January 3, 2008	Commission's vote on Japan and Korea
January 11, 2008	Commission's negative determinations and views on Japan and Korea transmitted to Commerce
March 28, 2008	Commerce's final LTFV determination on India (73 FR 16640)
April 18, 2008	Commission's vote on India
May 5, 2008	Commission's determinations and views on India transmitted to Commerce

The information contained in this report is intended to be used in conjunction with data presented in the Commission's report *Glycine from Japan and Korea, Inv. Nos. 731-TA-1112-1113 (Final)*, USITC Publication 3980, January 2008 (“USITC Publication 3980”) and its corresponding confidential version contained in memorandum No. INV-EE-174 by the same name (“INV-EE-174”). No new information except for Commerce's final determination of sales of imports of glycine from India at LTFV and parties' comments thereon¹ is included in the record for this proceeding. Nonetheless, certain data tables relating to imports, consumption, pricing products, and the foreign industry in India are herein revised to take into account the reclassification of imports from the Indian producer Paras Intermediates, Ltd. (“Paras”) as

¹ No party submitted comments on Commerce's final margins.

subject to this investigation. In USITC Publication 3980 and INV-EE-174, data relating to the Indian producer Paras were classified as nonsubject due to Commerce’s preliminary determination that Paras had a zero percent weighted-average dumping margin for its exports of glycine to the United States. In its final determination, Commerce calculated a 10.90 percent dumping margin for Paras.

NATURE AND EXTENT OF SALES AT LTFV

On March 28, 2008, the Commission received notice of Commerce’s final determination of sales at LTFV with respect to imports from India.² Table 1 presents Commerce’s weighted-average LTFV margins.³

Table 1
Glycine: Commerce’s final weighted-average LTFV margins

Country	Entity	Final dumping margins (percent)
India	Paras Intermediates, Ltd.	10.90
	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	10.90

Source: 73 FR 16640.

U.S. IMPORTS, APPARENT U.S. CONSUMPTION, AND MARKET SHARES

U.S. IMPORTS

Table 2 presents data on U.S. importers of glycine from India.⁴

Table 2
Glycine: U.S. importers and imports, by subject sources, January 2004-June 2007

* * * * *

² Notice of Final Determination of Sales at Less Than Fair Value: Glycine from India, 73 FR 16640, March 28, 2008.

³ Table 1 of this report corresponds to the tabulation on page I-5 of USITC Publication 3980.

⁴ Table 2 of this report corresponds to table IV-1 of USITC Publication 3980 and INV-EE-174.

Table 3 presents data on U.S. imports of glycine from India.⁵

Table 3
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	1,133	2,598	2,668	1,547	421
Japan	991	2,084	2,610	1,436	2,439
Korea	1,060	992	1,124	626	405
Subtotal	3,184	5,674	6,402	3,610	3,265
Belgium	1,151	238	347	187	62
China	555	1,915	2,177	1,181	1,573
All other	343	88	45	43	3
Subtotal	2,049	2,241	2,570	1,411	1,638
Total	5,233	7,915	8,971	5,021	4,903
Landed, duty-paid value (1,000 dollars)					
India	1,802	3,685	3,547	2,059	509
Japan	1,273	2,897	3,310	1,835	2,918
Korea	1,107	1,278	1,300	722	528
Subtotal	4,183	7,859	8,157	4,616	3,955
Belgium	1,643	374	607	310	143
China	599	2,397	2,598	1,319	2,022
All other	794	415	329	272	51
Subtotal	3,036	3,186	3,534	1,901	2,213
Total	7,219	11,046	11,692	6,517	6,171

Table continued on next page.

⁵ Table 3 of this report corresponds to table IV-2 of USITC Publication 3980 and INV-EE-174.

Table 3--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
Unit value (per pound)					
India	\$1.59	\$1.42	\$1.33	\$1.33	\$1.21
Japan	1.28	1.39	1.27	1.28	1.20
Korea	1.04	1.29	1.16	1.15	1.30
Average	1.31	1.39	1.27	1.28	1.21
Belgium	1.43	1.57	1.75	1.66	2.31
China	1.08	1.25	1.19	1.12	1.29
All other	2.31	4.72	7.31	6.33	17.00
Average	1.48	1.42	1.38	1.35	1.35
Average, all imports	1.38	1.40	1.30	1.30	1.26
Share of quantity (percent)					
India	21.7	32.8	29.7	30.8	8.6
Japan	18.9	26.3	29.1	28.6	49.7
Korea	20.3	12.5	12.5	12.5	8.3
Subtotal	60.8	71.7	71.4	71.9	66.6
Belgium	22.0	3.0	3.9	3.7	1.3
China	10.6	24.2	24.3	23.5	32.1
All other	6.6	1.1	0.5	0.9	0.1
Subtotal	39.2	28.3	28.6	28.1	33.4
Total	100.0	100.0	100.0	100.0	100.0
Share of value (percent)					
India	25.0	33.4	30.3	31.6	8.2
Japan	17.6	26.2	28.3	28.2	47.3
Korea	15.3	11.6	11.1	11.1	8.6
Subtotal	57.9	71.1	69.8	70.8	64.1
Belgium	22.8	3.4	5.2	4.8	2.3
China	8.3	21.7	22.2	20.2	32.8
All other	11.0	3.8	2.8	4.2	0.8
Subtotal	42.1	28.8	30.2	29.2	35.9
Total	100.0	100.0	100.0	100.0	100.0
Source: Official Commerce statistics with adjustments based on U.S. Customs data (see USITC Publication 3980 and INV-EE-174 for a discussion of adjustments made).					

