

UNITED STATES  
INTERNATIONAL TRADE COMMISSION

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In the Matter of: )  
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GLYCINE FROM INDIA, JAPAN, ) Investigation Nos.:  
 ) 731-TA-1111-1113 (Final)  
AND KOREA )

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Place: Washington, D.C.

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Wednesday,  
 November 28, 2007

Room No. 101  
 U.S. International  
 Trade Commission  
 500 E Street, S.W.  
 Washington, D.C.

The hearing commenced, pursuant to notice, at  
 9:31 a.m., before the Commissioners of the United States  
 International Trade Commission, the Honorable DANIEL R.  
 PEARSON, Chairman, presiding.

## APPEARANCES:

On behalf of the International Trade Commission:Commissioners:

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 SHARA L. ARANOFF, VICE CHAIRMAN  
 DEANNA TANNER OKUN, COMMISSIONER  
 CHARLOTTE R. LANE, COMMISSIONER  
 IRVING A. WILLIAMSON, COMMISSIONER  
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APPEARANCES: (Cont'd.)

Staff:

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In Support of the Imposition of Antidumping Duties:

On behalf of GEO Specialty Chemicals, Inc.:

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JUDY JACKSON, Sales Representative, GEO Specialty  
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WILLIAM MAHONEY, Marketing Manager, Construction  
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Washington, D.C.

On behalf of Chatterm Chemicals, Inc.:

JAMES H. KEDROWSKI, Vice President, Commercial  
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APPEARANCES: (Cont'd.)

In Opposition to the Imposition of Antidumping Duties:

On behalf of CAF International Corporation:

CHRISTOPHER A. FREY, President, CAF International  
Corporation

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1 business confidential your requests should comply with  
2 Commission Rule 201.6.

3 Madam Secretary, are there any preliminary  
4 matters?

5 MS. ABBOTT: Mr. Chairman, just to let you  
6 know that all witnesses for today's hearing have been  
7 sworn.

8 (Witnesses sworn.)

9 CHAIRMAN PEARSON: Excellent. Let us then  
10 proceed with opening remarks.

11 MS. ABBOTT: Opening remarks on behalf of  
12 Petitioners will be by Gregory Husisian, Thompson  
13 Hine.

14 CHAIRMAN PEARSON: Welcome, Mr. Husisian.  
15 Please proceed.

16 MR. HUSISIAN: Thank you. I am Gregory  
17 Husisian, and I am here with my colleagues, David  
18 Schwartz, Jason Hungerford and Jennifer Stein, on  
19 behalf of GEO Specialty Chemicals.

20 This case in many ways marks a milestone for  
21 me. This is my fifteenth anniversary of practicing  
22 before the International Trade Commission, and in that  
23 time there have been some difficult cases where I felt  
24 my skills as an advocate were truly stressed by having  
25 to focus the Commission on certain factors that



1 favored our client, and I felt we really had to pull  
2 out all the stops to use our skills as advocates to  
3 try to win the case for our client.

4 But this is not one of those cases. This is  
5 a case where you can open the statute and look at all  
6 the statutory factors and almost pick one at random,  
7 and in every single case you're going to find the  
8 record supports only one finding, which is that the  
9 U.S. industry is materially injured by reason of the  
10 subject imports.

11 Every factor is satisfied here. If you take  
12 a look at profits, for example, one of the best  
13 indicators of how the U.S. industry is performing, you  
14 find that from the start of the POI until the end they  
15 were losing money every day.

16 When you look at production, is it healthy?  
17 No. Production is down sharply, and in fact one of  
18 the two producers of the merchandise has been  
19 basically forced out of the market by subject imports  
20 and relegated to the niche area of pharmaceutical  
21 glycine sales. It can't produce the main product, the  
22 USP grade glycine, and has been forced to turn to  
23 imports while shuttering its own capacity to produce  
24 USP glycine.

25 When you look at factors like capacity

1 utilization, number of production-related workers,  
2 shipments and market share, not a one of them is up.  
3 They are all down sharply.

4 The industry can't invest in new capacity.  
5 What you find is that GEO Specialty Chemicals, the  
6 largest producer in the industry, can't even keep all  
7 of its own production up because when it lost some of  
8 its production there was no economic case to invest in  
9 that production.

10 No matter what you look at, the industry is  
11 suffering material injury, and it's shown across the  
12 board. So the case comes down then, I suppose, to  
13 causation, but even here the record is as clear as  
14 could be. When you look at imports, subject imports  
15 over the period of investigation, at the beginning of  
16 the period of investigation they were substantial, and  
17 then they more than doubled over the POI, whether  
18 measured in absolute terms or in terms of market  
19 share.

20 When you look at their market share, their  
21 doubling of market share, it precisely mirrors the  
22 loss of market share that you see by the U.S.  
23 industry. The imports were coming in using consistent  
24 underselling, which is also shown by the record, and  
25 they were displacing U.S. production and U.S.

1 shipments. Connecting the lines, material injury is  
2 precisely by reason of the subject imports, and  
3 there's really no other conclusion that you can draw  
4 from the record.

5 The reality is this is a commodity market  
6 where there are only a few customers who are large and  
7 sophisticated where everybody knows they have to  
8 compete, and these large customers are willing to use  
9 the club of low-priced imports as a means to extract  
10 ever lower prices from the U.S. industry.

11 The only way to pick up market share in this  
12 kind of commodity market is to engage in targeted  
13 dumping, and that is exactly what the foreign subject  
14 imports have done. They've used dumping as a weapon  
15 to use their excess capacity to pick up market share  
16 at ever lower prices, and it's had the inevitable  
17 result: A U.S. industry that is on the ropes. It's  
18 squeezed on the bottom because it has rising raw input  
19 costs, and it's squeezed on the top because it can't  
20 raise its prices to cover that.

21 GEO Specialty, which represents more than 80  
22 percent of the industry, has tried it both ways.  
23 They've tried to maintain volume by slashing their  
24 prices and found it led to losses. If they tried to  
25 compete against subject imports by trying to maintain

1 the prices then they took a hit on their volume and  
2 also took losses because it's a chemical industry with  
3 high fixed costs, and if you can't run your plant at  
4 high capacity you're just not going to be able to make  
5 any money.

6 The problem is not that they can't run the  
7 plant efficiently. They use what everyone  
8 acknowledges is the most efficient production process  
9 in the world. It's run efficiently. They've wrung  
10 out costs after they purchased it from Dow, and it's  
11 run as a world class facility. They can compete  
12 against anybody, but they can't compete against  
13 imports with excess capacities that are targeting the  
14 U.S. market by using consistent underselling as a  
15 means to pick up incremental sales.

16 The one good thing that this client has in  
17 front of it is this case. Since this case has begun,  
18 for the first time in five or six years -- long before  
19 the period of investigation -- they've seen the first  
20 glimmer of hope.

21 They're seeing stabilizing prices because  
22 there's been some pullback from imports who realize  
23 that they can't perhaps continue to use targeted  
24 dumping as a means to continue to pick up volume.  
25 Unless there is an affirmative determination, that

1 glimmer of hope will disappear.

2 CHAIRMAN PEARSON: Thank you, Mr. Husisian.

3 Mr. Frey, did you wish to make some opening  
4 remarks, or do you prefer to wait until --

5 MR. FREY: No. I'd like to say something.

6 CHAIRMAN PEARSON: Okay. Do you wish to  
7 speak from there or from the podium here?

8 MR. FREY: I'd like to speak from here.

9 CHAIRMAN PEARSON: Indeed, you may speak  
10 from there.

11 MR. FREY: We are representing ICO Labs of  
12 India as their agent. I have a statement from them  
13 that I'll read later.

14 I just wanted to point out that one remark  
15 that I just heard from the gentleman about imports  
16 slowing down, a lot of it is due to the fact that at  
17 least in our case India was afraid to ship and we  
18 would get caught paying a 121 percent duty, which  
19 would be prohibitive and also probably be either  
20 canceled by the customer or other commercial  
21 violations on our part.

22 To counter that, I just as of yesterday  
23 placed an order for about 200 tons that we will be  
24 bringing in in December, January, February at the 121  
25 percent duty, so that has not deterred us because the

1 market is empty. There is very little product, and  
2 people are paying much, much higher prices, which we  
3 believe is what GEO's intent is, to raise the price.

4 I just have one more thing. We had a lawyer  
5 who's not with me now, but who did do a study of  
6 nonproprietary information and looked at GEO's  
7 revenues over the last three years. There are just  
8 normal business fluctuations and no noticeable  
9 decrease in revenues.

10 That's all I have for now. Thank you.

11 CHAIRMAN PEARSON: Thank you, Mr. Frey. And  
12 I understand the correct pronunciation name is Frey  
13 rather than Frey. My apologies for the first go  
14 around.

15 MS. ABBOTT: Will the first panel in support  
16 of the imposition of antidumping duties please come  
17 forward and take your places?

18 CHAIRMAN PEARSON: Okay. Mr. Husisian, are  
19 you running this show?

20 MR. HUSISIAN: In a way. I mean, we know  
21 that you're most interested in hearing from the  
22 industry witnesses, so I'm going to revert to the  
23 master of ceremonies role, I guess. We try to think  
24 of all the information you could possibly need and to  
25 cover all the gamut of the case.

1           We have Bill Eckman here, who will be  
2 covering the financial aspects of the case and is  
3 familiar with the numbers and worked on putting  
4 together the ITC questionnaires. He's going to be  
5 talking about the financial impact the subject imports  
6 have had on GEO Specialty's glycine operations.

7           We have Judy Jackson here, who boasts 14  
8 years' experience in selling the product and is on the  
9 front lines in dealing with customers and knows their  
10 concerns and the impact that subject imports have had  
11 on a firsthand basis.

12           Bill Mahoney is here to talk about the  
13 impact that the subject imports have had on their  
14 customer service initiatives and their ability to  
15 serve the market and the detriment not being able to  
16 invest in capacity has had.

17           Finally, Alex Avraamides is here to talk  
18 about the impact the subject imports have had on the  
19 industry and the plans that GEO Specialty has for the  
20 future if they're able to get stability in the  
21 marketplace through an antidumping order.

22           Mr. Frey said that GEO's intent is to raise  
23 the price in the market, and in a way that is true,  
24 but it's true in the sense of restoring the situation  
25 that existed before dumping was occurring, before the

1 U.S. was being targeted by that.

2 GEO welcomes imports and, as the Commission  
3 knows, a dumping order is not a quota. It's not a bar  
4 to imports. It's simply a measure that ensures that  
5 imports are fairly traded. The witnesses that are  
6 here today are going to talk about how essential that  
7 is, given the marketplace that's existed and the way  
8 they've been targeted for far longer than the period  
9 of investigation.

10 Mr. Eckman will begin, and then we'll just  
11 pass it along from witness to witness.

12 I'm sorry. Before that, John Reilly, whom  
13 you're all familiar with, will be talking about the  
14 conditions of competition and the background that  
15 shows how the industry operates.

16 MR. REILLY: Good morning, Mr. Chairman and  
17 members of the Commission. For the record, I'm John  
18 Reilly of Nathan Associates appearing on behalf of GEO  
19 Specialty Chemicals.

20 The conditions of competition in the market  
21 for glycine, in combination with the data collected by  
22 the Commission, make it plain that the subject imports  
23 have caused material injury to the domestic glycine  
24 industry. There can be no other conclusion.

25 Glycine is a commodity organic chemical. As



1 such, purchasers can freely interchange glycine from  
2 different sources. Glycine for the most part  
3 constitutes a very small share of end product cost,  
4 and there are no ready substitutes for glycine. As a  
5 result, demand for glycine is highly inelastic to  
6 price.

7           Production of glycine, moreover, entails  
8 high fixed costs. Thus, producers must operate at  
9 high levels of capacity utilization in order to  
10 minimize unit costs. The combination of inelastic  
11 demand and ready substitution for different sources  
12 means that any increase in glycine supply relative to  
13 demand will cause the market price of glycine to  
14 decline significantly.

15           As a result, any surge of import supply  
16 would leave domestic producers with only bad choices.  
17 On the one hand, a producer could choose to maintain  
18 its price by reducing production and shipments. The  
19 cost of this response would be lost sales, lost market  
20 share, higher unit costs and reduced profits.

21           On the other hand, a producer might choose  
22 to reduce price in order to maintain volume and keep  
23 unit costs down. The cost of this response would be  
24 reduced dollar sales and lost profits.

25           There can be no doubt that the domestic

1 industry has been materially injured. Domestic  
2 glycine production, employment and shipments have all  
3 declined during the period of investigation. One  
4 domestic company, Chattem, has been forced by low  
5 prevailing prices to become a niche producer of  
6 pharmaceutical grade glycine and an importer of USP  
7 grade product.

8 GEO Specialty Chemicals, the only remaining  
9 producer of USP grade product in the United States, is  
10 operating at a loss. Faced with significant raw  
11 material price increases, GEO has worked diligently  
12 and successfully to reduce other production costs.  
13 Nevertheless, GEO has been unable to turn a profit.  
14 If GEO's losses continue, the company will have no  
15 choice but to cease producing glycine and permanently  
16 exit the U.S. glycine market to the significant  
17 detriment of U.S. glycine consumers.

18 The data collected by the Commission show  
19 that the volume and market share of subject imports  
20 have increased sharply during the period of  
21 investigation. Moreover, the data make it plain that  
22 these gains, which have outpaced the growth of U.S.  
23 glycine demand, have come directly at the expense of  
24 the domestic glycine industry.

25 In addition, the pricing product data

1 collected by the Commission show the subject imports  
2 have consistently underpriced the domestic product.  
3 These facts, coupled with the conditions of  
4 competition in the market for glycine, permit no other  
5 conclusion than the obvious one: Subject imports have  
6 been the cause of the material injury suffered by the  
7 domestic glycine industry.

8 The facts of this case have rendered moot  
9 the issue of threat of injury. Nevertheless, the  
10 fragile state of the domestic industry and import  
11 trends make it clear that the domestic industry is  
12 vulnerable to continuing material injury.

13 The foreign producer questionnaire data show  
14 that the responding producers have both the capability  
15 and the motivation to significantly increase their  
16 exports of glycine to the United States. The details  
17 are in GEO Specialty Chemicals' prehearing brief. In  
18 short, the threat of continuing material injury is  
19 clearly present.

20 The recent data for interim 2007 show that  
21 the volume and market share of subject imports have  
22 declined relative to interim 2006 levels. This  
23 development does not reflect any lessening of the  
24 threat of injury. Rather, it reflects the threat of  
25 significant antidumping duties imposed by the filing

1 of this case. Were the threat of such duties to go  
2 away, it would be immediately back to business as  
3 usual.

4 Thank you for your attention, and I'll be  
5 pleased to answer any questions you may have.

6 MR. ECKMAN: Good morning. My name is Bill  
7 Eckman. I am the executive vice president and chief  
8 financial officer of GEO Specialty Chemicals.

9 GEO is a relative newcomer to the glycine  
10 industry. When we bought the plant that produces  
11 glycine from Dow Chemical two years ago, we knew the  
12 glycine industry was under assault from imports, but  
13 we knew the glycine operation had a lot of advantages.

14 It is the largest, single glycine production  
15 facility in the world, and it uses what is widely  
16 acknowledged to be the world's most efficient  
17 production process. It also enjoyed the advantage of  
18 having two production facilities on the same site,  
19 allowing GEO to spread certain fixed costs over an  
20 additional product. If any plant can make money, it  
21 should be this one.

22 We were confident that combining a world  
23 class production facility with a lean, customer  
24 service focused management structure would allow us to  
25 revive a plant that its previous owner had basically

1 written off.

2 GEO's experience in the glycine business has  
3 not been as positive as we had hoped. Since we  
4 purchased the plant, the cost of the raw materials  
5 needed to produce glycine has increased sharply, and  
6 we have been unable to increase prices to cover our  
7 costs due to the constant pressure from imports from  
8 India, Japan and Korea selling at absurdly low prices.

9 We have taken all possible steps to lower  
10 our cost structure, but with raw material prices up  
11 and selling prices trailing the result has been  
12 predictable. Our glycine business plagues GEO's  
13 bottom line with continuing losses.

14 What we have discovered is that it is  
15 impossible to profitably compete with unfairly traded  
16 imports because of the nature of the glycine business.  
17 Technical and USP grade glycine, which compose 99  
18 percent of our sales, are commodity products sold on  
19 the basis of known specifications, so when foreign  
20 producers are willing to dump glycine in the U.S.  
21 market for less than our cost of production we are  
22 forced to make a terrible choice.

23 If we lower our prices when we are already  
24 selling below our cost of production our losses will  
25 increase, but if we hold the line on prices we will

1     lose sales, even if the difference in price with  
2     imports is only a few pennies per pound.  Losing sales  
3     volume is just as deadly as selling at artificially  
4     low prices because our glycine plant can run  
5     profitably only at closer to full capacity.

6             What is most absurd about the situation is  
7     that the market for glycine is actually growing.  In a  
8     growing market there are typically increased sales  
9     opportunities and, all other things being equal, we  
10    ought to be able to pass through our cost increases.  
11    We can't though because producers of Indian, Japanese  
12    and Korean glycine have captured the entirety of the  
13    increasing demand and then some using systematic  
14    dumping as a competitive weapon.

15            The only other U.S. company that produces  
16    glycine domestically, Chattem Chemicals, has been  
17    forced to cease production because of unfair import  
18    competition.  Having experienced the same barrage of  
19    unfairly traded imports, GEO fully understands how  
20    Chattem was forced to make this change.

21            GEO hopes to avoid that fate.  We didn't buy  
22    the facility from Dow only to shut it down, but let me  
23    be clear.  GEO has a very difficult decision regarding  
24    its glycine operations and Deer Park plant if things  
25    continue as they have for the past five years.

1                   When one takes into account the fact that  
2                   the prior owner of GEO's glycine facility stopped  
3                   depreciating the plant in 2005 because it was up for  
4                   sale, GEO's glycine facility has not turned a profit  
5                   since 2002. Our market share dropped by more than 16  
6                   percent in 2006 alone.

7                   Our selling price for USP grade glycine, our  
8                   main product, has fallen more than 20 percent since  
9                   GEO acquired the business in November of 2005. Our  
10                  losses related to glycine operations in 2006 were  
11                  significant, and our plant staff is the lowest that it  
12                  has ever been.

13                  We have made as much progress as we can. We  
14                  have tried to fix everything we can control, but we  
15                  can't control competitors who use dumping as a  
16                  strategic weapon to pick up market share at  
17                  artificially low prices.

18                  Producers of glycine in India, Japan and  
19                  Korea have targeted the U.S. market as an outlet for  
20                  their excess capacity, and if they are allowed to  
21                  continue ongoing lawsuits would threaten the U.S.  
22                  glycine industry.

23                  During the past several months since the  
24                  Commission's preliminary determination we have caught  
25                  a glimpse of what a fair U.S. glycine market looks

1       like. Prices are beginning to rise due to a pullback  
2       of imported glycine now that foreign producers realize  
3       that they have to sell at fairly traded prices.

4               Given the constant low prices that were a  
5       fact of life over the last few years, we attribute all  
6       improvements in the market to the prospect of  
7       antidumping duties and their effect on unfairly traded  
8       glycine. This is the first sign of hope that we have  
9       had since acquiring the business.

10              Unfortunately, if antidumping duties are not  
11       imposed, GEO would return to an environment where it's  
12       impossible to sell at a profit. Rather than talking  
13       about expanding capacity, we will be talking again  
14       about whether glycine can be a viable business. If  
15       that becomes the topic, more is at stake than just  
16       glycine production jobs. The entire Deer Park plant  
17       would be in jeopardy, risking the jobs of  
18       approximately 70 employees and contractors.

19              The domestic glycine market has not been a  
20       level playing field for at least five years. The  
21       situation will not get any better until imports from  
22       India, Japan and Korea are fairly traded.

23              On behalf of GEO and its employees, I urge  
24       the Commission to recognize the injury suffered by the  
25       domestic industry and to issue an affirmative injury



1 determination. Thank you.

2 MS. JACKSON: Good morning. My name is Judy  
3 Jackson, and I'm the glycine sales representative for  
4 GEO Specialty Chemicals and have been selling glycine  
5 since 1994.

6 I know firsthand how the surge in glycine  
7 imports the last few years from India, Korea and Japan  
8 has devastated the U.S. glycine industry. GEO has  
9 been losing business to these imports for years, and  
10 the other U.S. glycine producer, Chattem Chemicals,  
11 has turned to imports to perform contractual  
12 requirements.

13 Glycine is not an easy product to sell. My  
14 customers are well aware that glycine is a commodity  
15 product, and they will purchase based on little more  
16 than price. Moreover, demand for glycine does not  
17 vary with price. When prices fall, customers do not  
18 order more. They just pocket the savings.

19 We tried for years to compete with low  
20 priced glycine imports from Indian, Japanese and  
21 Korean producers. First we tried to challenge these  
22 imports on price to keep market share, but we took a  
23 beating financially to do this. Then we attempted to  
24 raise our prices to meet increasing costs, which only  
25 led to lost business and lost market share. When your

1       only options are to lose a sale or to sell at a loss,  
2       you have no options at all.

3               The glycine market is dominated by a handful  
4       of sophisticated and large customers. Most of these  
5       customers have negotiated meet or release contracts  
6       that allow them to opt out if we fail to meet the  
7       price of competing glycine suppliers. Because of the  
8       size of these customers, the loss of even a single  
9       contract can be devastating.

10              The remaining sales are spot sales. Because  
11       domestic glycine and glycine from India, Japan and  
12       Korea are generally equivalent, spot purchasers will  
13       choose the lowest priced glycine available at the time  
14       of the sale.

15              For these reasons, the impact of low priced  
16       imports percolates through the entire market, quickly  
17       translating into lower U.S. selling prices. In recent  
18       years, I've seen one company, Dow, stop investing and  
19       sell the business to GEO at a substantial loss and a  
20       second company, Chattem, resort to imports from Japan  
21       in order to compete domestically.

22              We know that a U.S. glycine industry can  
23       succeed if imports are fairly priced. We have run a  
24       profitable glycine business in the past and are ready  
25       to do so again, but we can't unless imports compete on

1 a fairly traded basis.

2 Thank you for your attention, and I welcome  
3 your questions.

4 MR. MAHONEY: Good morning. My name is  
5 Bill Mahoney. I am the marketing manager of GEO's  
6 Construction and Industrial Additives Division with  
7 responsibility for glycine.

8 I am here to talk about the importance of  
9 customer service to our operation and how the constant  
10 onslaught of imports has hurt the ability of the U.S.  
11 industry to serve our customers.

12 When GEO bought the plant from Dow, we  
13 realized that it was inheriting a poor customer  
14 service record. The glycine business just was not a  
15 priority for Dow, and it was not uncommon for Dow to  
16 strand customers without needed glycine shipments.

17 That is why one of the first things GEO did  
18 after it bought the business was to make customer  
19 service a priority. The record of improving on-time  
20 shipments that you see in 2006 was a direct result of  
21 that push, and we are proud of the improvements in our  
22 customer service, including the substantial  
23 improvement in the number of on-time deliveries.

24 Unfortunately, in 2007 our on-time record  
25 was not as good as in 2006. This was not in any way

1       attributable to a pullback in our customer service  
2       initiative. Much of this delay was due to an  
3       unavoidable shutdown of our facility.

4               Every five years we are required to shut  
5       down our plant to thoroughly clean and inspect one of  
6       our key raw material areas. This was our first  
7       shutdown since GEO purchased the plant, and restarting  
8       production took longer than anticipated and that hurt  
9       our ability to make shipments on time. Had this  
10      shutdown not occurred, I fully believe that we would  
11      have been able to continue with our strong 2006  
12      on-time performance.

13              Another reason for the strain on GEO's  
14      shipments was that the pullback in dumped imports was  
15      more rapid than GEO anticipated. When these cases  
16      were filed, GEO fully expected that there would be  
17      some decline in imports once subject producers saw  
18      that they would be unable to continue their strategy  
19      of picking up market share by dumping.

20              But GEO was surprised by the timing of the  
21      pullback, which coincidentally happened at the same  
22      time that GEO was shut down. The end result was that  
23      there was a perfect storm. The expected and temporary  
24      fallback in our supply, when combined with the rapid  
25      fallback in imports, resulted in the temporary ability

1 of GEO to ship out its glycine to all of its customers  
2 on time.

3 We realize that our customers rely on us for  
4 on-time glycine shipments, and that is one of the  
5 reasons why we are bringing these cases. The ability  
6 of GEO and the domestic industry as a whole to  
7 reliably satisfy demand that has been severely  
8 compromised by dumped imports has presented the U.S.  
9 industry from making a profit.

10 GEO has been aware that it could take steps  
11 to increase its production, including investing in  
12 eliminating production bottlenecks and to bring our  
13 C-cept glycine recovery unit back on line, but there  
14 was no reason to do so, not when we couldn't properly  
15 fill our existing capacity.

16 In order for it to make economic sense for  
17 us to invest in greater production capacity, an  
18 antidumping order must be in place against imports  
19 from Japan, India and Korea. We know what life looks  
20 like without an order in place, and it is not an  
21 environment that can support new investments.  
22 Investing in repairs, let alone new production, would  
23 be a fiscally irresponsible decision.

24 Once we have an order in place we will have  
25 the necessary protection to proceed with our future

1 plans to improve and expand our glycine operation.

2 MR. AVRAAMIDES: Good morning. My name is  
3 Alex Avraamides, and I'm the senior vice president for  
4 the Construction and Industrial Additives Division at  
5 GEO Specialty Chemicals with responsibility for the  
6 glycine production. I joined GEO in October of 2006.

7 When I joined the glycine business, which is  
8 part of the Construction and Industrial Division, the  
9 glycine business was in bad shape. Prices had been  
10 falling for years, driven by a constant barrage of  
11 imports selling at lower and lower prices.

12 Despite increasing demand, our market share  
13 was down as well. Worse yet, all of this was taking  
14 place in an environment where the costs of our inputs  
15 were sharply rising.

16 Glycine was a broken operation when GEO  
17 purchased it from Dow, and in its first year owning  
18 the plant we have not been able to repair it. What  
19 was most frustrating was that the reason for these  
20 problems were beyond our control. We were doing  
21 everything we could.

22 Our method of production, the hydrogen  
23 cyanide process, is widely acknowledged to be the most  
24 efficient in the world. We were running our  
25 production process very leanly, including by using

1 many of our workers to serve both our glycine  
2 production and our production of Daxad, which is the  
3 other product that we manufacture at the Deer Park  
4 facility.

5 Our overhead was down sharply from when the  
6 plant was run by Dow, but none of this mattered in an  
7 environment where glycine imports forced us to sell  
8 for less than our cost of production.

9 Glycine is a terribly hard business to make  
10 money in. It is a fungible commodity where it is  
11 virtually impossible to distinguish yourself from  
12 someone who is offering ultra low prices, and that was  
13 a situation that we confronted routinely. Imported  
14 glycine was being sold at far lower prices than a  
15 normally functioning market would allow, and even  
16 GEO's world class production process could not  
17 compete.

18 You are familiar with how imports from  
19 India, Japan and Korea have flooded the U.S. market  
20 during the past several years, and the public import  
21 statistics show how the prices have been both falling  
22 and have undersold our competitive offerings.

23 The only other producer in the market,  
24 Chattem, has been forced out of the main market for  
25 USP grade glycine and forced to turn into an importer.

1 With glycine production being a money losing operation  
2 for years under both Dow and now GEO, the same fate  
3 was staring GEO in the face when it decided to go  
4 forward with these cases. Our suspicions about how  
5 imports were responsible for the state of the industry  
6 were confirmed by the filing of these investigations.

7 Although the U.S. industry still has a way  
8 to go to revive itself from years of losses forced on  
9 it by unfairly priced imports, things have definitely  
10 started to improve. Since the Commission's  
11 preliminary finding of injury, dumped imports of  
12 glycine from India, Japan and Korea have decreased as  
13 these producers have realized that they have to  
14 compete using fairly traded prices.

15 The freefall in prices has ended, allowing  
16 GEO to begin to recover some of its cost increases,  
17 and GEO's sales have begun to increase. Given that  
18 prices had been falling for so many years, the only  
19 possible reason for the recent improvement is the  
20 realization by foreign producers that they no longer  
21 can use dumping as a strategic weapon to increase  
22 their market share.

23 Recent events thus far show not only that it  
24 is unfairly traded imports that have hurt GEO over the  
25 last few years, but also that GEO's low cost glycine



1 process can indeed be competitive in a market where  
2 imports are forced to compete fairly.

3 The glimpse of hope that GEO has enjoyed  
4 during the past months has led us to begin to think  
5 optimistically about the future. We have plans in  
6 place to repair our glycine recovery unit, the piece  
7 of equipment that will increase our capacity by more  
8 than half a million pounds of glycine per year, and  
9 we're looking into ways to eliminate bottlenecks in  
10 our production capacity, which would increase our  
11 output by a further five to 10 percent. We're also  
12 studying a major expansion of our glycine production  
13 facility.

14 These plans are very costly, and they are  
15 all on hold while we wait for a favorable ruling.  
16 Only a market characterized by fairly traded imports  
17 would allow GEO to make these kinds of investments.

18 If the U.S. glycine market is allowed to  
19 revert to instability and dumped imports are allowed  
20 to return, GEO will not invest in its glycine  
21 business. No business can tolerate year after year of  
22 large losses, which is exactly what occurred right up  
23 until the filing of this case and continues until  
24 today.

25 The situation would be far worse if an

1 antidumping duty order is not put in place. Without  
2 an order, we will face the same calculus that was  
3 forced onto Chattem: Either to give up on the  
4 business or continue to suffer year after year of  
5 losses.

6 If this is not a situation that calls for an  
7 affirmative injury finding then I don't know what is.  
8 Thank you for your time.

9 MR. SCHWARTZ: Good morning, Commissioners.  
10 My name is David Schwartz. I'm Greg Husician's  
11 colleague from Thompson Hine, and I'm going to be  
12 addressing this morning threat and Bratsk  
13 considerations.

14 We believe that the record fully supports a  
15 material injury determination; that the Commission  
16 does consider the issue of threat. The record also  
17 fully supports an affirmative determination.

18 You've already heard in detail how the  
19 domestic glycine industry has been pummeled by subject  
20 imports in recent years, leaving it in a vulnerable  
21 state. During the period of investigation, all the  
22 objective indicators of vulnerability have been  
23 present:

24 Subject imports have consistently undersold  
25 U.S. glycine. Subject imports have more than doubled

1 in volume. Domestic market share, production and  
2 shipments have all declined. Domestic industry  
3 employment has decreased, and the domestic industry  
4 has been unprofitable.

5 To make matters worse, the domestic  
6 industry's deterioration has occurred at a time when  
7 the costs of raw materials have sharply increased.

8 The U.S. industry's attempts to compete with  
9 dumped imports, let alone to pass on needed cost  
10 increases, have been futile, leading one of the U.S.  
11 companies to give up and instead resell imported  
12 Japanese glycine.

13 Without relief, an already vulnerable  
14 domestic industry will be an easy target for subject  
15 imports from Indian, Japanese and Korean producers.  
16 The confidential data in the staff report demonstrates  
17 that these producers have substantial unused  
18 production capacity that they will not hesitate to use  
19 for shipment to the United States.

20 Until this investigation began, these  
21 countries had been increasing both their absolute  
22 volumes of imports and their share of the market,  
23 indicating that they have targeted the United States  
24 as a prime dumping ground for their excess production.

25 They also have consistently undersold the

1 U.S. producers, indicating that they view targeted  
2 dumping as a strategic weapon to increase their market  
3 share.

4 Absent an order, all these factors indicate  
5 that the U.S. industry is threatened with material  
6 injury. Unimpeded, these countries' increasing  
7 volumes and persistent underselling will continue to  
8 depress or suppress domestic prices and will continue  
9 to discourage the development and production efforts  
10 of the domestic industry.

11 This investigation and its provisional  
12 measures so far have offered a glimpse of how the  
13 domestic industry can improve if imports from India,  
14 Japan and Korea are no longer offered at dumped  
15 prices. Without this relief, however, the domestic  
16 industry will not survive. If the Commission does not  
17 find material injury here it must find threat.

18 Finally, the imposition of these orders will  
19 primarily benefit the domestic industry. Under the  
20 Bratsk analysis, nonsubject imports represent a far  
21 less significant share of the U.S. market than do  
22 subject imports.

23 Only one-third of all imports in the period  
24 leading up to the investigation were nonsubject  
25 imports, and all available information indicates that

1 this share will only increase in volume sufficient  
2 over time to satisfy any demand that the domestic  
3 industry cannot meet and at high prices that will not  
4 hinder the beneficial effect of these orders on the  
5 domestic industry.

6 Only two countries other than the United  
7 States and those under investigation make glycine, and  
8 that's Belgium and China. The Belgium producers'  
9 imports into the U.S. market have been low for years  
10 and have not picked up in the months since the case  
11 was filed.

12 The current U.S. dollar/euro exchange rate,  
13 which is sharply unfavorable for any EU company  
14 trading with the United States, also is a substantial  
15 impediment. Accordingly, any increase in Belgian  
16 imports will be at high prices that will not hinder  
17 the beneficial effect of these orders on the domestic  
18 industry.

19 Almost all Chinese glycine imports, which  
20 effectively represent nonsubject imports in this  
21 investigation, are subject to a 156 percent  
22 antidumping duty rate. Only two Chinese producers,  
23 Nantong and Baoding, have low rates.

24 Last month, as a result of its 2005-2006  
25 administrative review, Nantong's duty rates more than

1 doubled. This rate is likely to increase  
2 significantly next year because Nantong has refused to  
3 participate in its 2006-2007 administrative review.  
4 Accordingly, any Nantong imports will be at high  
5 prices that will not hinder the beneficial effect of  
6 these orders on the domestic industry.

7 Baoding, the other Chinese producer with a  
8 low rate, received a 2.95 percent duty rate in  
9 September 2005 in an administrative rate that did not  
10 involve any member of the U.S. glycine industry and  
11 occurred before GEO became part of the industry.

12 Baoding is now subject to a contested  
13 administrative review that will likely lead to an  
14 increase in its rate. Accordingly, any Baoding  
15 imports will also be at high prices that will not  
16 hinder the beneficial effect of these orders on the  
17 domestic industry.

18 In short, all indicators suggest that the  
19 domestic industry will be the primary beneficiary of  
20 these orders.

21 Thanks for your time, and we welcome your  
22 questions.

23 CHAIRMAN PEARSON: Does that conclude your  
24 presentation?

25 MR. HUSISIAN: Yes, that concludes our

1 presentation. We know we didn't take all the time,  
2 which we hope bodes in our favor. We stand ready to  
3 take any questions to give you the information you  
4 need to evaluate the material injury.

5 CHAIRMAN PEARSON: Okay. Well, let me just  
6 start by welcoming all of you here today, for taking  
7 the time to come and meet with us.

8 We will begin this morning's questioning  
9 with Commissioner Pinkert.

10 COMMISSIONER PINKERT: Thank you, Mr.  
11 Chairman. I join the Chairman in welcoming this panel  
12 and thanking you for coming to testify today.

13 I'd like to begin with Mr. Kedrowski and ask  
14 you why is Chattem supporting the petition now when it  
15 didn't support the petition in the preliminary phase  
16 of these investigations?

17 MR. KEDROWSKI: Mr. Commissioner, when I  
18 testified or when I came to the preliminary hearing, I  
19 was in support of the petition.

20 We have a glycine plant, and it is running  
21 at a small fraction of its capacity. We can only  
22 because of our cost structure participate in the  
23 pharmaceutical grade, the higher grade material.

24 We wanted to participate in the broad  
25 glycine market and so we structured an arrangement

1 with a Japanese producer where we could actually  
2 purchase and sell glycine into the U.S. market for  
3 either the technical grade or the USP grade market.

4 At that time there was some confusion in our  
5 company as to where this whole process was going. To  
6 probably better understand that, Chattem Chemicals has  
7 been producing glycine since the '60s. We have  
8 participated in no less than I'd say a dozen different  
9 hearings about Chinese glycine under antidumping.

10 Every one of the ones that we've  
11 participated in there was an antidumping tariff that  
12 was enacted, and yet it absolutely had no impact on  
13 the market. Our allegation would be that there were  
14 transshipped materials, et cetera, et cetera. We  
15 weren't sure this one was going to be any different,  
16 but we are clearly in support of the petition now.

17 I don't know if that fully answers your  
18 question, but we have a desire and an opportunity to  
19 increase our sales and production out of our plant,  
20 and that's something that we look forward to.

21 COMMISSIONER PINKERT: Are you concerned  
22 that nonsubject imports might come into this market in  
23 the event that we have a final order in this  
24 proceeding?

25 MR. KEDROWSKI: I would structure my answer in



1 two phases.

2 Mr. Schwartz accurately identified that  
3 there are only two other facilities or two other  
4 countries that produce materials. He also said that  
5 the Chinese glycine is already under antidumping.

6 The other producing company is in Belgium,  
7 and I think we can compete with Belgian produced  
8 material, so I think the short answer from that  
9 standpoint is no, I'm not terribly concerned.

10 COMMISSIONER PINKERT: Thank you.

11 Now I'd like to go back to Mr. Husician and  
12 Mr. Schwartz. I noted that in your testimony today  
13 you've made reference to targeted dumping. As we  
14 know, that's an issue that the Commerce Department is  
15 particularly interested in developing methodology on.

16 I'm wondering whether when you use that  
17 term, targeted dumping, are you using it in a  
18 technical sense, or are you using it in some other  
19 sense, or is it just more of a general phraseology?

20 MR. HUSICIAN: I would say it's a more  
21 general phraseology almost from a laymen's  
22 perspective.

23 The United States is a large and very  
24 attractive market, and glycine is often produced in  
25 the foreign plants as a byproduct when they're making

1 a product that goes into what you would go into Home  
2 Depot and see as the RoundUp pesticide.

3 The people in the industry could go into  
4 that better, but that's the reason those plants are  
5 built, but then if they have a little bit of extra  
6 production you can stop the production and just make  
7 the glycine, and then the question is what do you do  
8 with that incremental production.