APPARENT U.S. CONSUMPTION AND MARKET SHARES

Table 4 presents data on apparent U.S. consumption and market shares.⁶

Table 4
Glycine: Apparent U.S. consumption and market shares, 2004-06, January-June 2006, and January-June 2007

Source	Calendar year			January-June	
	2004	2005	2006	2006	2007
Quantity (1,000 pounds)					
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. imports from--					
India	1,133	2,598	2,668	1,547	421
Japan	991	2,084	2,610	1,436	2,439
Korea	1,060	992	1,124	626	405
Subtotal	3,184	5,674	6,402	3,610	3,265
Belgium	1,151	238	347	187	62
China	555	1,915	2,177	1,181	1,573
All other	343	88	45	43	3
Subtotal	2,049	2,241	2,570	1,411	1,638
Total imports	5,233	7,915	8,971	5,021	4,903
Apparent U.S. consumption	***	***	***	***	***
Value (1,000 dollars)					
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. imports from--					
India	1,802	3,685	3,547	2,059	509
Japan	1,273	2,897	3,310	1,835	2,918
Korea	1,107	1,278	1,300	722	528
Subtotal	4,183	7,859	8,157	4,616	3,955
Belgium	1,643	374	607	310	143
China	599	2,397	2,598	1,319	2,022
All other	794	415	329	272	51
Subtotal	3,036	3,186	3,534	1,901	2,213
Total imports	7,219	11,046	11,692	6,517	6,171
Apparent U.S. consumption	***	***	***	***	***

Table continued on next page.

⁶ Table 4 of this report corresponds to tables IV-6 and IV-7 of USITC Publication 3980 and INV-EE-174.

Table 4--Continued

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

Source	Calendar year			January-June	
	2004	2005	2006	2006	2007
Market share by quantity (percent)					
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. imports from--					
India	***	***	***	***	***
Japan	***	***	***	***	***
Korea	***	***	***	***	***
Subtotal	***	***	***	***	***
Belgium	***	***	***	***	***
China	***	***	***	***	***
All other	***	***	***	***	***
Subtotal	***	***	***	***	***
Total imports	***	***	***	***	***
Apparent U.S. consumption	100.0	100.0	100.0	100.0	100.0
Market share by value (percent)					
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. imports from--					
India	***	***	***	***	***
Japan	***	***	***	***	***
Korea	***	***	***	***	***
Subtotal	***	***	***	***	***
Belgium	***	***	***	***	***
China	***	***	***	***	***
All other	***	***	***	***	***
Subtotal	***	***	***	***	***
Total imports	***	***	***	***	***
Apparent U.S. consumption	100.0	100.0	100.0	100.0	100.0
Source: Compiled from data submitted in response to Commission questionnaires for U.S. producers' U.S. shipments and table 3 of this report.					

RATIO OF IMPORTS FROM INDIA TO U.S. PRODUCTION

The ratio of U.S. imports from India to U.S. production was *** percent in 2004, *** percent in 2005, and *** percent in 2006. In the period January-June 2007, the ratio of U.S. imports from India to U.S. production was *** percent, compared to *** percent in January-June 2006.

PRICE DATA

Table 5 and figure 1 present data for pricing product 2 from India including data from U.S. importer ***, which had been classified as a nonsubject importer in USITC Publication 3980 and INV-EE-174 due to it having primarily imported glycine from Paras in India.⁷

Table 5
Glycine: Weighted-average f.o.b. prices and quantities of domestic and imported product 2, and margins of underselling/(overselling) by quarters, January 2004-June 2007

* * * * * * *

Figure 1
Glycine: Weighted-average f.o.b. prices of domestic and Indian imported product 2, January 2004-June 2007

* * * * * * *

Table 6 presents a summary of weighted-average prices for the U.S.- and Indian-origin glycine.⁸

Table 6
Glycine: Summary of weighted-average f.o.b. prices, by products and by sources

Source	Number of quarters	Highest price	Lowest price	Increase in price (decrease)
		<i>Per pound</i>	<i>Per pound</i>	<i>Percent</i>
Product 2				
United States	14	***	***	***
India	14	***	***	***
Product 3				
United States	14	***	***	***
India	2	***	***	***

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

Table 7 presents a summary of overselling and underselling.⁹

⁷ Table 5 of this report corresponds to table V-2 of USITC Publication 3980 and INV-EE-174.

⁸ Table 6 of this report corresponds to table V-4 of USITC Publication 3980 and INV-EE-174.

⁹ Table 7 of this report corresponds to table V-5 of USITC Publication 3980 and INV-EE-174.

Table 7
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	2	4	(13.5)	(19.9)
2005	4	0	10.2	9.8
2006	3	1	4.2	6.5
2007	1	1	(3.9)	(0.9)
Total India	10	6	(2.0)	3.4
India, Japan, and Korea:				
2004	10	4	(3.3)	5.0
2005	12	0	11.8	11.9
2006	10	2	8.2	8.4
2007	1	3	(8.6)	(4.3)
Total India, Japan, and Korea:	33	9	2.7	7.5
¹ Margins are weighted by the volume of sales by importers. Note.--Number of quarters of underselling and overselling for India, Japan, and Korea (combined) was calculated by adding the number of quarters of underselling and overselling for each individual country. Average margins of underselling/overselling for India, Japan, and Korea (combined) 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.				

THREAT CONSIDERATIONS

THE INDUSTRY IN INDIA

Table 8 presents the industry in India including Paras.¹⁰

Table 8
Glycine: Indian producers' operations, 2004-06, January-June 2006, January-June 2007, and projected 2007-08

* * * * *

¹⁰ Table 8 of this report corresponds to table VII-2 of USITC Publication 3980 and INV-EE-174.

APPENDIX A
FEDERAL REGISTER NOTICE

Fair Value: Glycine From India, 72 FR 62826 (November 7, 2007).

The Department of Commerce has determined that glycine from India is being, or is 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 estimated margins of sales at less than fair value are listed below in the section entitled "Final Determination of Investigation."

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 Avenue, NW, Washington, DC 20230; telephone: (202) 482-0180 or (202) 482-4477, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The preliminary and amended preliminary determinations in this investigation were published on November 7, 2007. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Glycine From India*, 72 FR 62827 (November 7, 2007) (*Preliminary Determination*), and *Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Glycine From India*, 72 FR 62826 (November 7, 2007). Since then, we determined that an allegation of critical circumstances submitted by the petitioner on October 12 and 25, 2007, was inadequate. See Memorandum from Kristin Case to Laurie Parkhill dated November 13, 2007. We have also conducted sales and cost verifications of the responses submitted by Paras Intermediates, Ltd. (Paras). See Memoranda to the file entitled "Verification of the Sales Response of Paras Intermediates Pvt. Ltd. in the Antidumping Duty Investigation of Glycine from India" dated January 23, 2008, and "Verification of the Cost Response of Paras Intermediates Private Ltd. in the Antidumping Investigation of Glycine from India" dated February 20, 2008, available in the Central Records Unit (CRU), room 1117 of the main Department of Commerce building. On February 22, 2008, we released a memorandum entitled "Proposed Adjustments to the Cost of Production and Constructed Value Data Paras Intermediates Pvt. Ltd." and invited interested parties to submit comments. We received a case brief from Paras on March 3, 2008; the petitioner, GEO Specialty Chemicals, Inc. (GEO), filed a rebuttal brief on March 5, 2008.

DEPARTMENT OF COMMERCE

International Trade Administration

A-533-845

Notice of Final Determination of Sales at Less Than Fair Value: Glycine from India

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

EFFECTIVE DATE: March 28, 2008.

SUMMARY: On November 7, 2007, the Department of Commerce published its preliminary determination and amended preliminary determination, respectively, of the investigation of sales at less than fair value in the antidumping duty investigation of glycine from India. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Glycine From India*, 72 FR 62827 (November 7, 2007), and *Notice of Amended Preliminary Determination of Sales at Less Than*

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping investigation are addressed in the "Issues and Decision Memorandum for the Antidumping Duty Investigation of Glycine from India for the Period of Investigation January 1, 2006, through December 31, 2006" (Decision Memorandum) from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated March 21, 2008, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in the Decision Memorandum which is on file in CRU. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/>. The paper copy and electronic version of the Decision Memorandum are identical in content.

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, the written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation is from January 1, 2006, through December 31, 2006.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculation for Paras. For a discussion of these changes, see memorandum from George Callen to The File entitled "Glycine from India - Final Determination of Sales at Less Than Fair Value Analysis Memorandum for Paras" dated March 21, 2008, and the memorandum from Angela Strom to Neal Halper entitled "Cost of Production and Constructed Value Calculation Adjustments for the Final Determination Paras Intermediates Pvt. Ltd." dated March 21, 2008.