9 What they have found is rather than have the  
10 capacity sit idle, you slough it off and then send it  
11 into the U.S. market, which is so attractive. That's  
12 why it makes economic sense for them to use it that  
13 way and why they target the U.S. market is because  
14 it's a large market where there's only a few  
15 customers.

16 So it's not like you need to go running  
17 around trying to figure out how to get into the  
18 market. It's an easy market for imports to target and  
19 to participate in.

20 Is that an accurate summary, Bill and Alex?

21 MR. AVRAAMIDES: Absolutely.

22 COMMISSIONER PINKERT: So if I understand it  
23 correctly, when you say targeted dumping you're not  
24 talking about targeting regions, periods of time or  
25 specific producers?

1 MR. HUSISIAN: No. Well, there's only one  
2 U.S. producer now so in effect it is targeted against  
3 that, but the competition is all across the country.

4 If you look in the staff report, it's not  
5 like there's a particular region. You confront them  
6 everywhere, and only a handful of customers -- like a  
7 half dozen customers or so -- are extremely  
8 influential. The imports are there, and GEO is there.  
9 Chattem is in the niche market.

10 There's only a few people who are really  
11 consuming the glycine. The imports are going after  
12 them, and that's where GEO has to be too because most  
13 people don't need to buy glycine.

14 COMMISSIONER PINKERT: Thank you.

15 Now, I guess this is a question more for the  
16 industry experts on the panel, but it seems that  
17 there's at least some indication that purchasers have  
18 experienced delayed deliveries and supply allocations,  
19 so what I'm wondering is are you losing sales because  
20 you aren't able to supply product, or are you losing  
21 sales because of the impact of the imports?

22 MR. AVRAAMIDES: Our service record improved  
23 dramatically in 2006. Shortly after we acquired the  
24 facility from Dow in November of 2005, we made that a  
25 very significant priority for us.

1           I think the record shows that our  
2 performance for on-time delivery significantly  
3 improved, and we were very pleased to be hearing back  
4 from customers that GEO's ownership is very different.  
5 So certainly throughout the period 2006 we were very  
6 pleased with our performance. We were clearly not  
7 losing business as it related to our customer service  
8 capabilities.

9           Largely for the first half of 2007 this  
10 occurred also, but we also recognized that we had to  
11 conduct this shutdown to clean out our hydrogen  
12 cyanide storage tank, and in combination we took the  
13 opportunity at that time to completely refurbish the  
14 equipment, to change valves, to fix steam leaks that  
15 had been occurring for multiple years. These are  
16 things that you can't do unless the plant is  
17 completely shut down.

18           So we spent \$600,000 plus to do an awful lot  
19 of maintenance work on this plant that was, quite  
20 frankly, hobbling up until that point in time. We  
21 came out of that shutdown. It was a planned 10-day  
22 shutdown that I think ended up lasting a few more  
23 days.

24           When we came back up and running, our  
25 product was slightly off specification so it took a

1 couple of days to get up and running. Really when we  
2 came out of that we were behind the curve. There were  
3 extra orders coming in from customers as a result of  
4 pullback from these subject importers, so we in a  
5 sense had the perfect storm that I think Bill Mahoney  
6 referred to earlier.

7 We didn't lose customers as a result of  
8 this. In fact, when we went into the shutdown we  
9 postponed the shutdown I think two times, and it was  
10 the third date that we selected that we actually went  
11 through with the process because we were trying to  
12 build inventory.

13 We were trying to notify customers  
14 beforehand and be a responsible supplier so that they  
15 were aware of the fact that we were going to go  
16 through a shutdown. In some cases we asked our  
17 customers -- those customers that we knew had  
18 alternate supply lines -- to purchase their demand  
19 elsewhere for that period of time.

20 In one particular case we even agreed to pay  
21 a slight premium -- I'm sorry; to give a customer a  
22 discount -- on their material because they had to buy  
23 from an alternate two or three loads to get through  
24 that period of time.

25 I think given the circumstances that we were

1 in, we acted as responsibly as we could and we  
2 notified our customer base. However, coming out of  
3 that shutdown it was just a very difficult period of  
4 time because we were hand to mouth with our  
5 production. We had an increased number of orders  
6 coming through.

7 But we never lost any orders for that  
8 because I think we juggled and managed to keep  
9 customers whole despite the difficult time, including  
10 shipping partial orders where we incurred the cost of  
11 the additional freight, so I think it's only pricing  
12 where we have lost sales.

13 COMMISSIONER PINKERT: Thank you.

14 MR. REILLY: John Reilly of Nathan  
15 Associates.

16 I just want to point out that the situation  
17 in 2007 occurred in an environment of falling imports.  
18 The volume of imports in interim 2007 was less than  
19 the volume of imports in interim 2006, so clearly  
20 there was no loss of business to imports as a result  
21 of the problems of 2007.

22 The situation that occurred after the end of  
23 the period of investigation in August, September and  
24 October also was partly the result of a significant  
25 decline of subject imports.

1 COMMISSIONER PINKERT: Thank you.

2 Thank you, Mr. Chairman.

3 MR. KEDROWSKI: Commissioner Pinkert, may I  
4 add to it from Chattem Chemical's perspective?

5 COMMISSIONER PINKERT: I've run out of time  
6 in this round.

7 MR. KEDROWSKI: Okay.

8 COMMISSIONER PINKERT: But we'll come back  
9 to it.

10 MR. KEDROWSKI: Thank you.

11 CHAIRMAN PEARSON: Mr. Kedrowski, please go  
12 ahead and answer the question now on my time.

13 MR. KEDROWSKI: You let me turn down my mic.  
14 You heard earlier from industry representatives in  
15 terms of you've got two choices in business when  
16 you're facing lower priced products coming in. You  
17 drop your price and you try to hold your volume, or  
18 you keep your price stable and you lose volume.

19 Chattem Chemicals elected to hold our price  
20 stable and watched our volume drop virtually through  
21 the floor. In 2006 and 2007 and up until today, I'm  
22 proud to say we haven't turned down an order. We have  
23 supplied material on time to the people who have asked  
24 us for material.

25 Admittedly, they're at prices that are

1 different than the rest of the industry, but we do  
2 have a tiered pricing schedule, one for  
3 pharmaceutical, one for USP and one for technical  
4 grade.

5 CHAIRMAN PEARSON: Thank you.

6 Mr. Husisian, in your opening remarks the  
7 issue of causation seemed quite clear to you in this  
8 case. For me at the moment, based on my understanding  
9 of the record, it's not quite so clear so let me go to  
10 that if I could.

11 Are you sure that it's the subject imports  
12 that have forced reductions in U.S. production rather  
13 than imports being drawn into the U.S. market in  
14 response to supply challenges that have faced domestic  
15 producers?

16 MR. HUSISIAN: Yes. If you look at the data  
17 throughout the period there's been substantial excess  
18 capacity, and even though the data is APO you have one  
19 producer who is completely on the sidelines and  
20 mothballed its production and the other one who is  
21 desperate to run its factory at full capacity.

22 And yet if you look especially in 2006 was  
23 substantially below it. There was a lot of capacity  
24 in the market that you could do that. If they could  
25 have sold it at a decent price, that capacity would



1 have been on line, which is by far the best way to run  
2 it.

3 When you look at the pattern of underselling  
4 it's so consistent. If you look at the public data  
5 that corroborates it. The gap between the U.S. price  
6 and the other price is so consistent that you can see  
7 the price leadership.

8 Given that it's a commodity market where the  
9 way you pick up market share is by underpricing, when  
10 you see that consistent a record of underselling and  
11 the market shares going up like that with a company  
12 that's desperate to sell more to me that's pretty  
13 close to a textbook case.

14 CHAIRMAN PEARSON: Well, let me turn the  
15 page on the textbook if I might and observe that in  
16 this investigation, as I understand it, we do see an  
17 increase in subject imports -- I don't think that's in  
18 dispute -- but we also see a meaningful increase in  
19 the financial performance of the U.S. industry over  
20 the POI.

21 Not that the industry has become  
22 tremendously profitable, but that difference in trends  
23 where we have the increase in subject imports at the  
24 same time we have the increase in financial  
25 performance seems to me a textbook case, if you will,

1 of a situation in which the domestic market needs  
2 product and is drawing it in rather than imports  
3 coming in and forcing domestic production out.

4 MR. HUSISIAN: Well, in evaluating the  
5 performance of the U.S. industry there is one  
6 exogenous event that you have to take into account,  
7 which was GEO taking over the facility from Dow. Dow  
8 abandoned it, sold it for much less than its book  
9 value, so you had a sharp drop in the overhead and  
10 depreciation expenses.

11 That's why in one period you actually see  
12 the U.S. industry performing a little bit better, but  
13 you have to take the depreciation and put it on a  
14 constant basis. Because Dow took the hit on its book,  
15 you have to take that into account. The U.S. was  
16 losing a fair amount in the trend.

17 CHAIRMAN PEARSON: Is it your position that  
18 the operating ratio as we have it calculated does not  
19 reflect accurately what's going on in the industry?

20 Mr. Reilly?

21 MR. REILLY: I think the financial data  
22 provide the basis for a complete evaluation of what  
23 occurred during the period of investigation.

24 I would suggest you do the following or have  
25 your staff do the following: Look at the depreciation

1 number for 2005 and the depreciation number for 2006  
2 and evaluate the effect of those numbers on the  
3 reported financial performance. I'm sorry 2004, 2005  
4 and 2006, the three year period.

5 In addition, there was a verification done,  
6 and the verification changed the financial performance  
7 figures to actually reflect a performance that was  
8 less favorable than the initial staff report  
9 indicated.

10 In my view, without getting into specifics,  
11 the financial performance shows substantial operating  
12 losses during 2006 even with the reduced depreciation  
13 number, and if you would normalize depreciation the  
14 operating losses in 2006 would be even greater.

15 In addition, the operating losses in 2007,  
16 interim 2007, are also significant, significantly  
17 greater than indicated in the original staff report.  
18 2007 would be a period when the effect of the case  
19 should have caused an improvement in financial  
20 performance.

21 Now, as far as the imports being drawn into  
22 the domestic market issue, if one would see that kind  
23 of an effect one would expect the imports would be  
24 coming in at a premium because generally to bring  
25 product into a market where the supply is short you

1 need to up the price to get the flow.

2 CHAIRMAN PEARSON: Well, that assumes the  
3 purchaser has some incentive to pay a high price. I  
4 mean, I guess one wouldn't necessarily expect a  
5 premium if the prevailing price was not at a premium  
6 in the global market.

7 MR. REILLY: Well, the point is that if it's  
8 a commodity product and say the imports are offering  
9 lower prices, by definition they should be displacing  
10 domestic product because in this case the prize goes  
11 to the low priced supplier. That's how a commodity  
12 market works.

13 CHAIRMAN PEARSON: Well, then why hasn't the  
14 domestic industry shut down entirely?

15 MR. REILLY: They're very close to shutting  
16 down entirely.

17 Now remember, GEO has owned this facility  
18 only since was it November of 2005, so that's less  
19 than two years, actually just about two years now.

20 They filed this case early this year, so  
21 basically you can say that after about a year's  
22 experience they filed this case in order to see if  
23 they could make their operation a viable one.

24 CHAIRMAN PEARSON: Mr. Reilly, I've probably  
25 discussed accounting about as much as I care to in

1 this setting, but if you think there's something about  
2 depreciation that we aren't understanding in our  
3 analysis if you could address that in the posthearing  
4 brief?

5 MR. REILLY: Well, actually it is addressed  
6 in the staff report. It's noted in the staff report.

7 CHAIRMAN PEARSON: I read about it in the  
8 staff report, but perhaps haven't understood it as  
9 fully as you would like me to.

10 MR. REILLY: Okay.

11 CHAIRMAN PEARSON: Any time a business  
12 changes hands you can have a change in valuation of  
13 the fixed assets.

14 I didn't catch something unusual in this  
15 transaction of how we've recorded it in our data. If  
16 there's something unusual that I should understand  
17 there, make sure that I do.

18 MR. REILLY: I will address that in the  
19 posthearing brief.

20 CHAIRMAN PEARSON: So just going back to the  
21 point I was making before, what has allowed the  
22 financial performance of the domestic industry to  
23 improve in the face of rising subject imports?

24 Anyone from the industry care to take that  
25 on? Mr. Eckman?

1           MR. ECKMAN: It's improved. We've taken  
2 cost out, as I mentioned, at Deer Park. Having owned  
3 the facility, now we've been able to streamline our  
4 fixed cost structure at Deer Park.

5           We're still losing money. I think to get  
6 out of the 2005 year where the business was for sale  
7 and to go back and look at Dow lost \$2.5 million in  
8 glycine in 2004. We lost about \$2.5 million in 2006.  
9 We've had a bit of improvement in 2007 because of  
10 implementing fixed cost improvements.

11           We still though have seen our selling price  
12 decline. We see raw materials have stabilized a bit  
13 this year, but there's still upward pressure on them  
14 so the variable margin, if you will, is still  
15 declining. We're at the point where we've cut costs  
16 to the extent we can.

17           We followed certainly a different process  
18 this year, our strategy of trying to fill up the plant  
19 and purposely went out to get volume to try to make,  
20 as I mentioned in my testimony, the business work  
21 better. Maybe we made a little bit of improvement,  
22 but we can't get there any further.

23           CHAIRMAN PEARSON: Okay. Well, my red light  
24 has come on.

25           MR. ECKMAN: Okay.

1                   CHAIRMAN PEARSON: So let me turn now to  
2 Vice Chairman Aranoff.

3                   VICE CHAIRMAN ARANOFF: Thank you, Mr.  
4 Chairman. I join my colleagues in welcoming all of  
5 you here this morning.

6                   I want to pick up where Commissioner Pinkert  
7 left off, and I think it was Mr. Avraamides who was  
8 answering regarding the planned plant closure earlier  
9 this year. You mentioned that you had delayed that  
10 closure once or twice in order to try and build  
11 inventories and address customer needs.

12                   I wanted to ask you to tell me a little bit  
13 more about that. Can you tell me how much inventory  
14 did you think you needed to build up, and how much did  
15 you actually build up?

16                   MR. AVRAAMIDES: Anticipating a two-week  
17 shutdown period, as I recall we were trying to build  
18 in the neighborhood of 350,000 to 400,000 pounds of  
19 inventory.

20                   And we were trying to do this at a period of  
21 time when the maintenance of our equipment wasn't in  
22 the best condition because we kind of needed to get  
23 into the shutdown so that we could improve the  
24 reliability of the equipment and refurbish many of the  
25 items that would give us the improved reliability we

1 were looking for. We were experiencing some problems  
2 with our centrifuges and so forth that limited our  
3 capacity and capability during that pre-shutdown  
4 period.

5 I think the initial plan was to go into the  
6 shutdown in December, which we then put off because  
7 our inventory levels were not sufficient to meet that  
8 requirement. Then we moved it to February, and  
9 similarly we felt that we were closer and in better  
10 shape to do it, and then ultimately we pushed it out  
11 until the end of June.

12 As I recall, we did have the inventory  
13 levels that we had planned on. We were at the 350,000  
14 to 400,000 pound level, which is more than typically  
15 two weeks worth of demand. We felt that we were in  
16 the best shape that we could be in, but as an added  
17 cushion we did go to the industry.

18 We did go to our customers, who we knew had  
19 alternate supply channels, and suggested that they  
20 purchase some of their material during that period  
21 from their alternate suppliers so that it wouldn't  
22 consume our inventory levels and we would come out of  
23 the shutdown with some additional material to help us  
24 get through. That was the best we thought we could do  
25 at the time, and that was the thought process to get



1 us through it.

2           Since we've come out, as I had mentioned  
3 earlier, demand has been higher. We had some trouble  
4 coming right out of the process, but the improvements  
5 that we put in place have resulted in certainly the  
6 last three months in some very consistent, strong  
7 production levels, ones that had not been experienced  
8 in the past by us or in the records that we've seen  
9 with Dow.

10           So we feel that our process is recovering  
11 very nicely. It's just that we went through such a  
12 low period coming out of this shutdown that it's taken  
13 time to recover.

14           VICE CHAIRMAN ARANOFF: It's always I think  
15 difficult for a business such as yours to go to your  
16 customers and say could you please buy from somebody  
17 else, and you said you know they have alternative  
18 sources of supply.

19           As you've mentioned, there are limited  
20 nonsubject sources of supply and there are subject  
21 sources, but you already had the case pending by the  
22 time you went into the shutdown.

23           What alternate sources did your customers  
24 have that they could turn to at that time?

25           MR. AVRAAMIDES: I can't speak to

1 definitively knowing what country origin the materials  
2 came from. I am fairly confident that one of them was  
3 an Indian source, and the other one was a Japanese  
4 source.

5 My level of confidence comes from the fact  
6 that I used to work at one of those companies, and I  
7 knew prior to joining GEO where they were sourcing  
8 their material.

9 COMMISSIONER OKUN: So you were basically  
10 telling them to go buy the subject product at the same  
11 time that you had just brought the petition?

12 MR. AVRAAMIDES: I felt that I had no choice  
13 if I wanted to get them through this two-week period  
14 and to be a responsible supplier in the marketplace.

15 Again, this shutdown occurs every five  
16 years. This is not a routine activity so we will not  
17 be going through this again for another five years.  
18 Certainly we hope by that point in time we would have  
19 more capacity on line. We can build an awful lot of  
20 inventory. This is a one-time event.

21 MR. HUSISIAN: Yes. There are two other  
22 points that they haven't touched on.

23 The first is the data is in the record we  
24 submitted. The average delay in the shipments was a  
25 couple of days. It wasn't that people were stranded

1 without supply. It was a couple of days average delay  
2 in the shipments that people got. They were working  
3 with people to see who should do it and who should be  
4 delayed.

5 The other part of it is the biggest reason  
6 why they were caught a little bit short on this is the  
7 tremendous loss in capacity of the U.S. industry. In  
8 a way this is proof of the problem you have with the  
9 pounding of the imports.

10 I mean, with Chattem's mothballing of its  
11 entire USP production process, with them not investing  
12 in projects that they know they have like eliminating  
13 bottlenecks and restoring the glycine recovery unit,  
14 that production was more than sufficient to cover any  
15 shortfall.

16 Then the final point is there was a slight  
17 miscalculation by GEO in this. You have to remember,  
18 they were coming off of 2006 where their biggest  
19 problem was ballooning inventory. They couldn't sell  
20 their production process that they were making, and  
21 that was the period that they had in owning it.

22 They had been through an environment where  
23 the problem was always inventories were mounting up  
24 and you couldn't sell them, so they were coming at it  
25 from that perspective.

1           The real issue is not was there a temporary  
2 period of a month or two where customers were delayed  
3 by a couple of days, but where is the capacity, the  
4 domestic capacity that you would expect to see that's  
5 been driven out by the subject imports.

6           VICE CHAIRMAN ARANOFF: Okay. Well, you can  
7 answer this question now or you can answer it  
8 confidentially if you like.

9           But given the close timing between the  
10 shutdown as originally planned and then when it  
11 actually occurred and the filing of the petition, was  
12 consideration given to postponing the filing of the  
13 petition in order to facilitate customers obtaining  
14 supply during the shutdown?

15           MR. HUSISIAN: I mean, we knew about and  
16 were talking with GEO about the possibility of a  
17 shutdown and that it would be occurring. I mean, this  
18 was before the provisional measures were put in place  
19 so it wasn't going to impact the customers in that  
20 way.

21           GEO had every confidence at the time. They  
22 said, we're going to have the inventory to take care  
23 of this. They weren't really thinking about the  
24 timing of the two of them because there wasn't really  
25 any expectation that there was going to be an impact

1 on the customers because they were going to build the  
2 inventory.

3 It's an imprecise science to try to estimate  
4 what the impact of customers and the marketplace is  
5 going to be from a filing of a case. Sometimes you  
6 see quite a bit of a pullback. Sometimes you don't  
7 see as much of a pullback or the timing of it.

8 To the extent there was a miscalculation, it  
9 ended up not impacting the customers that much because  
10 it was only a couple days' delay. It's just hard to  
11 tell how much inventory you need to build for an event  
12 that's never occurred before and how to cope with it.

13 MR. REILLY: John Reilly from Nathan  
14 Associates.

15 Lost in all of this discussion I think is a  
16 fact that should be considered, and that is that GEO's  
17 shipments, U.S. commercial shipments of glycine,  
18 increased substantially between interim 2006 and  
19 interim 2007, and this was despite the impending  
20 shutdown.

21 They did put a significantly larger volume  
22 of product into the market in the first six months of  
23 2007 than they did in the comparable period of 2006,  
24 and that's reflected in the staff report.

25 VICE CHAIRMAN ARANOFF: Okay. I mean, in

1 the purchaser questionnaires, as you know, there's  
2 some pretty uniform consternation expressed by the  
3 purchasers about this period of time and them  
4 considering unreliability of supply to be a very  
5 significant business risk to them that requires them  
6 to diversify their sources.

7 It's unfortunate that they're not here today  
8 to talk about that, but their impression of how GEO  
9 dealt with the situation seems to be very different  
10 from the version that you all are telling us this  
11 morning.

12 Is there anything that you can tell us to  
13 reconcile that?

14 MR. HUSISIAN: I mean, I think the  
15 information that GEO provided isn't just anecdotal.  
16 It gives the actual shipment dates and the actual  
17 delay between them, so in terms of the impact and the  
18 amount of delay the record is I think pretty clear on  
19 that.

20 My reading of the questionnaire, without  
21 getting into the actual data, is GEO in part was  
22 tarred by the bad performance that was out there. If  
23 you look at the questionnaires, what you see is people  
24 would often talk about Dow/GEO, but there was a  
25 recognition in there of how much better things were in

1 2006. Then when it came time for the shutdown then  
2 people were saying oh, are they back to the way things  
3 were?

4 If you look at it, it divides it into three  
5 periods. It was pretty uniform. They were saying  
6 things were cruddy under Dow. Then things got better  
7 under GEO, and they recognized the push that's been  
8 described there.

9 Then at the shutdown at the very end of the  
10 POI, that was something where there were some delays  
11 and people were a little worried and said is this a  
12 return to the way it was, but the performance of them  
13 I think is actually pretty consistent with what  
14 they're saying here too.

15 They said it was a good thing that GEO  
16 bought this business because on-time performance has  
17 gotten better, and then when the shutdown occurred --  
18 I mean, we're not saying that the on-time performance  
19 didn't temporarily lag again.

20 Again, it's a prediction. How much  
21 inventory do you have to build to get there? GEO did  
22 its best to do it, and if it misestimated it doesn't  
23 really speak to the impact of an order. It just  
24 speaks to their ability to predict an uncertain  
25 future.

1 VICE CHAIRMAN ARANOFF: Okay. Thanks.

2 My time is up. Thanks, Mr. Chairman.

3 CHAIRMAN PEARSON: Commissioner Okun?

4 COMMISSIONER OKUN: Thank you, Mr. Chairman.

5 I join my colleagues in welcoming all of you here this  
6 morning. I appreciate you taking the time to be with  
7 us and answer our questions.

8 I have a slightly different question about  
9 supply in the U.S. market. In your testimony a number  
10 of you had noted that even with an order in place U.S.  
11 production doesn't equal capacity. It doesn't equal  
12 apparent consumption, and therefore there would be  
13 some imports in the marketplace.

14 Mr. Schwartz, I'm going to come to you  
15 second on kind of a more Bratsk specific question, but  
16 I wanted to ask the industry witnesses what you would  
17 see in this market if there were an order in place.

18 Do you think the purchasers out there are  
19 likely to continue to bring in subject product if it  
20 were subject to an order -- in other words, in Japan  
21 as Mr. Frey has talked about in his brief opening  
22 remarks -- or turn to nonsubject?

23 The Chinese product has continued to be in  
24 the market. Mr. Schwartz had mentioned the two  
25 producers who had the lower rates and that account for



1 most of the product.

2 I'm curious. What does the market look  
3 like, or are you planning to increase capacity to be  
4 able to supply the market?

5 MR. AVRAAMIDES: I think short-term we have  
6 some pretty definitive things that we can do to  
7 improve our capacity and pick up one, two, maybe three  
8 million pounds of product, which is in the area of a  
9 30 percent improvement if those three things fall in  
10 place. Clearly that alone would not supply the entire  
11 market.

12 For the home market to be whole, we would  
13 require support from Chattem, for instance, coming  
14 back into production, and both I think subject and  
15 nonsubject imports would continue to have a presence  
16 in the U.S. marketplace.

17 I don't think we have any intent to prevent  
18 material coming into the U.S. We're just trying to  
19 assure that it comes in at what are fair market prices  
20 and continue to supply and fulfill the marketplace.

21 On a more long-term basis, looking as early  
22 as 2009, it's our intent to have a significant capital  
23 expansion at that plant and significantly improve our  
24 capacity. Again, I'm not sure that we would be able  
25 to supply 100 percent of it.

1           That's not our intent to supply 100 percent  
2 of the market at all, but to be able to fulfill more  
3 of the requirements and demands of the customers in  
4 the U.S. marketplace. Up until now we've just been  
5 unable to look at that, given the economics and the  
6 profitability of our business.

7           COMMISSIONER OKUN: And looking back over  
8 the period there is this interesting question, the  
9 forward versus backward looking aspects of Bratsk.

10           Looking backward over the period of  
11 investigation at both the subject and nonsubject  
12 imports, do you have any sense of whether your  
13 purchasers see any difference between the nonsubject  
14 and subject product as being purchased in the market?

15           MR. AVRAAMIDES: Difference in availability?  
16 Quality?

17           COMMISSIONER OKUN: Availability or prices.

18           MR. AVRAAMIDES: I think the pricing of  
19 certainly the material coming from Belgium would be at  
20 a higher price level.

21           The other nonsubject material from China I  
22 think has been exceptionally low over the past years,  
23 but I think in the presence of new orders that are  
24 coming in it would be more in line with fair market  
25 pricing.

1                   COMMISSIONER OKUN: Mr. Reilly, perhaps a  
2 pricing-related question for you on that, which is how  
3 much weight we should put on the AUVs that we see in  
4 the staff report in considering whether nonsubjects  
5 would have replaced subject imports in the market?

6                   MR. REILLY: The question of AUVs and their  
7 relevance to the situation after the imposition of a  
8 dumping order is one which I would not give too much  
9 weight.

10                   The AUVs basically have reflected a  
11 situation in which there was a substantial amount of  
12 low-priced imports, in nonsubject imports from China,  
13 for example, much of those being under dumping orders,  
14 so I think that the AUVs in general would reflect a  
15 situation where the prices at which these products  
16 have been coming in would be significantly lower than  
17 the prices at which subject and nonsubject imports  
18 would be coming in after the imposition of the order.

19                   Especially in the change in the situation in  
20 China that Mr. Schwartz I think ably described and  
21 also the fact that the euro is so strong against the  
22 dollar, so that would affect the future pricing of  
23 Belgian product.

24                   COMMISSIONER OKUN: Right. Mr. Reilly, let  
25 me just ask you this.

1           Because again if as the Commission has  
2           interpreted if this were a present case, if the  
3           Commission were to be looking at present injury, we  
4           had looked at nonsubject pricing as it were, would  
5           there have been a benefit? Would there have been a  
6           replacement by nonsubject imports?

7           In that case I think we are stuck with the  
8           data we have as opposed to future looking, which I  
9           have applied for Bratsk as well, but with future  
10          looking you can say, yes, your arguments make some  
11          sense, but if I'm looking at the record that we have  
12          the AUVs would suggest that the Chinese product coming  
13          in was low-priced product.

14          Would there have been a benefit to the U.S.  
15          industry if there were an order on the subject  
16          imports?

17          MR. REILLY: Yes. Well, yes, because  
18          remember the volume of imports from China was low  
19          relative to history, and the number of firms in China  
20          that could export to the United States at low prices  
21          was limited by orders already in place.

22          Were there a very substantial capability to  
23          export product to the United States from China at low  
24          prices, the volumes of imports would have been greater  
25          in this, a commodity market.

1           MR. HUSISIAN: There's one other factor to  
2 take into account when considering the AUVs. A lot of  
3 the material that came in in 2006 was coming in from  
4 Nantong, which at the time had an 18 percent margin.

5           That review, when it was completed, resulted  
6 in a 38 percent margin, so they clearly miscalculated  
7 in terms of their pricing. They should have priced  
8 their product higher so that they could have kept the  
9 dumping margins down.

10           In terms of the ability to use AUVs to  
11 predict the future likelihood of the Chinese to  
12 underprice, you would kind of have to take that into  
13 account, that the price and effect didn't include all  
14 the costs that were going to be charged to the  
15 importer of record because they were going to have to  
16 come up with extra duties later on.

17           That being said, it kind of illustrates the  
18 effect of the orders in here. It's not that the  
19 orders keep out Chinese product -- Chinese product has  
20 come in -- but it limits their ability to use dumping  
21 to rapidly pick up market share, which is what you  
22 have to do in a commodity market like that.

23           The market will be served by Chinese  
24 material because there's a number of Chinese producers  
25 there and they're willing to sell into it, but in

1 terms of will that mean under a Bratsk analysis that  
2 the Chinese will just come in and suck up any vacuum  
3 that's created by a pullback by the other industry,  
4 no, it doesn't mean that.

5 The order would have a beneficial impact on  
6 prices, and it would limit their ability to come in  
7 and just pick up market share willy-nilly through the  
8 use of dumping.

9 COMMISSIONER OKUN: And of the AUVs during the  
10 period of review, do the AUVs reflect any product-mix  
11 differences that we should take into account?

12 MR. HUSISIAN: There's potentially two  
13 products that are involved. The understanding is the  
14 Chinese do not really compete in the pharmaceutical  
15 grade at the highest standards, but there is the data  
16 that's in the record for the subject producers which  
17 shows that imports can be technical grade and USP  
18 grade.

19 To the extent you don't know the mix of the  
20 Chinese AUVs, it does go to your ability to use the  
21 AUVs because if the Chinese, for example, have more  
22 technical grade in there than, say, the subject  
23 imports do, their prices would naturally look lower  
24 because it's a cheaper product, but you wouldn't be  
25 able to quantify that.

1           It's not perhaps as great a difference as  
2 you see in some products where there is a great number  
3 of products covered in AUVs, but because of the  
4 difference in prices of those two products that come  
5 in from China, there is the potential to mix up the  
6 data and complicate your analysis, yes.

7           COMMISSIONER OKUN: Okay. Perhaps, for  
8 post-hearing, it would be helpful, again, in a Bratsk-  
9 type analysis, giving some further explanation about  
10 whether we should look at it in terms of the pricing.

11           Before my light turns, Mr. Kedrowski, I just  
12 wanted to go back to a follow up to a question from  
13 Commissioner Pinkert. I'm trying to understand  
14 whether -- I think you had said that Chattem is now  
15 supplying all grades to the U.S. market. Is that  
16 correct?

17           MR. KEDROWSKI: That's correct. We have  
18 always been able to supply all grades.

19           COMMISSIONER OKUN: And are you supplying  
20 all grades from all domestically produced or --

21           MR. KEDROWSKI: Yes, we are.

22           COMMISSIONER OKUN: So all domestically  
23 produced in all grades at this time.

24           MR. KEDROWSKI: Yes, we are.

25           COMMISSIONER OKUN: Okay. Thank you for

1 that clarification. Thank you, Mr. Chairman.

2 CHAIRMAN PEARSON: Commissioner Lane?

3 COMMISSIONER LANE: Good morning. I might  
4 start this question, I think, with probably Mr.  
5 Reilly. When looking at the staff report, I am struck  
6 by the disparity between the domestic industry's  
7 condition in 2005 and 2006, where the data show  
8 declines in areas such as domestic consumption,  
9 productivity, operating income, SG&A expenses, and  
10 cost of goods sold.

11 I assume that increases in raw material  
12 costs are a major factor which contributed to the  
13 decline in the domestic industry's profitability  
14 between 2005 and 2006, but what other market  
15 conditions contributed to this situation, and why did  
16 domestic consumption decline between 2005 and 2006?

17 MR. REILLY: Well, in terms of the financial  
18 analysis, there were two factors that caused the  
19 performance of the domestic industry to deteriorate.  
20 One was a decline in the volume of shipments, a  
21 significant decline in the volume of shipments,  
22 between 2005 and 2006.

23 The other was a significant increase in unit  
24 costs driven by input price increases. And, in fact,  
25 if you exclude the reduction in the depreciation that



1 occurred between 2004 and 2006, there was no  
2 significant improvement in the operating profit of the  
3 domestic industry between 2004 and 2006. The pure  
4 numbers are highly deceptive.

5 The situation, with respect to 2005 to 2006,  
6 another thing that occurred was that the average unit  
7 selling price actually increased between 2004 and  
8 2005, but there was no average selling price increase  
9 between 2005 and 2006, and that, in combination with  
10 the reduced volume and increased cost, was what caused  
11 the financial performance of the domestic industry to  
12 deteriorate.

13 COMMISSIONER LANE: Okay. Thank you.

14 Now, this is a question for the industry.  
15 How often, if at all, do you include clauses in your  
16 sales contracts that require a company to purchase a  
17 minimum amount of glycine but only if available  
18 without a guarantee or a requirement for you to  
19 actually supply that amount?

20 MR. AVRAAMIDES: I'm sorry. Could you  
21 repeat that question, please?

22 COMMISSIONER LANE: How often, if at all, do  
23 you include clauses in your sales contracts that  
24 require a company to purchase a minimum amount of  
25 glycine but only if available without a guarantee or

1 requirement for you to actually supply that amount?

2 MR. KEDROWSKI: I can speak for Chattem. We  
3 don't have any contracts of that type at all.

4 MR. AVRAAMIDES: I think you're referring to  
5 our standard purchase order terms and conditions that  
6 was on the back of all of our contracts, thinking  
7 those are terms. There is a clause that, if I recall  
8 correctly, identifies, in the event of a problem with  
9 manufacturing, and this doesn't apply to glycine -- it  
10 applies across the board in all products -- that GEO  
11 will not be liable. There are limitations on damages  
12 and liabilities which, I think, are standard on many  
13 terms-and-conditions purchase orders that I've seen at  
14 other companies that I've worked at in the past.

15 I think we apply these terms and conditions  
16 across the board, and certainly with customers, we  
17 negotiate terms and conditions as needed. But as with  
18 all other companies, the purchase order terms are  
19 usually heavily weighted to the company that issues  
20 those terms. Does that answer your question?

21 COMMISSIONER LANE: Yes. Thank you.

22 MR. MAHONEY: I would like to add to that,  
23 if I may.

24 COMMISSIONER LANE: Yes.

25 MR. MAHONEY: I believe that one of the more

1 common phrases for your question is the take-or-pay-  
2 type contract, and I just wanted to clarify that our  
3 language is not at all take-or-pay contracts, that we  
4 do not have take-or-pay contracts, so that if we were  
5 unable to perform, the purchaser would still have to  
6 pay us for that nonperformance.

7 COMMISSIONER LANE: Okay. Now, I want to go  
8 back to something more basic. It may be in the staff  
9 report, and I just don't remember it, so you'll have  
10 to bear with me. Why do you have to shut down your  
11 facilities every five years, and exactly what does  
12 that involve when you do it, and is the timing your  
13 timing?

14 MR. AVRAAMIDES: This is an OSHA regulatory  
15 requirement that we deal with. One of our raw  
16 materials is a hazardous chemical. It's a product  
17 inhalation-hazard chemical, hydrogen cyanide, and over  
18 a period of time, it has a tendency to polymerize, to  
19 harden up, and to plug up some of the equipment.

20 So as part of this OSHA regulation, you have  
21 to go into the equipment every five years and wash out  
22 all of the lines, go into the tank and inspect the  
23 integrity of the tank so that you can assure that you  
24 won't have any leaks of hydrogen cyanide. As a result  
25 of that, it's clearly something we need to do.

1           We found minimal issues with our equipment,  
2           but we took advantage of the time to take care of a  
3           whole broad range of reliability problems that had  
4           plagued that plant during that shutdown.

5           COMMISSIONER LANE: Okay. But the timing is  
6           you pick the timing. Is that right?

7           MR. AVRAAMIDES: That's correct.

8           COMMISSIONER LANE: And as I understand it,  
9           you didn't have enough inventory at the time that you  
10          did this, and then when it took longer for the  
11          shutdown than you anticipated, then you ran into some  
12          issues.

13          MR. AVRAAMIDES: Yes. When we acquired the  
14          plant in November 2005, I believe the prior shutdown  
15          for this inspection, this requirement, had been  
16          conducted perhaps two, three years prior. So we were  
17          approaching this five-year timeframe, and, in 2006, we  
18          ran the equipment, I think, as well as could be  
19          expected, given the condition that it was in.

20          As the end of 2006 was approaching, we  
21          really had a short window before we hit that five-year  
22          timeframe. I think five years would have been  
23          November or October of 2007, and we didn't want to  
24          wait until the last minute because we thought we could  
25          run into some kind of issue that we didn't expect.

1                   So while we pushed it out, we were only  
2 pushing it out to the extent that we were trying to  
3 supply the customer base and minimize the impact to  
4 the marketplace. But we were coming up on that five-  
5 year timeframe, and we had to do it once late June  
6 hit.

7                   COMMISSIONER LANE: Okay. Thank you.

8                   Commission data show that the U.S. producers  
9 primarily supplied the U.S. market and did not export  
10 large quantities of glycine over the period of  
11 investigation. What market conditions have to occur  
12 for domestic producers to decide to deviate from their  
13 normal practices and ship glycine out of the U.S.  
14 market?

15                   MR. AVRAAMIDES: Again, I think it's a  
16 pricing issue. Given the capacity of this equipment  
17 and that it's been dedicated to the U.S. marketplace  
18 for many years, there is sufficient volume here in the  
19 U.S. for us to supply. We have explored, from time to  
20 time, some of the export opportunities, and we've seen  
21 low pricing out there also, and it's prohibitive when  
22 you add the freight logistics costs, too, to get into  
23 other markets. There was no benefit for us to explore  
24 that market, given those price conditions and ample  
25 volume here.