Adverse Facts Available

For the final determination, we continue to find that, by failing to provide information we requested, certain producers and/or exporters of glycine from India did not act to the best of their ability in responding to our requests for information. 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 62829. As we explained in the *Preliminary Determination*, the rate of 121.62 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 India" (the Initiation Checklist) on file in CRU. 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 submitted by GEO. We selected this rate from 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 the *Preliminary Determination*, we corroborated the adverse facts-available rate pursuant to section 776(c) of the Act.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others

rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins and any margins determined entirely under section 776 of the Act. For this final determination we have calculated a margin for Paras that is above *de minimis*. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(A) of the Act, because other respondents are receiving margins based on adverse facts available, we are using the dumping margin we have calculated for Paras as indicated in the "Final Determination of Investigation" section below.

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)
Paras Intermediates, Ltd.	10.90
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
Nutraceutical International/Salvi Chemical Industries	121.62
Sisco Research Laboratories Pvt. Ltd.	121.62
Sealink International, Inc.	121.62
All Others	10.90

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 India entered, or withdrawn from warehouse, for consumption on or after November 7, 2007, the date of the publication of *Preliminary Determination*, for all producers/exporters other than Paras. Because we found Paras to have a *de minimis* margin in the *Preliminary Determination*, we will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from India from

Paras and entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this final 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 respondents 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 10.90 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: March 21, 2008.

David M. Spooner,
Assistant Secretary for Import Administration.

Appendix

Comment 1: Work-in-Process Inventories

Comment 2: Recovery of Bad Debts

Comment 3: Duty Drawback

Comment 4: Interest Income Offset

Comment 5: Appropriate Sales Database to Use

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Billing Code: 3510-DS-S

APPENDIX B
SUMMARY DATA

Table B-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 2006	2007	2004-06	2004-05	2005-06	Jan.-June 2006-07
U.S. consumption quantity:									
Amount	*****	*****	*****	*****	*****	*****	*****	*****	*****
Producers' share (1)	*****	*****	*****	*****	*****	*****	*****	*****	*****
Importers' share (1):									
India	*****	*****	*****	*****	*****	*****	*****	*****	*****
Japan	*****	*****	*****	*****	*****	*****	*****	*****	*****
Korea	*****	*****	*****	*****	*****	*****	*****	*****	*****
Subtotal	*****	*****	*****	*****	*****	*****	*****	*****	*****
All other sources	*****	*****	*****	*****	*****	*****	*****	*****	*****
Total imports	*****	*****	*****	*****	*****	*****	*****	*****	*****
U.S. consumption value:									
Amount	*****	*****	*****	*****	*****	*****	*****	*****	*****
Producers' share (1)	*****	*****	*****	*****	*****	*****	*****	*****	*****
Importers' share (1):									
India	*****	*****	*****	*****	*****	*****	*****	*****	*****
Japan	*****	*****	*****	*****	*****	*****	*****	*****	*****
Korea	*****	*****	*****	*****	*****	*****	*****	*****	*****
Subtotal	*****	*****	*****	*****	*****	*****	*****	*****	*****
All other sources	*****	*****	*****	*****	*****	*****	*****	*****	*****
Total imports	*****	*****	*****	*****	*****	*****	*****	*****	*****
U.S. imports from:									
India:									
Quantity	1,133	2,598	2,668	1,547	421	135.4	129.3	2.7	-72.8
Value	1,802	3,685	3,547	2,059	509	96.8	104.4	-3.7	-75.3
Unit value	\$1.59	\$1.42	\$1.33	\$1.33	\$1.21	-16.4	-10.8	-6.2	-9.2
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:									
Quantity	3,184	5,674	6,402	3,610	3,265	101.1	78.2	12.8	-9.6
Value	4,183	7,859	8,157	4,616	3,955	95.0	87.9	3.8	-14.3
Unit value	\$1.31	\$1.39	\$1.27	\$1.28	\$1.21	-3.0	5.4	-8.0	-5.3
Ending inventory quantity	*****	*****	*****	*****	*****	*****	*****	*****	*****
All other sources:									
Quantity	2,049	2,241	2,570	1,411	1,638	25.4	9.4	14.7	16.0
Value	3,036	3,186	3,534	1,901	2,216	16.4	5.0	10.9	16.6
Unit value	\$1.48	\$1.42	\$1.38	\$1.35	\$1.35	-7.2	-4.0	-3.3	0.5
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	186	701	1,129	1,156	372	508.8	277.8	61.2	-67.8

Table continued on next page.

Table B-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 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. 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.