1                   COMMISSIONER LANE: Okay. I have one more  
2 question. In what aspect of domestic production are  
3 most production-related workers employed? For  
4 instance, are most domestic glycine employees involved  
5 in the actual manufacturing of the product or in  
6 sales?

7                   MR. AVRAAMIDES: About a third of those  
8 production employees are actual operators that are  
9 producing glycine day after day. There's two  
10 operators per shift, two shifts a day. I believe  
11 that's eight employees there. The balance of  
12 employees are maintenance people, tank-loading people,  
13 utility operators, maintenance people, things of that  
14 nature, and some plant operations-management folks,  
15 but a third are the day-to-day production people.

16                   COMMISSIONER LANE: Okay. Thank you. Thank  
17 you, Mr. Chairman.

18                   CHAIRMAN PEARSON: Commissioner Williamson?

19                   COMMISSIONER WILLIAMSON: Thank you, Mr.  
20 Chairman, and I do want to express my appreciation for  
21 the witnesses' testimony today.

22                   In answer to your earlier questions, GEO has  
23 indicated that the Chinese imports would not likely  
24 replace subject imports if the orders were imposed,  
25 and among the arguments you cite are the higher

1 dumping margins for the two Chinese producers, Baoding  
2 and Nantong.

3 I was wondering, do you have any data on  
4 their capacity, their production, for these two  
5 companies?

6 MR. HUSISIAN: I'm trying to think if we  
7 have data through the administrative reviews. I know  
8 that people in the industry have their own estimates  
9 that they keep for internal purposes for the major  
10 competitors. I don't know if it's anything you can  
11 talk about publicly.

12 COMMISSIONER WILLIAMSON: If not, then post-  
13 hearing would be fine, unless there is something you  
14 want to say now.

15 MR. HUSISIAN: Absolutely. We will cover  
16 that.

17 MR. AVRAAMIDES: We can provide something  
18 post-hearing, but recognize it's just our estimates  
19 from what we have gathered over the years.

20 COMMISSIONER WILLIAMSON: Thank you. One  
21 thing I've noticed. There hasn't been any discussion  
22 of raw material costs in the subject countries. Are  
23 they comparable to here? Are there any comparative  
24 advantages that subject countries might have in terms  
25 of producing glycine?

1 MR. KEDROWSKI: Everybody is looking at me.

2 First, two background points. One, as you  
3 look at the Japanese market, they produce by the same  
4 methodology as GEO does, and if you look at the  
5 Chinese market and, to the best of my knowledge, the  
6 Indian market, they would produce by the same  
7 structure we would, which is monochloroacetic acid.

8 The raw materials for our process are  
9 worldly traded raw materials, and, to the best of our  
10 ability where we've been able to look outside -- in  
11 fact, we buy a good portion of raw materials from  
12 Europe -- we have looked at being able to buy them in  
13 subject countries and have not been able to find any  
14 advantage in being able to do that.

15 So the whole question is an amazing one to  
16 me because we keep looking at our method of processing  
17 and what it costs us to do it, and we see material  
18 coming in using the same particular methods at prices  
19 below what our cost of raw materials are.

20 I wish I could answer your question better.  
21 It doesn't make any sense to me.

22 COMMISSIONER WILLIAMSON: What about GEO?  
23 Is there any difference there, in terms of raw  
24 material cost, for the people using your method of  
25 production?



1           MR. ECKMAN: As Jim said, the Japanese use  
2 our hydrogen cyanide process. The basic raw materials  
3 -- there are four of them. Three of them are pretty  
4 widely traded, and Japan has no competitive advantage.  
5 The fourth, Japan has no competitive advantage. It's  
6 driven by natural gas. Japan doesn't have a surplus  
7 of natural gas, so, no, there is no natural  
8 competitive advantage in Japan versus us.

9           Then, as Jim has said, the MCA process,  
10 which, in the preliminary, he said was less  
11 competitive on a raw material basis than our HCN  
12 process, similarly, none of the countries have a  
13 natural competitive advantage with raw material  
14 prices or availability for the MCA process, and it's  
15 relatively a higher-priced process than ours. I don't  
16 know if that addressed your --

17           COMMISSIONER WILLIAMSON: That's exactly  
18 what I wanted. Fine. I just needed clarification on  
19 that.

20           MR. FREY: Could I ask a question, please?

21           COMMISSIONER WILLIAMSON: Sure.

22           MR. FREY: Mr. Williamson, you were  
23 referring to the --

24           CHAIRMAN PEARSON: Mr. Frey, you are not a  
25 part of the domestic industry panel --

1 MR. FREY: I'm sorry. Okay.

2 CHAIRMAN PEARSON: -- so if you would  
3 withhold until later.

4 MR. FREY: Excuse me.

5 CHAIRMAN PEARSON: No problem.

6 COMMISSIONER WILLIAMSON: Okay. Thank you.

7 CHAIRMAN PEARSON: Let me offer one  
8 clarification, Mr. Frey. At the conclusion of this  
9 panel, you will have the opportunity to ask questions.  
10 I apologize. I should have made that obvious. So  
11 please reset the clock for Mr. Williamson.

12 COMMISSIONER WILLIAMSON: Thank you. On  
13 page 5 of GEO's prehearing brief, there is discussion  
14 of the meet-or-release provisions in your sales  
15 contracts, and I was just wondering how often these  
16 provisions have been invoked, and can you provide  
17 specific examples? If there is anything you can say  
18 now, or, if not, in post-hearing.

19 MR. HUSISIAN: I think that would be tough  
20 to answer because it's so specific to contracts.  
21 We're happy to cover that in our post-hearing  
22 submission.

23 COMMISSIONER WILLIAMSON: Thank you.

24 Chattem, in the staff report, has made  
25 reference to trans-shipments, and I was wondering --

1 GEO hasn't discussed this issue at all, and I was  
2 wondering, to what extent are there trans-shipments  
3 from China through the subject countries. What's your  
4 view on that?

5 MR. HUSISIAN: The issue is actually one  
6 that has been looked at by the U.S. Customs Service.  
7 There was an allegation that the trans-shipment was  
8 occurring through Korea and that there weren't, in  
9 fact, any Korean producers, and, a couple of years  
10 ago, Customs, and I think this is mentioned in the  
11 staff report, concluded that there was a Korean  
12 producer and that any allegation that there was trans-  
13 shipment occurring because there is no Korean producer  
14 wasn't borne out by the facts of its investigation.  
15 GEO wasn't part of that.

16 In talking with the people there, their view  
17 is that there may well be some trans-shipment that is  
18 occurring. If it is, it isn't known how much or to  
19 how great an extent there is because it's known that  
20 there are producers in the countries. There are  
21 Japanese producers who are making the stuff, and  
22 there's people in Korea, as Customs said, and in  
23 India. There are known producers who do this.

24 If you look at the current import  
25 statistics, I mean, the stuff that's coming in is from

1 China, which is under an order, and they are paying  
2 their duties, or from Belgium or from India, and these  
3 are all countries who have production facilities.

4 So we see nothing that would indicate that  
5 the data and the people who are filling out  
6 questionnaires and things like that are giving  
7 anything other than the information about their own  
8 production.

9 COMMISSIONER WILLIAMSON: Mr. Kedrowski, do  
10 you have any comments on this, from your perspective?

11 MR. KEDROWSKI: Yes. Recognizing that these  
12 are my comments, we have never been able to determine,  
13 and we have spent some time trying to look, that there  
14 actually was a producer of glycine in Korea that  
15 started from raw materials and made glycine. That  
16 really is not an affirmation that they are or aren't.  
17 We have not been able to determine it, so we're highly  
18 suspicious.

19 COMMISSIONER WILLIAMSON: Mr. Kedrowski, if  
20 orders are imposed on the subject imports, what are  
21 Chattem's intentions with respect to imports and  
22 domestic production?

23 MR. KEDROWSKI: Well, we would like to run  
24 our plant at its capable production capacity.

25 Just in review, as imports came in, we

1 dropped and dropped and dropped our volumes down to  
2 where -- we thought we had an obligation to continue  
3 to produce a pharmaceutical grade product for the  
4 industry. The only way we could come close to  
5 covering all of our raw material costs and our  
6 variable costs was to raise prices. We actually split  
7 the way we priced our product between USP and  
8 injectable-grade, pharmaceutical grade, and we're able  
9 to limp along.

10 We have the capacity. It is the same plant.  
11 It's produced virtually in the same way, and we would  
12 like to sell more glycine to the domestic industry.

13 COMMISSIONER WILLIAMSON: All three grades  
14 of glycine?

15 MR. KEDROWSKI: All three grades, but I  
16 think, in reality, our position to be able to produce  
17 much technical grade is really at question because  
18 it's just not economically viable for where we think  
19 that pricing structure will be, under any  
20 circumstances.

21 COMMISSIONER WILLIAMSON: So what is your  
22 relationship with Showa Denko in Japan? Do you sell  
23 the product under their label?

24 MR. KEDROWSKI: Yes. We sell it under their  
25 label. When we were not able to participate in the

1 bulk of the USP market or the technical grade market,  
2 we looked for opportunities to use the resources that  
3 we had, the knowledge that we had in the industry, and  
4 formed a partnership or a distributorship for Showa  
5 Denko glycine. It started, I believe, in 2006 -- I'm  
6 not sure of the exact date -- and distributed it up  
7 through the third quarter of this year.

8 COMMISSIONER WILLIAMSON: Are you continuing  
9 that, or has that relationship changed?

10 MR. KEDROWSKI: Well, no. We spent a great  
11 deal of time trying to encourage them to participate  
12 in this process, just so that they would have their  
13 information available at the same time, and they  
14 elected not to do that. So, at this time, we are not.

15 COMMISSIONER WILLIAMSON: Thank you. My  
16 time is up.

17 CHAIRMAN PEARSON: Commissioner Pinkert?

18 COMMISSIONER PINKERT: Thank you, Mr.  
19 Chairman.

20 Staying with Mr. Kedrowski for a minute, can  
21 you explain what Chattem's strategy is with respect to  
22 the USP and technical grade markets? You said that  
23 you had a responsibility to supply the other markets,  
24 but what about USP and technical grade?

25 MR. KEDROWSKI: I guess I have to take you

1 back to what our pricing policies were two, three,  
2 four years ago. We essentially had a technical grade  
3 price, and we had an other price, and it included USP  
4 and/or pyrogen-free, injectable grade material. As  
5 those prices continued to fall, and we could not  
6 participate, our volumes dropped.

7           The only way we could stay in the market is  
8 to put together a strategy or a tactic that said,  
9 Okay, if there is going to be injectable grade glycine  
10 available, we have to make it, and, therefore, we have  
11 to change the pricing structure, and we did, and that  
12 allowed us to be able to limp along at the volumes  
13 that we've limped along with for the last, I guess,  
14 two and a half years now.

15           It's not an exciting business to be in.  
16 It's not a business that covers all of our costs, but  
17 certainly one that's part of our heritage and an  
18 important part of the pharmaceutical side of it.

19           We sell some technical grade, but that's  
20 usually just because we've had a mistake in a  
21 production process, and we can't verify it as pyrogen-  
22 free material. We would look forward, in the future,  
23 to be able to sell all three grades but recognize the  
24 technical grade is probably not going to be one that  
25 somebody is going to want to come to us.

1           For us, we don't see any reason why we can't  
2 be in both the USP and the pyrogen-free market, and we  
3 have plenty of capacity, and, as I stated earlier,  
4 through this period of 2006, 2007, we've had  
5 substantially idled assets, and we would like to not  
6 idle them.

7           COMMISSIONER PINKERT: Just for  
8 clarification, are Chinese imports pushing Chattem out  
9 of the USP and technical grade markets?

10          MR. KEDROWSKI: I think the factual matter  
11 for us was we were pushed out with Chinese imports  
12 back in the 2004-ish timeframes, not in the 2005-2006.  
13 So my perspective is that a marketplace runs where one  
14 supplier who has an advantage starts to work on the  
15 next supplier and starts to work on the next supplier.

16          So, if I could explain that better, we had  
17 some customers for technical and USP grade, and  
18 Chinese producers, at their price, came in and moved  
19 other producers around, and they came in and looked at  
20 some of our customers and moved us around, and since  
21 we were at the wrong end of the totem pole on the cost  
22 game, we were the losers.

23          So when I look at the marketplace that is  
24 critical to us, it's not only the subject of this  
25 session, which is Korea, India, and Japan, but also



1 China as well.

2 COMMISSIONER PINKERT: Going back to my  
3 question in the first round of questioning about  
4 nonsubject merchandise, you had made reference to the  
5 fact that there is an order out against the Chinese  
6 product, but that doesn't cover all imports from  
7 China, does it, of the subject merchandise?

8 MR. KEDROWSKI: Yes, to my understanding.  
9 All Chinese producers have an antidumping tariff,  
10 unless I'm wrong.

11 COMMISSIONER PINKERT: Would you like to  
12 comment on that, Mr. Husisian?

13 MR. HUSISIAN: Yes. All of the Chinese  
14 producers are subject at varying rates. There is one  
15 producer, Baoding, which is currently at a 2.95  
16 percent rate, which illustrates what happens with an  
17 order if you can compete at a level that Congress  
18 finds they are not dumping, then it's not a barrier to  
19 participating in the market. Other people haven't  
20 bothered to participate in rates, and they are at the  
21 all-others rate of 156 percent, but everybody is  
22 covered who is producing in China at some rate.

23 COMMISSIONER PINKERT: Thank you for that  
24 clarification.

25 And, Mr. Kedrowski, perhaps this is a

1 question more appropriate for the post-hearing, but if  
2 you could describe the differences between your  
3 production process and GEO's production process, I  
4 would appreciate it. Would you prefer to do that in  
5 the post-hearing?

6 MR. KEDROWSKI: Yes.

7 COMMISSIONER PINKERT: Thank you.

8 Now, returning to questions about possible  
9 limitations on supply, I'm wondering whether the GEO  
10 Company witnesses can explain whether you might be  
11 allocating supply more stringently in some market  
12 segments than others, for example, pet foods versus  
13 antiperspirants or some other market segments.

14 MR. AVRAAMIDES: No. We're not  
15 differentiating market segments in terms of allocating  
16 product. We're allocating it basically on a need  
17 basis, as we talk to our customers, but, again, I  
18 think our performance is improving dramatically in  
19 recent periods, so I'm hoping it's not going to last  
20 much longer.

21 COMMISSIONER PINKERT: Just to be clear,  
22 "allocation" is used in the sense of shortages in the  
23 Commission. This is a case where people have been  
24 delayed by a couple of days. You can correct me, but  
25 there has not been a single customer who has been left

1 without their ordered supply.

2 MR. AVRAAMIDES: Not that I'm aware of.

3 COMMISSIONER PINKERT: Okay. Thank you for  
4 that clarification.

5 Now, looking at our staff report, at Figure  
6 IV-6, we have some graphs that reflect increases in  
7 subject imports versus supply-delay data, and I'm  
8 wondering whether the company witnesses for GEO or,  
9 for that matter, any of the company witnesses, can  
10 explain whether they have experienced increases in  
11 competition from subject imports following periods in  
12 which you've had trouble supplying your customers?

13 I recognize that you've testified that the  
14 situation is improving, but, just looking at that  
15 correlation, perhaps you can testify as to whether  
16 you've experienced increases in competition from  
17 subject imports following periods in which there have  
18 been difficulties in supplying the customers.

19 MR. AVRAAMIDES: I'm only hesitating because  
20 I'm thinking back to see if there is a case. My  
21 tenure at GEO has only been a year, but I can't recall  
22 a single circumstance where that's occurred.

23 MR. HUSISIAN: And the other thing, too, is  
24 when you look at the data, imports have been rising,  
25 subject imports, constantly and throughout. They were

1 rising when the record was poor for on-time  
2 performance under Dow, and they continued to rise when  
3 the performance was great in 2006 and the first half  
4 of 2007.

5 As for the shutdown, it happened so recently  
6 that it isn't really reflected in the data. You can't  
7 extrapolate from people being short in July and August  
8 to any data that's in the POI because it actually  
9 postdates the period of investigation, and any impact  
10 that it would have would be felt in the future.

11 Certainly, looking at the performance of  
12 Dow, when it was bad, imports increased, regardless of  
13 the on-time performance of GEO. They did everything  
14 they could, but it wasn't anything that could stave  
15 off the imports.

16 COMMISSIONER PINKERT: Thank you. Now,  
17 turning to the question of potential impact, or the  
18 anticipated impact, of final orders in this case, is  
19 it GEO's testimony that you would be operating at a  
20 higher capacity and a higher capacity utilization in  
21 the event that there were final duties on the subject  
22 imports, or is that unknowable? Can you give me some  
23 insight into that issue?

24 MR. AVRAAMIDES: We have every intent to  
25 increase our capacity, in the event of an affirmative

1 order. We have begun to experience some improvement  
2 in pricing as a result of what's occurred so far. If  
3 the pricing can remain at these levels, we have every  
4 intent on investing and putting significant expansion  
5 in place, long term, to add capacity to the  
6 marketplace.

7 Short term, we have three activities that  
8 are currently underway, one which would include hiring  
9 a process engineer to help us debottleneck the  
10 operation.

11 The other is trend analyses that we've been  
12 doing over the last three or four months that have  
13 helped us optimize the operation significantly.

14 The third is to reinstitute the GRU, the  
15 C-cept system, that ends up improving the yield and  
16 adding capacity, which we could get online fairly  
17 quickly.

18 But, again, those things have not been  
19 investments that we've been willing to make at the  
20 current price levels, but it is completely our intent  
21 to have a short-term solution that would improve our  
22 capacity 10, 15, 20 percent and a long-term capacity  
23 improvement that I would rather not publicly state.

24 COMMISSIONER PINKERT: Thank you. If you  
25 wish to add anything in the post-hearing on that

1 issue, that would be helpful.

2 Thank you, Mr. Chairman.

3 CHAIRMAN PEARSON: In light of comments made  
4 by officers of GEO regarding the efforts to improve  
5 customer service relative to when the facility was  
6 owned by Dow, I wanted to get your comment on some  
7 issues raised in a letter that we've received on the  
8 record from Summit Research Labs, signed by Gary  
9 Coleman, the vice president of manufacturing.

10 Among other things, he notes that over our  
11 30 years' experience with GEO and its predecessors  
12 leads us to believe that any financial problems that  
13 GEO may be experiencing are the result not of foreign  
14 competition but of GEO's own management failures,  
15 especially its inability to meet its supply  
16 commitments. Comments on that? This is a 30-year  
17 customer. He has just got it wrong?

18 MS. JACKSON: I believe there is a little  
19 confusion there because GEO has not missed shipments.  
20 Any time there were any issues with product to this  
21 customer, we did work with them directly and, in some  
22 cases, even short shipped to provide them with  
23 product.

24 CHAIRMAN PEARSON: Well, perhaps, but he  
25 goes on to say that "since July 1, 2007, GEO has

1 shipped 18 truckloads of glycine to Summit Research  
2 Labs, 14 of which were late by an average of eight  
3 days. These delays were without warning or  
4 explanation. GEO's unreliability has negatively  
5 impacted our ability to plan production. In late  
6 August 2007, GEO's failure to supply on time caused  
7 Summit to shut down production while GEO scrambled to  
8 deliver some partial loads."

9 How do you square those comments with the  
10 statement that you just made?

11 MS. JACKSON: It's my understanding -- I've  
12 had close contact with the customer, and it's my  
13 understanding that they were close to shutdown. They  
14 did not actually shut down, and, in that case, we did  
15 ship them to avoid a shutdown, and we have worked very  
16 closely with this customer.

17 CHAIRMAN PEARSON: Actually, I get the  
18 impression from the letter that there is a  
19 longstanding, close relationship, and also a touch of  
20 frustration comes through in this letter.

21 MR. AVRAAMIDES: If I could just add  
22 something.

23 CHAIRMAN PEARSON: Please.

24 MR. AVRAAMIDES: Clearly, this was a  
25 difficult period for us, coming out after the shutdown

1 in late June and extended into July. There was  
2 significant correspondence with all of our key  
3 customers to try and keep them whole and to make these  
4 short shipments to avoid any shutdown. I can honestly  
5 tell you, I was completely unaware that Summit  
6 experienced a shutdown until I sit here, and I hear  
7 it.

8           There were numerous conversations,  
9 discussions, with customer to assess their inventory  
10 levels, what their needs were, and we allocated  
11 product as we felt was necessary to assure that nobody  
12 did shut down. In the absence of the comment that you  
13 just made, I would have said that we didn't shut  
14 anybody down.

15           We really extended ourselves as far as we  
16 could to get past this July period. I know the folks  
17 at Summit well. I'm disappointed to hear those  
18 comments from them. I've known the vice president and  
19 the owner for many years, so this comes very  
20 personally to hear that, but it was never our intent  
21 to do that to them.

22           CHAIRMAN PEARSON: Right. He does  
23 acknowledge that GEO stated that it currently has  
24 customers on allocation, which would go to the point  
25 that you're raising, that there was considerable



1 effort to try to provide at least partial service to  
2 customers.

3 If I could go on, he recounts a meeting on  
4 November 14 that involved Ms. Jackson and Mr. Mahoney,  
5 and he is indicating that GEO presented a one-year  
6 contract for 2008 that was imposing a 94-percent price  
7 increase. That may have had some influence on his  
8 thinking about the customer service at this time of  
9 short supplies. Is the 94-percent figure correct?

10 MR. AVRAAMIDES: I think I'll answer that  
11 one.

12 At the end of 2006, I had just joined GEO,  
13 and I was eager to add some volume to the plant, and  
14 I, to some extent, cashed in a favor and called the  
15 vice president there, and I told him that I needed  
16 some volume.

17 He guided me to the price of his incumbent  
18 supplier, which, I believe, was an Indian supplier,  
19 and we matched that price. The price was  
20 exceptionally low. We needed to load this plant up.  
21 We needed to distribute our costs. This was below our  
22 costs. It's probably one of the top two lowest prices  
23 in the U.S.

24 In the presence of what's occurring with  
25 some of these new duties that are being imposed, we

1 have brought pricing up to what we feel are normal  
2 prices in the marketplace and a reflection of what has  
3 been pricing historically, and, in their case, because  
4 their price was so exceptionally depressed last year -  
5 - I'm not sure if it's quite 94, but I wouldn't be  
6 surprised if it was 80 percent. It's in that range.

7 CHAIRMAN PEARSON: Okay. So that's a useful  
8 explanation. I understand well the pressures to move  
9 some volume, even at times by selling for less.  
10 Perhaps for purposes of the post-hearing, could you  
11 provide us information with the actual price that was  
12 quoted in this contract? That's not provided here,  
13 and it's probably not something that we should discuss  
14 in public, unless you wish to discuss it in public, of  
15 course.

16 MR. AVRAAMIDES: I don't wish to. The price  
17 that we provided just recently, or the initial price?

18 CHAIRMAN PEARSON: Well, actually, both  
19 would probably be helpful. Then we could check the  
20 math and see if it was a 94-percent increase.

21 Now, another issue raised by Mr. Coleman  
22 goes to the question that Commissioner Lane raised  
23 earlier. He is making the point that the contract  
24 presented was one sided in several ways. Notably, the  
25 contract requires Summit to purchase a minimum amount

1 of glycine, if available, but did not guarantee that  
2 GEO would be willing or able to sell that amount. Can  
3 you address that issue?

4 MR. AVRAAMIDES: I don't think we have  
5 placed any take-or-pay contracts out there, and,  
6 again, in our purchase order there are terms and  
7 conditions in the back that are standard, and there is  
8 one clause that, again, is a standard clause that I've  
9 seen at other companies where I have worked in the  
10 past, and it's basically a clause that suggests that  
11 if the company experiences a problem with our  
12 operation, that they won't be liable for costs that  
13 exceed the limitations and liability that you end up  
14 negotiating in any agreement.

15 This is a standard purchase order term and  
16 condition that is often negotiated with customers, and  
17 it's standard throughout the industry.

18 CHAIRMAN PEARSON: Okay. I don't understand  
19 this to be a take-or-pay issue because he is not  
20 saying that he has to pay for it, whether or not he  
21 takes it. What he is saying is that the contract  
22 would require Summit to purchase a minimum amount of  
23 glycine, if available, but there is no guarantee that  
24 GEO would actually be willing or able to sell that  
25 amount. I think that's different than take or pay.

1 Right?

2 MR. AVRAAMIDES: I think that's  
3 mischaracterized. We are obligated to supply the  
4 volume. The clause that I referenced is only in the  
5 event of a production problem, but throughout the year  
6 we would supply that volume.

7 CHAIRMAN PEARSON: There might be issues  
8 with the timing of the supplies.

9 MR. AVRAAMIDES: That's exactly right.

10 MR. HUSISIAN: We can take a look at that  
11 contract and see if there is anything different from  
12 prior contracts with that customer or with other  
13 people and provide the analysis in the post-hearing  
14 brief. If this is something that can be objectively  
15 answered as to what it is, we would be happy to do  
16 that because we don't have the contract here in front  
17 of us to just look at it and see.

18 MR. MAHONEY: I would also like to just  
19 clarify, the "minimum available" phrase is a capacity  
20 reservation from our side, to say that we are  
21 reserving a minimum of a half a million pounds for  
22 them. That was the intent of the phrase --

23 CHAIRMAN PEARSON: Okay.

24 MR. MAHONEY: -- the opposite of Mr.  
25 Coleman's interpretation.

1           CHAIRMAN PEARSON: Perhaps in the post-  
2 hearing, this can be elaborated on more thoroughly.

3           MR. AVRAAMIDES: Just one other comment, if  
4 I could, regarding this specific customer. We're only  
5 supplying them a quarter of their annual requirement.  
6 It's not as though they don't have other supply  
7 choices. Again, we'll provide you clarity on the  
8 question that you asked, but it's not a situation  
9 where we're supplying 100 percent of their volume, and  
10 they are relying exclusively upon us anyway.

11           CHAIRMAN PEARSON: Okay. Thank you. My  
12 light is changing, so let me turn now to the vice  
13 chairman.

14           VICE CHAIRMAN ARANOFF: Thank you, Mr.  
15 Chairman.

16           Can you tell me, what, if any, are the  
17 advantages to purchasers of having a domestic supplier  
18 versus relying on imported supply? Are there specific  
19 things, specific advantages, that only a domestic  
20 producer can supply with respect to this product?

21           Do you have an advantage in terms of just-  
22 in-time delivery, at least when things are operating  
23 according to plan? Are there other advantages that  
24 you have in terms of being able to send smaller  
25 quantities, or do you really have no particular

1 advantage over an imported product?

2 MR. AVRAAMIDES: I think you've identified  
3 some of them. We can, in the absence of capacity  
4 issues that we've experienced, we can supply product  
5 very quickly. We can supply smaller orders.

6 The other aspect of glycine is it's a  
7 hygroscopic product, and glycine has a tendency to  
8 harden up over a period of three to four months and  
9 becomes unusable. So to bring material in sometimes  
10 from overseas and to stock it, it has to be moved  
11 quickly; otherwise, it ends up hardening.

12 We can supply fresh material that is  
13 delivered directly to the customer, and, in a sense,  
14 they are starting with material that has more  
15 longevity and shelf life than it would otherwise.

16 VICE CHAIRMAN ARANOFF: Okay. But as you've  
17 noted, you have substantial sized customers who are  
18 relying primarily on nondomestic sources of supply, so  
19 they have apparently found a way around some of these  
20 issues.

21 MR. AVRAAMIDES: I just think they use the  
22 material relatively quickly. That's true, though.

23 VICE CHAIRMAN ARANOFF: So do you think that  
24 if they inventory anything, it's your product because  
25 it's going to last longer?

1           MR. AVRAAMIDES: It will last in their  
2 warehouse longer, yes.

3           VICE CHAIRMAN ARANOFF: Okay. I wanted to  
4 clarify a couple of things that people said in  
5 response to Commissioners Williamson and Pinkert just  
6 to make sure that I had the whole story.

7           So, first, Mr. Kedrowski, in talking about  
8 the relationship between your company and Showa Denko,  
9 you said that that relationship has now been  
10 completely terminated.

11          MR. KEDROWSKI: It's probably more  
12 appropriate to respond to that in a brief afterwards,  
13 but what I attempted to say is that we are not  
14 importing any material at this period of time.

15          VICE CHAIRMAN ARANOFF: Okay. If you could  
16 provide us, confidentially, with some information  
17 about the nature of that relationship, whether there  
18 was a formal distributorship that had any kind of  
19 contract, what the terms were, that would be helpful.

20          I know that you implied, at least, in what  
21 you said before, that the pendency of this  
22 investigation was the reason that there has been this  
23 termination of the relationship, or whatever has  
24 actually happened, the suspension of the relationship.

25          So if you could provide us more information

1 on at whose end that decision was made, whether your  
2 company decided to stop importing because of the risk,  
3 or whether they decided to stop sending the product  
4 because of your support for the petition, whatever  
5 happened. Any more details that you can provide would  
6 be helpful.

7 MR. KEDROWSKI: Will do.

8 VICE CHAIRMAN ARANOFF: Thank you.

9 Mr. Avraamides, in responding to the  
10 Chairman's questions regarding Summit and the letter  
11 that they sent in, I got the impression from you, and  
12 I want to correct that, that you're still allocating  
13 product, that you're still catching up from the  
14 shutdown back in June. Is that correct?

15 MR. AVRAAMIDES: It's somewhat correct,  
16 though I think, in our November performance, I think  
17 we haven't had a single late delivery. But I would  
18 still characterize that we are somewhat hand to mouth.  
19 It's taken some time to get to where we are, but I'm  
20 optimistic that we are very close to catching up.

21 VICE CHAIRMAN ARANOFF: Okay. So when you  
22 refer to "allocating," you're basically describing  
23 that you're producing as fast as you can and getting  
24 product out as fast as you can, but you're not always  
25 able to meet every order right away.



1 MR. AVRAAMIDES: That would be correct.

2 VICE CHAIRMAN ARANOFF: And what you would  
3 consider being "back to normal" would be that an order  
4 comes in, and there is no problem.

5 MR. AVRAAMIDES: That's correct also.

6 VICE CHAIRMAN ARANOFF: Okay. Thanks for  
7 that clarification.

8 Mr. Kedrowski, I did have one more question  
9 for you. Has your company gotten any new orders, new  
10 business, either as a result of GEO's production  
11 problems earlier this year or as a result of the  
12 pendency of this case?

13 MR. KEDROWSKI: Yes.

14 VICE CHAIRMAN ARANOFF: And that's been for  
15 USP product.

16 MR. KEDROWSKI: Yes.

17 VICE CHAIRMAN ARANOFF: Okay. If, in your  
18 post-hearing, you could confidentially quantify for us  
19 -- tell us whose business you've got that you didn't  
20 have before, how much volume, and the price -- that  
21 would be very helpful.

22 MR. KEDROWSKI: Okay.

23 VICE CHAIRMAN ARANOFF: Thank you very much.

24 Let me turn to just some more general  
25 questions in order to be sure that I understand the

1 contracting practices in this market.

2 First, with respect to GEO, my understanding  
3 is that your company tends to sell based on contracts  
4 but that many importers tend to sell and make only  
5 spot sales. So I guess I would ask you if you could  
6 confirm that and then tell me whether that means that  
7 your company has been less able, for example, to pass  
8 along cost increases in the form of price increases to  
9 your customers than have importers with whom you  
10 compete.

11 MR. AVRAAMIDES: Certainly, since I've been  
12 with GEO, GEO has not really had a practice of issuing  
13 contracts. It's something that we've only been doing  
14 in the last six months or so, formalizing the process.  
15 We often would accept a customer's purchase order or  
16 contracts, whether this applies to our glycine  
17 business or to our other business. So we have  
18 systematically been correcting that to protect  
19 ourselves, from a contractual-obligation standpoint.  
20 So that's relatively new.

21 VICE CHAIRMAN ARANOFF: So, previously, you  
22 were making spot sales.

23 MR. KEDROWSKI: We were making spot sales,  
24 but then, again, this doesn't just apply to glycine.  
25 It applies to everything that we're doing in this

1 division.

2 VICE CHAIRMAN ARANOFF: So the changeover to  
3 trying to sell more under contracts; that's in 2007 or  
4 prior to that?

5 MR. KEDROWSKI: Mostly 2007.

6 VICE CHAIRMAN ARANOFF: Does it now cover  
7 the majority of your glycine sales?

8 MR. KEDROWSKI: No, it doesn't. Glycine  
9 still tends to be a spot. We have letters of  
10 agreement where we've offered firm pricing for the  
11 year, and we've continued to honor those agreements.  
12 In some cases, they were even verbal because that was  
13 our commitment to the market, and those prices were a  
14 reflection of where we had to be to maintain business.

15 MR. MAHONEY: If I could clarify, Mr.  
16 Avraamides was speaking to whose contract language  
17 we're using. So, historically, we used the customer's  
18 language, and this year we're moving towards our own  
19 language.

20 Our contract language is what we're  
21 providing to them in the last few months as opposed to  
22 many of our glycine arrangements were on the  
23 customer's language, historically, so not what I think  
24 what you were asking about spot sales, individual  
25 sales of "Will you sell me this, and what would the

1 price be?"

2 VICE CHAIRMAN ARANOFF: Okay. That's a good  
3 clarification. So let me go back and clarify. I'm  
4 really looking at the question of, are you selling  
5 based on purchase order at a time, or are there  
6 particular customers where they contract for a  
7 particular volume or for their requirements over a  
8 longer period of either months or years.

9 MR. MAHONEY: As we said, historically, the  
10 majority of the volume has been under a full-year  
11 arrangement, long-term agreements, not the individual  
12 spot-to-spot, order-to-order sales.

13 VICE CHAIRMAN ARANOFF: Okay. So you've  
14 always been operating on approximately year-long  
15 contracts. Are they fixed volume, or are they  
16 requirements contracts? How would you describe them?

17 MR. MAHONEY: I think it's a mix of both,  
18 would be the best way to describe it.

19 VICE CHAIRMAN ARANOFF: Okay. But, like I  
20 said, my understanding is that importers are selling  
21 on what we would describe as a "spot basis," one-time  
22 sales, not annual requirements or volumes. Has that  
23 been your experience?

24 MS. JACKSON: No. It's my understanding  
25 that there are importers that do have contracts in

1 place.

2 VICE CHAIRMAN ARANOFF: Okay. All right.  
3 Since my light is yellow, I'll come back. Thank you  
4 very much.

5 CHAIRMAN PEARSON: Commissioner Okun?

6 COMMISSIONER OKUN: Thank you, Mr. Chairman.

7 In Mr. Husisian's opening remarks, he stated  
8 that whatever statutory factor we looked at in this  
9 case, we would see that it had been met for purposes  
10 of finding material injury. I would like to hear from  
11 the industry witnesses, for both GEO and Chattem.

12 In your view, if there were an order placed  
13 on subject imports, where would you feel it or see it  
14 most in the market? Would it be reducing volume of  
15 imports? Would it be increased prices? And how would  
16 that do you think best be reflected in your bottom  
17 line? Would it be the trade or financial indicators  
18 that you think would show the most change, most  
19 impact? Mr. Eckman, do you want to start with that?

20 MR. ECKMAN: Yes. I think there would be  
21 increased prices in the market.

22 COMMISSIONER OKUN: Okay. Mr. Kedrowski?

23 MR. KEDROWSKI: For us, it will not be  
24 increased prices, but it will be more volume. So  
25 we'll just actually sell more pounds.

1                   COMMISSIONER OKUN: And do you think that  
2 the difference in your responses relates to the type  
3 of product you produce or anything else that would  
4 explain that for the two different companies?

5                   MR. KEDROWSKI: Certainly, in terms of our  
6 focus being on the pharmaceutical side of it,  
7 certainly, my impression is that we went earlier to,  
8 okay, we're going to accept only the volume from  
9 people who want to buy from us because we're providing  
10 them a value in the quality of the product which was  
11 in the pharmaceutical side of it, so the pricing was  
12 considerably different.

13                   COMMISSIONER OKUN: Okay. Mr. Eckman, maybe  
14 a follow-up for you, and this may relate to some of  
15 the questions the Chairman was asking about, if we  
16 look at the financials of the industry as a whole and  
17 what the relationship was between the volume of  
18 subject imports in the market and the financial  
19 indicators.

20                   Of the financial indicators, where do you  
21 think you would see the most impact, if there were an  
22 order in place? You've stated it relates to price, so  
23 is that where we would expect it to be?

24                   MR. ECKMAN: The immediate impact will be  
25 related to price. There will be, obviously, a volume

1 impact on the imports that will reduce over time, but,  
2 for us, the immediate impact will be price, and then  
3 we would, as Alex has explained, we would be investing  
4 in increasing our capacity. We have projects  
5 identified in the near term to do that, so we would be  
6 increasing our volume as the next step. The financial  
7 indicators, obviously, would improve as our margins  
8 improved, and we had the increase in volume.

9 COMMISSIONER OKUN: Okay. And then, just so  
10 I'm clear on this, as you think about your industry,  
11 both during the period of investigation and looking  
12 forward, in terms of the business cycle, where do you  
13 think you are in the business cycle, and do you expect  
14 any changes? Where have you been in the business  
15 cycle?

16 MR. ECKMAN: In terms of our business cycle  
17 with glycine, it goes into consumer products, as you  
18 know, pet food and antiperspirants and so forth. We  
19 have not seen a decline in demand from those  
20 applications. I don't quite know if that answers your  
21 question.

22 COMMISSIONER OKUN: Some of your customers  
23 had said that one of the things that they might  
24 anticipate happening because they see that there would  
25 not be enough product -- I know you disagree with

1 that, but whether there is enough product in the  
2 market that you would see some movement to imports in  
3 the downstream products, and I just wondered if you  
4 had seen any of that during this period.

5 MR. KEDROWSKI: No. We have not seen.

6 COMMISSIONER OKUN: You have not seen that.

7 Mr. Kedrowski, anything different, from your  
8 perspective, a slightly different market?

9 MR. KEDROWSKI: No. In terms of your  
10 question of downstream imports --

11 COMMISSIONER OKUN: You haven't seen that  
12 during this period.

13 MR. KEDROWSKI: I haven't, but I'm not sure  
14 that I can look at that close enough to be able to  
15 give you a value response.

16 COMMISSIONER OKUN: You haven't heard that  
17 from your customers.

18 MR. KEDROWSKI: No, no. Remembering, my  
19 bulk customers are typically people that have to have  
20 the assurances that they are buying a product from an  
21 FDA-inspected plant, ta da, ta da, ta da, and they  
22 come see us every year with multitudes of quality-  
23 control people.

24 COMMISSIONER OKUN: Mr. Reilly?

25 MR. REILLY: John Reilly, Nathan Associates.



1 Given the very small share of end-product cost that  
2 glycine constitutes, it's difficult to conceive of a  
3 situation in which the producers of the end products  
4 would suffer from significant end-product competition  
5 as a result of this case.

6 COMMISSIONER OKUN: The reason I'm asking  
7 questions about it is, sometimes in cases where you  
8 have a number of purchasers indicating that there have  
9 been supply disruptions or that they are looking for  
10 alternatives, that they want to have more than one  
11 supplier in the case that may include also movement  
12 downstream. So I'm just trying to get a sense of,  
13 when I'm looking at the apparent consumption numbers  
14 here, whether any of that has been reflected in  
15 customer movement. You would say no, based on this  
16 record.

17 MR. REILLY: Yes. I would say no.

18 COMMISSIONER OKUN: Okay. I may have a  
19 follow-up question. I wanted to go back to this  
20 letter from Summit, but I will wait until my next  
21 round, if it's not covered. Thank you very much.

22 CHAIRMAN PEARSON: Commissioner Lane?

23 COMMISSIONER LANE: This information may  
24 already be in the prehearing report, but just to make  
25 sure that I understand the data, could you provide

1 your total labor costs and average cost per pound of  
2 production, based on wages before benefits and a  
3 separate number based on fully loaded payroll costs,  
4 and, if possible, provide that number for each year of  
5 the period of investigation.

6 MR. HUSISIAN: The information is only  
7 partially in the staff report, and we would be happy  
8 to supplement it to address the specific format you  
9 like it, yes.

10 COMMISSIONER LANE: Okay. Thank you. Could  
11 you please tell me what drives the demand for this  
12 product, all three grades?

13 MR. REILLY: Well, in general, the demand  
14 for his product, I think, in all cases, is derived, so  
15 the demand for the product is driven by the demand in  
16 the production of the end products into which it goes:  
17 pet foods, antiperspirants, human ingestible foods,  
18 and injectable products, and so forth.

19 Given that the product itself constitutes a  
20 small share of the end-product cost, the demand is  
21 driven entirely by end-product demand.

22 COMMISSIONER LANE: So, to follow through on  
23 that, then it would really depend upon the strength of  
24 the economy in general for people buying pet food and  
25 deodorant and stuff like that.

1           MR. REILLY: Yes. The demand drivers for  
2 each of the end products, whatever those demand  
3 drivers would be, would be the same drivers that are  
4 driving the demand for glycine. Some products, I  
5 would expect, would be somewhat cyclical in nature,  
6 some perhaps not so cyclical in nature. I think you  
7 would probably have to look at the demand drivers for  
8 each end product to come up with a comprehensive  
9 answer.

10           MR. HUSISIAN: When you put it all together,  
11 the staff report lays out -- I think it's confidential  
12 -- that there has been a strong increase in the demand  
13 for the product, which is part of the reason why it's  
14 been perplexing and damaging to GEO. Even in a market  
15 with rising input costs and strong demand growth,  
16 driven by these other products, that they still  
17 haven't been able to cover their increases in costs.

18           Putting it all together, over the last three  
19 years, it's been a nicely growing market, and it's not  
20 likely to be that dependent on the economy and things  
21 like that because they are going into a lot of  
22 staples, and also it's a fraction of a percent. The  
23 glycine in it is extremely tiny, so the changes in the  
24 costs of the glycine aren't going to affect the amount  
25 that people charge for antiperspirant or for dog food

1 or something like that because you're looking  
2 typically at a fraction of a percent of it.

3 It's a big number to GEO, but if you look at  
4 the size of the market, if you add up the total  
5 production capacities of the two companies that are  
6 here and multiply it times a typical price, you're not  
7 going to get to that big a number.

8 MR. REILLY: Well, pet food is a major use,  
9 and, clearly, the demand for pet food is driven by the  
10 population of dogs and cats. You might say it's the  
11 product of doggie demographics, if you will, and that  
12 means that, in that population, it doesn't decline  
13 rapidly. It would decline over a period of years if  
14 people stop buying pets and so forth. It could  
15 increase more slowly if economic conditions changed,  
16 and people who were thinking of getting a pet decided  
17 not to do so because of the cost.

18 Since it's based on the population of pets,  
19 there is a resistance to down cycles or a significant  
20 potential lag in a down cycle.

21 COMMISSIONER LANE: Okay. Now, are there  
22 some purchasers that would purchase all three grades  
23 of this product?

24 MR. AVRAAMIDES: I'm only aware of a  
25 purchaser that purchases two grades. There are

1 distributors that may purchase three grades. I'll let  
2 Judy respond to that, but I think, outside of  
3 distributors who bring product into their warehouse,  
4 and we ship small quantities to various users, that  
5 would be the only example.

6 COMMISSIONER LANE: Okay. Now, I heard your  
7 testimony about the quality control of the product in  
8 this country. What do we know about the quality  
9 control of the product coming in from subject  
10 countries, especially looking at the chemical makeup  
11 of these products, that it would be very important  
12 that it be done correctly?

13 MR. AVRAAMIDES: I don't think I can respond  
14 to that question. I don't think I know the answer.

15 MR. KEDROWSKI: I don't know how to respond  
16 to it either. I will make an observation that some of  
17 the plants that are importing product, making glycine  
18 to import product, were not really built to do that.  
19 They were built to make glyphosate, which is Round Up.

20 MR. REILLY: I would like to make a general  
21 observation, and that is that, given the volume of  
22 imports that are coming into this market and the  
23 increase in the volume of imports, clearly, the  
24 quality control of subject exporters, regardless of  
25 the specifics, is good enough to take a substantial

1 share of the U.S. market.

2 MR. HUSISIAN: And there is a discussion of  
3 the qualification issue in the staff report, where it  
4 notes that there is qualification -- this has been  
5 GEO's experience as well -- there is qualification in  
6 the industry, but it's not onerous or difficult. It's  
7 usually a couple-of-weeks process.

8 This is a product sold, except in the  
9 pharmaceutical grade, according to standard  
10 specifications, which relate basically to purity  
11 level.

12 Glycine is an amino acid with a known  
13 chemical formula, so the specifications are how close  
14 do you get to being pure glycine, in terms of heavy  
15 metals and things like that, and if you can meet the  
16 purity levels that the customer wants for his  
17 application, then you're in.

18 MR. ECKMAN: "USP" stands for U.S.  
19 Pharmacopoeia, which implies a certain level of  
20 quality control and good manufacturing practices. How  
21 well that's enforced on glycine imports, I don't know,  
22 but the implication is it should be.

23 COMMISSIONER LANE: Okay. One more  
24 question: Are there distributors and end users that  
25 use both subject product and the domestic product, and

1 do those distributors or end users have any quality-  
2 control mechanisms in place?

3 MS. JACKSON: I am aware of both customers  
4 and distributors that use both products. As far as  
5 direct customers using it, yes, our customers do have  
6 quality checks in place. As far as distributors, I  
7 cannot answer that. Distributors deal directly with  
8 their customers.

9 COMMISSIONER LANE: Okay. Thank you.

10 Mr. Chairman, that's all I have.

11 CHAIRMAN PEARSON: Commissioner Williamson?

12 COMMISSIONER WILLIAMSON: Thank you, Mr.  
13 Chairman. One further question: I note that GEO's  
14 Specialty Chemicals implies -- I guess you have a  
15 number of other products that you manufacture, and I  
16 was just wondering if there is any information that  
17 you can give us about the larger company's experience  
18 that would lead us to assess whether or not you should  
19 be able to successfully sell this product at a profit,  
20 absent unfair imports.

21 In other words, I have no feel for the  
22 larger company that says that you're bringing some  
23 management skills and experience and all of that where  
24 you can make it be successful, whereas Dow and its  
25 predecessor were not.

1           MR. ECKMAN: The plant at Deer Park, to us,  
2 is very critical. The other product that's made at  
3 Deer Park, alkaline sulfonate; GEO makes it and has  
4 been in that business as well for a long time. We  
5 bought the plant from Dow because, for Dow, it was a  
6 noncore asset that they had purchased from Sentrachem  
7 years ago, I guess, in 1995, and they were in the  
8 process of divesting all but certain parts of the  
9 Sentrachem business.

10           Glycine was certainly a standalone, not  
11 important product at all for Dow. As a matter of  
12 fact, the Deer Park plant; I don't know how important  
13 it was for Dow.

14           So, in the context of GEO, what is roughly a  
15 \$10 million-a-year revenue product at a very important  
16 plant site for us strategically, is very, very aware  
17 to us, I guess, has our attention, whereas, to Dow, a  
18 \$10 million-a-year revenue product in a multibillion-  
19 dollar-a-year company that doesn't care about the  
20 plant -- they didn't put any resources into it to make  
21 it work. I don't know if that answers your question.

22           COMMISSIONER WILLIAMSON: That's getting it.  
23 Does anyone want to add anything to it? I'm trying to  
24 get a bigger picture of the company.

25           MR. AVRAAMIDES: Well, certainly, in the



1 construction and industrial additives division, we  
2 make a broad range of specialty chemicals. Some go  
3 into the construction industry. These are highly  
4 specialized dispersants. We have a tall manufacturing  
5 facility in our Georgia plant that we supply chemicals  
6 to the textile market, the pharmaceutical market, just  
7 a whole broad range of areas.

8 We have an awful lot of folks that are  
9 highly specialized experts in many of these product  
10 lines. Glycine is not a difficult or complicated  
11 product to make, in the grand scheme of some of the  
12 other products that C&I produces. It's just that we  
13 feel that the pricing for glycine is too low. It's  
14 not at a competitive level where people can survive.

15 COMMISSIONER WILLIAMSON: Thank you.

16 Mr. Chairman, I have no further questions.

17 CHAIRMAN PEARSON: Commissioner Pinkert?

18 COMMISSIONER PINKERT: I just have one  
19 additional question. I noticed, in the testimony this  
20 morning, that there was some discussion about the  
21 pricing power or the concentration among the customers  
22 in the United States market, and I'm wondering whether  
23 those customers would say that the seller has quite a  
24 bit of pricing power because of the concentration  
25 among the suppliers, or among the supplier, as it

1       were. Mr. Reilly?

2                   MR. REILLY: Thank you. Actually, the  
3       market power in this market is in the hands of the  
4       purchasers, not in the hands of the suppliers. It's a  
5       monopsony-power situation rather than a monopoly-power  
6       situation, and the reason is that, although there is  
7       only one domestic producer currently of USP, which is  
8       the principal product, USP in technical grade, there  
9       has been substantial access to foreign supplies, and  
10      the leverage that the purchasers have is to move  
11      purchases from the domestic producer to one or more  
12      foreign suppliers. That's the historical situation.

13                   Now, if antidumping duties are imposed, the  
14      situation would change, and the domestic producer  
15      would be able to get a fair price, assuming that the  
16      competition that the domestic producer was facing was  
17      fairly traded. But, historically, and without the  
18      imposition of antidumping orders, the market power is  
19      in the hands of the purchasers, not the domestic  
20      producer.

21                   A small number of purchasers, high fixed  
22      costs, supplier operation; the loss of one contract  
23      relationship with a major purchaser could be  
24      devastating. Major purchasers have alternative  
25      sources of supply.

1                   COMMISSIONER PINKERT: Thank you. Thank  
2 you, Mr. Chairman.

3                   CHAIRMAN PEARSON: That means it's my turn  
4 again.

5                   There were a couple of more issues that Mr.  
6 Coleman raised in this letter that go to some of the  
7 points that have been discussed here. One has to do  
8 with conditions of competition.

9                   As Coleman sees it, "As you can see from  
10 above, GEO's attitude toward us is unyielding. GEO  
11 has shown no concern about any potential competition,  
12 domestic or foreign. This, we believe, is because GEO  
13 knows that it faces no competitive pressure."

14                   How do you see that comment? Are the  
15 conditions of competition quite a bit different than  
16 we've heard earlier? Mr. Reilly?

17                   MR. REILLY: Were that statement valid, GEO  
18 would be making a pretty good profit, and that's  
19 manifestly not the case.

20                   CHAIRMAN PEARSON: And would the same be  
21 true if the orders go into effect?

22                   MR. REILLY: If the orders go into effect,  
23 GEO will be able to make a profit, selling at fair  
24 prices.

25                   CHAIRMAN PEARSON: The second issue goes to

1 Mr. Schwartz. It's a Bratsk issue, really.

2 Mr. Coleman is saying, "We believe that such  
3 tariffs --" in other words, the antidumping duties,  
4 were they to go into effect "-- will push the  
5 production of glycine-containing products to foreign  
6 producers who are not subject to such duties."

7 So here we have a customer with 30 years of  
8 experience, at least, in the use of glycine and who  
9 currently is obtaining -- what was the statement? --  
10 about three-quarters of his glycine from offshore  
11 producers, saying that he expects, if the orders go  
12 into effect, that nonsubjects, or some other product,  
13 from offshore will come in and serve the domestic  
14 market. What should we think about that, in the  
15 context of Bratsk?

16 MR. SCHWARTZ: Well, I think Mr. Frey  
17 probably answered that question for us in his opening  
18 statement. We are going to see subject imports come  
19 in at high prices, and we may very well see a Belgium  
20 producer product come in at fair prices, which would  
21 constitute one of the nonsubject import sources.

22 CHAIRMAN PEARSON: Okay. So imports, should  
23 they come, would be priced at a level that would not  
24 be injurious. So even though there could be a  
25 displacement of subject imports by nonsubject imports,

1 for purposes of Bratsk, there would be a benefit to  
2 the domestic industry.

3 MR. SCHWARTZ: That's right.

4 MR. HUSISIAN: And that's a very important  
5 point. What was going on in Bratsk was the CFC had a  
6 concern of, gee, if all you're going to see is a one-  
7 for-one displacement of nonsubject imports taking the  
8 place of subject imports, why is the ITC out there  
9 finding injury because they are going to be putting in  
10 place an ineffective order?

11 If what you see is somewhat of a reordering  
12 of the marketplace, where the market is still being  
13 served, but there has been some change, but it's at a  
14 higher price, then that's an effective order. It's  
15 the opposite of a Bratsk situation.

16 Given the way this industry is, this is an  
17 inelastic product where the amount that's going to be  
18 consumed -- people are going to put the glycine in the  
19 pet food and into the antiperspirants and all of that,  
20 so the product is going to come into the market, but  
21 it's going to be at a different price. And that is  
22 exactly the problem that they have here, is that the  
23 dumped imports are taking away the normal pricing that  
24 they used to see in the market in around 2000 and  
25 2001, when you didn't have this high level of imports.

1           The prices that they are talking about, the  
2           increase for Summit and all of that, is a return to  
3           pricing that you used to see before there was this  
4           huge influx of subject imports, and people at Summit  
5           or whomever are buying it may not like that. They  
6           love dumped imports.

7           What customer wouldn't like dumped imports  
8           right up until the time that GEO goes out of business,  
9           and they can't buy from them anymore? Dumped imports  
10          are great for them. Artificially low prices are great  
11          for them.

12          They don't want to go back to a situation  
13          where the prices were like that, but that doesn't mean  
14          that the Bratsk analysis is a problem because there  
15          has been a reordering because revenue impact is a huge  
16          deal to the industry, and that's the mark of an  
17          effective order.

18          CHAIRMAN PEARSON: A point well taken.

19          The last issue that comes from this letter  
20          goes to a point that Mr. Reilly raised earlier, in  
21          which I think you were saying that the cost share of  
22          glycine is too low to affect the competitiveness of  
23          firms that use glycine.

24          Mr. Coleman notes, "Summit's biggest growth  
25          area in antiperspirant actives is our export business.

1 We are already at a disadvantage in our effort to  
2 compete overseas with German and Chinese competition,  
3 who have lower shipping costs and whose import costs  
4 are not inflated by the existing antidumping duties  
5 imposed on Chinese glycine imports to the United  
6 States.

7 "Antidumping duties will give foreign  
8 producers of antiperspirant actives the added benefit  
9 of lower costs, allowing them to continue to make  
10 inroads in both the U.S. and overseas markets at our  
11 expense and at the expense of other U.S. producers.  
12 These developments will only further reduce the demand  
13 for glycine produced in the United States.

14 "If the International Trade Commission  
15 decides in favor of GEO's petition for antidumping  
16 penalties, Summit Research Labs, Inc., could lose  
17 considerable market share in this country, thus  
18 costing jobs and all that goes with it.

19 "Also, we would be forced to consider  
20 opening an overseas manufacturing operation if we want  
21 to take advantage of our growth area, which would also  
22 take jobs away from the U.S." That's about enough, I  
23 guess. It goes on beyond that.

24 I don't know enough about the cost of  
25 producing antiperspirant to have a sense of what he's

1 saying, but I assume he knows something about the  
2 business, and so could you comment on his analysis of  
3 how it would affect --

4 MR. REILLY: Well, he mentioned specifically  
5 European competition?

6 CHAIRMAN PEARSON: No, I think his concern  
7 was his ability.

8 MR. REILLY: Okay.

9 CHAIRMAN PEARSON: He's wanting to compete  
10 overseas with German and Chinese competition, you're  
11 right.

12 MR. REILLY: Okay. German and Chinese  
13 competition.

14 CHAIRMAN PEARSON: Right.

15 MR. REILLY: Okay. Well, I'll just make one  
16 simple point on German competition, and that is the  
17 rise in the Euro would ameliorate any competitive  
18 effects. Mr. Avraamides can also be more specific.

19 MR. AVRAAMIDES: Yes, I worked in the  
20 antiperspirant active industry for a period of time.

21 CHAIRMAN PEARSON: So we do have someone  
22 here who knows something.

23 MR. AVRAAMIDES: Clearly, the antiperspirant  
24 active industry has a reasonable size market in  
25 Europe. The rest of the world is really not that



1 significant. The base volume worldwide is really here  
2 in North American. Antiperspirant use here in North  
3 America is just far greater than elsewhere in the  
4 world.

5 It's true that the antiperspirant active  
6 producers have had a distinct growth spurt in the last  
7 five to eight years, and it's been driven almost  
8 exclusively by the favorability and the exchange rate.

9 The German producer, I know well. The  
10 Chinese producer, I know well. The Chinese producer  
11 has had no impact in significant markets in recent  
12 years. They've been attempting to do that certainly  
13 five years ago when I heard about them.

14 In the German producers, costs have always  
15 been high. I don't view that as a real issue. If I  
16 was still working in the antiperspirant active  
17 industry, I would be no more concerned about this  
18 impact of glycine. I think would be more concerned  
19 about the exchange rate and things of that nature.

20 CHAIRMAN PEARSON: Okay, well, if there's  
21 more that we should know about this, please advise us  
22 in the post-hearing brief.

23 MR. AVRAAMIDES: Okay.

24 MR. HUSISIAN: There's one other point, too.  
25 The GEO, which is about 90 percent of the market, have

1 less than 10 million pounds of capacity. In the POI,  
2 if you take a rough figure of \$1.50 a pound, you're  
3 talking about \$15 million. The entire value of their  
4 production basically is approximately for the entire  
5 U.S. industry.

6 Pet foods, antiperspirants, I mean, these  
7 are multi-billion dollar industries. It's hard to  
8 believe that even if the GEO's price goes up by 50  
9 percent, and so these industries are paying another \$7  
10 million or \$8 million, I mean, that would be certainly  
11 noticeable to GEO.

12 But the idea that they're going to cite and  
13 re-allocate their production supply chains for what is  
14 spread out over the entirety of all the consuming  
15 industries which is a couple of million dollars seems  
16 hyperbole.

17 The change rate alone is changing by 20, 30  
18 percent over the last couple years. It's going to so  
19 far swamp the value of anything like that. It's just  
20 hard not to take it as hyperbole when, for most  
21 products, this is a fraction of a percent of the value  
22 of the final product.

23 I mean, they have to be seeing more  
24 variation in terms of the cost of the feed that's  
25 going into the dog food or whatever it is, or the

1 effect of ethanol subsidies pushing up the cost of the  
2 inputs and things like that. But this is such a minor  
3 product, that it's just hard to credit it as being a  
4 reasonable economic or anything other than something  
5 that's going to have an impact.

6 CHAIRMAN PEARSON: Okay, thank you; Madam  
7 Vice Chairman?

8 (No response.)

9 CHAIRMAN PEARSON: Commissioner Okun?

10 COMMISSIONER OKUN: I have just one request  
11 for post-hearing. Mr. Avraamides, you had testified  
12 or responded in some of the questions about short and  
13 long term plans for capacity expansions at GEO. For  
14 purposes of the post-hearing brief, if you could  
15 provide us with those plans, and if there were any  
16 business plans related to those, talking about why  
17 those expansions are necessary and what the business  
18 climate is, I'd appreciate seeing those, and we'll  
19 treat that confidentially, obviously.

20 MR. AVRAAMIDES: I'd be happy to do that.

21 COMMISSIONER OKUN: Okay, thank you; Mr.  
22 Chairman, I have no further questions. But I do want  
23 to thank all of you for all your responses today.

24 CHAIRMAN PEARSON: Commissioner Pinkert?

25 COMMISSIONER PINKERT: I just want to thank

1 the panel for the responses today, and I look forward  
2 to the post-hearing.

3 CHAIRMAN PEARSON: Okay, before asking staff  
4 for questions, let me advise that we're trying to sort  
5 out whether or not to take a lunch break. We have a  
6 division of views on the Commission on this important  
7 topic; and I think that today, under the  
8 circumstances, that we will try to go straight  
9 through, and I may get shot later for that. But let's  
10 try to do that.

11 So do members of the staff have questions  
12 for this panel?

13 MS. MAZUR: Mr. Chairman, staff has no  
14 questions.

15 CHAIRMAN PEARSON: Mr. Frey, do you have any  
16 questions for this panel?

17 MR. FREY: I have a statement that I will  
18 read later from our principal in India. But I'd like  
19 to make a few counterpoints to what I've heard. If I  
20 don't remember you by name, I apologize.

21 CHAIRMAN PEARSON: Mr. Frey, just to clarify

22 --

23 MR. FREY: Yes.

24 CHAIRMAN PEARSON: -- what you're doing, is  
25 it in the nature of a question to the panel, because

1 this is a question time. If you would prefer to move  
2 directly to your statement, we'll go ahead and shift  
3 this panel and give you the floor.

4 MR. FREY: Well, no, they're not questions.  
5 They're basically disagreements with some of the facts  
6 that I've heard.

7 CHAIRMAN PEARSON: Okay, no, that's fine.  
8 Then let's go ahead and dismiss this panel; and let's  
9 bring Mr. Frey forward and we'll proceed with his  
10 statement. Mr. Frey, the floor is yours.

11 MR. FREY: Okay, my name is Chris Frey.  
12 We're the ICO Laboratories in India. Mr. Chopra, who  
13 is the owner of the company, could not get a visa to  
14 attend. He's prepared a statement, some of which I'll  
15 read. Some of it's not pertinent, considering what  
16 I've heard.

17 I'd like to start first with some notes I've  
18 taken concerning the statements made by the  
19 Petitioners. One very important one is that someone  
20 stated that since the initial edict was handed down  
21 with the anti-dumping penalties, that there's been a  
22 severe drop in imports. That's correct, but there's a  
23 lot of other reasons behind it.

24 One, firstly, from the Japanese point of  
25 view, and naturally, I'm not speaking in Japanese, but

1 I worked seven years selling Yuki Gosei material.  
2 I've been selling glycine since 1981. The Japanese  
3 are, in their nature, not litigious, and they back  
4 away from these type of suits.

5 Secondly, and even more importantly, as a  
6 number of the Petitioners have stated, most of this  
7 business is done on contract basis.

8 In November of last year, one of our  
9 customers with whom we have a potential of 500 to 600  
10 tons year was told by two of the sales people from GEO  
11 that they were going to bring an anti-dumping suit  
12 against India and China, because of this particular  
13 gentleman's fear.

14 The important thing to point out is, this  
15 had not been consummated. If it hadn't been, it would  
16 have been libelous; but it was consummated. But at  
17 the time, it created a great reluctance on his part to  
18 buy from us, and we had already negotiated a  
19 preliminary agreement. We were dropped because of  
20 that; the reason being is that this particular person  
21 has been in the business as long as I, and he's been  
22 familiar with a lot of other anti-dumping suits that  
23 have all been either brought by GEO or Hampshire Dow.

24 What seems to happen a lot of times is  
25 either that when a contract is drawn up with a foreign

1 producer, and then an anti-dumping duty is enacted,  
2 they either don't ship or they try to raise the price.  
3 That has happened in a number of cases with some of  
4 our other customers.

5 So we didn't really even get a chance to  
6 bring in material, because we do all our business on a  
7 contract basis pretty much. The nine containers I  
8 spoke of that we brought in from India were not  
9 because the price was so great or anything else. It  
10 was because one of the other foreign exporters, who's  
11 not here, canceled a contract; and the other was  
12 because, as far as I know and I'm not 100 percent  
13 positive, that this particular customer was getting  
14 deliveries late from GEO.

15 So there is an explanation for the  
16 diminishing glycine imports, and a lot of it does not  
17 have to do with the punitive duties. Naturally, we're  
18 here because we want them removed. But we were  
19 basically eliminated from participating in a lot of  
20 our own business because of really what I would say  
21 are unsavory business practices.

22 Secondly, the discussion of the dollar  
23 versus other currencies, our principal buys acetic  
24 acid in rupees. They do not buy it in dollars. As  
25 has been recently pointed out in the news, even though

1 a lot of it was by Hugo Chavez, a lot of it is true.  
2 The oil base prices are impacted by and rising because  
3 of the dollar. We do not buy in dollars. So India  
4 does have an advantage, a raw material cost advantage,  
5 that a domestic does not have.

6 Also, going back to Mr. Coleman's statement  
7 of Summit, we've done business with Summit in the  
8 past. In fact, we did business with them in 2004  
9 when, I guess then Hampshire had a shut down for about  
10 three months -- and correct me if I'm wrong -- but I  
11 don't think it was a maintenance situation, and we  
12 were called by them.

13 There's a very strong consensus, and you  
14 don't have any other letters there. I wish some of  
15 the people I deal with would have come with me here.  
16 But maybe you can depose them later. But some of the  
17 customers, the large customers generally feel that GEO  
18 has lost a lot of market share because of their lack  
19 or whatever of service.

20 Someone on your panel -- I think Ms. Okun,  
21 I'm not sure -- brought up the fact that, you know,  
22 what's the advantage of being domestic. The advantage  
23 of being domestic is giving good service. People in  
24 the past, I've handled this product for 25 years, have  
25 always been willing to pay more for domestic.



1           But when that particular aspect is  
2 eliminated, which is has been over the last few years,  
3 that kind of strikes that advantage out for domestic,  
4 the reasoning being, why should I pay you more when  
5 you don't deliver on time?

6           I have one customer -- and I sell other  
7 products, and I've also sold glycine, too -- that  
8 ordered a container in September and has never had it  
9 delivered from GEO. We have another person we deal  
10 with that ordered material that was supposed to be  
11 delivered in September. It wasn't delivered until, I  
12 think, a month later. It was never notified.

13           Basically, the point of fact that I'm trying  
14 to make is basically the same that Mr. Coleman made.  
15 One is that the customers have really lost faith in  
16 the domestic producer, the Petitioner. We are  
17 particular, as you can see from our data. In the last  
18 two and-a-half years, we've sold about 95 percent of  
19 our glycine through a distributor in Chicago that  
20 eventually went to Nestle, which is pretty common  
21 knowledge.

22           We did not solicit this business. We were  
23 called in I believe around the Spring of 2005, and I'm  
24 not sure of the exact date -- but we were called by  
25 the distributor, who does about \$20 million of

1 business with Nestle, and said, if you can get me  
2 glycine at a competitive price, we can do four or five  
3 containers a month. The reason being; I don't know  
4 the specifics. But there was some sort of abrogation  
5 of contract on the part of the Petitioner when the raw  
6 material price went up.

7           Granted, they say they give meter release  
8 clauses. But meter release clauses are with the  
9 stipulation that if the price goes down, the producer  
10 will meet it; not if the price goes up.

11           We, ourselves, do not give meter release  
12 clauses. We've never had that. We've never re-  
13 negotiated a contract. We firmly believe that the  
14 U.S. industry will be damaged because, as Mr. Coleman  
15 said -- and it's very important. This goes back --  
16 and I don't mean to jump all over the place with my  
17 notes. They're kind of skewed here.

18           But as Mr. Coleman stated from Summit, who I  
19 know, the thing that's very important is that the  
20 testimony was all based on the dollar. The point of  
21 fact is that in Europe, the market price is so much  
22 lower, because there's not any punitive duties.

23           I recently quoted on a piece of business for  
24 about 600 tons in England. The contract was awarded  
25 at \$240 a kilo. So obviously, if a manufacturer is

1 doing some kind of formulation in Europe with Chinese  
2 products, they're probably paying in Euro. So I don't  
3 think there's really an advantage there. It's a  
4 disadvantage, because of the dollar. The market is  
5 totally different. I think if this thing does go  
6 through you, we'll see the Belgians come back.

7 I just have a few more things to say. It's  
8 brief; just bear with me. My main question is, and I  
9 think Mr. Coleman really shed a lot of light on the  
10 issue, and this is the way we feel and this is the way  
11 most of the end users feel that I've talked to; that  
12 if the market has been so bad since 2002, why did GEO  
13 buy the plant?

14 It doesn't seem like a very prudent business  
15 decision and, frankly, this was all conjecture. But  
16 the people who know the market, we thought that  
17 basically the plant would be used completely for -- I  
18 don't know the name of the product, but I know there's  
19 a water treatment chemical or a swimming pool chemical  
20 that's also produced in that plant, which GEO also  
21 sells.

22 So basically, in summation, what I'm saying  
23 is that we ostensibly got our business, which is  
24 basically one customer; because a customer called us  
25 because they were not satisfied with the service/way

1 of doing business of the Petitioner.

2 In fact, I believe when we got the business  
3 in 2005, because we were selling through a distributor  
4 who was marking it up and selling it to Nestle, we for  
5 at least a year and-a-half, were selling at a higher  
6 price than GEO was.

7 So not discounting the other countries  
8 involved, we think as ICO that it's kind of an  
9 exceptional case, because basically, all the data you  
10 have, with the exception of maybe five percent, has  
11 been to one customer and through a distributor who's  
12 added a premium onto the price.

13 Just to repeat myself, we didn't solicit the  
14 account. We got a call because they were so  
15 dissatisfied with the service and some other things  
16 that had happened, that I had just said.

17 The other thing I wanted to point out was  
18 there were a lot of referrals to a commodity. Well,  
19 to enter a market, commodities are sold on price. But  
20 in our case, we feel that -- and when I say "we" I  
21 mean ICO labs and CAF. We have not damaged the market  
22 because we've sold ostensibly through one distributor  
23 to a large user, and prices were either higher or in  
24 line with what GEO was previously doing business  
25 there.

1 I don't know the exact dates, but I know  
2 that there have been a number, and this came up at the  
3 hearing in May. I know there have been a number of  
4 plant closures by Hampshire, and there was a plant  
5 closure, I think, in 2004. The Petitioner can correct  
6 me if I'm wrong. But I believe it was not caused by  
7 maintenance. It was over three or four months.  
8 That's how we got business with Summit. We were also  
9 called by them.

10 So basically summing up, we don't feel that  
11 the damage in the market share that GEO has lost has  
12 been strictly because of price and that's for the  
13 aforementioned reasons, which, I think, is pretty much  
14 confirmed by Mr. Coleman.

15 Just to make a correction on what someone  
16 said, these products are not always interchangeable.  
17 There are a number of antiperspirant pre-mixers that  
18 have rejected about three quarters of the prospective  
19 vendors, because they don't meet their spec. In the  
20 case of Summit Labs, it's a family-owned business.  
21 It's not multi-national, and the gentleman that  
22 replied to it was addressing pet food, about losing  
23 \$10 million.

24 Well, I think losing \$10 million for Summit  
25 Labs would be a heavy hit, as it would for our

1 principal in India. I just want to refer quickly to  
2 some other points that Mr. Chopra made, who is the  
3 owner and Chairman of ICO Labs.

4 One, he says in, I think, this year, and  
5 your data probably confirms, or I hope it does, that  
6 ISO has never sold -- his English here is a little  
7 broken -- we sell the material at the local price, the  
8 same as we do in the export price.

9 We have done 98 percent of our business in  
10 the last two and-a-half years to the United States. I  
11 don't know if this is true or not, and this is a  
12 question I have and maybe someone can answer -- but  
13 we've talked to a few lawyers. We've jumped around,  
14 and one of the lawyers did tell us that if 95 percent  
15 of your exports do go to one destination, that you are  
16 exempt from any anti-dumping penalties. I don't know  
17 if that's true or not; but that's a point that he  
18 raised. It was a lawyer that he spoke to here in the  
19 states.

20 The other point is, ICO has a capacity of  
21 1,500 metric tons a year, and we can't really see how  
22 that can really damage the business of a company with  
23 the capacity that GEO has.

24 Also, and he also points this out, too, that  
25 we've sold probably 95 percent, over the last two

1 years, to one customer, at a contract price with a  
2 non-meter release clause, through a distributor. We  
3 don't really see how we could have been destroying the  
4 market, because the final selling price was, from what  
5 I'm told -- I mean, one never knows what purchasing  
6 people tell you. But we were right in line or above  
7 what the domestic was selling at.

8 Mr. Chopra wonders that the demand being so  
9 high in the States, if GAO could really fulfill the  
10 demand. That's a question for everyone else to  
11 answer, not us.

12 But there's never been any intent to  
13 anything to dump or to injure the market here, because  
14 we believe we've sold the fair market prices, for  
15 which I've just pointed out. They state very strongly  
16 that if this type of duty is enacted, in the long run,  
17 we might have to shut down the plant, unless prices go  
18 up here dramatically.

19 Because the nine containers I spoke about  
20 that we just sold are really an aberration, because  
21 we're filling in for someone that's lost a contract  
22 with their suppliers. They will lose quite a bit of  
23 business and jobs in India.

24 They've also appealed to the Indian Trade  
25 Commission. I don't know who they're in contact with

1 in the U.S. Government. But they are trying to appeal  
2 this to intercede on our behalf.

3 The other Indian producer, just as an  
4 addendum, when Summit Labs was being addressed, the  
5 Indian producer that was selling some, it was Kumar  
6 Industries, which has since been shut down.

7 We're not 100 percent sure, but we believe  
8 they were re-packing material. We don't. We produce  
9 from acidic acid, which I pointed out earlier.

10 I think the other company named in the  
11 petition was too small to even bother. But to us, our  
12 business here is important; and as you can see, I  
13 think we're doing, whatever I said -- 97 or 98 percent  
14 of our business is here in the United States. This  
15 could do severe damage to our principals in India, as  
16 well as CAF. So that's all I have; thank you.

17 CHAIRMAN PEARSON: Thank you, Mr. Frey, and  
18 we appreciate the effort that you've made to come to  
19 Washington today to help us with this hearing. I get  
20 to start with the questions.

21 Could you clarify, and you may have said  
22 this already -- but your firm, does it handle  
23 specifically U.S. P Grade glycines, or do you deal in  
24 all grades?

25 MR. FREY: We've only, I think, in the last



1 two and-a-half years done maybe two loads of tech  
2 grade. It's just USP, yes.

3 CHAIRMAN PEARSON: Okay, and the Indian firm  
4 that you work with, does it produce only U.S. P Grade,  
5 or does it also produce technical grade?

6 MR. FREY: No, they produce tech, and they  
7 produce USP, but the tech is not competitive for some  
8 reason; I don't know. They use a different process.

9 CHAIRMAN PEARSON: You've made some  
10 comments, but let me ask you to go back to it. To  
11 what extent have the subject imports increased due to  
12 efforts on the part of foreign producers to increase  
13 their presence in the U.S. markets, compared to the  
14 extent they've increased because domestic demand in  
15 this country has drawn it in with the production  
16 shortfalls and difficulties?

17 MR. FREY: Well, I can't speak for the other  
18 producers. But I know for us, it was really a demand  
19 situation that was brought to our attention. I was  
20 working with ICO on some other products, and we kind  
21 of backed into this, because we got requests from  
22 Nestle's distributor for another source, and we got  
23 quickly approved.

24 I don't know, just conjecture, I would say  
25 it's probably a little bit of both. That's about all

1 I could say really.

2 CHAIRMAN PEARSON: Okay, you had indicated  
3 that if these orders go into effect, that we would see  
4 more Belgium product coming back into the United  
5 States. At what price level would the Belgium product  
6 trade, or does it trade? I mean, is that relative?

7 MR. FREY: I actually don't know. I used to  
8 have contact with them, but I don't really know. But  
9 they've brought in maybe like two or three containers  
10 a year over the last three years, mainly because of  
11 the Euro dollar problem. So I really don't know, and  
12 I don't know what they're selling in Europe, either.

13 To me, it's a natural conclusion after what  
14 some of the people from GEO said. It just seems  
15 almost inevitable. If more duty goes against the  
16 Chinese, GEO I don't think can fulfill the whole need  
17 of the market. So somebody is going to have to come  
18 in; from where, I don't know. But it just seems  
19 logical that it would be Belgium, because they produce  
20 a high quality item and it's higher priced.

21 CHAIRMAN PEARSON: In almost any product  
22 that's imported, we see price being an issue again. I  
23 mean, price is a part of the marketplace, no matter  
24 what product you're dealing with.

25 But you have mentioned also that service,

1 domestic availability, those sorts of things, are  
2 important. Could you comment more on that? Help us  
3 understand this marketplace better.

4 Because maybe one way to look at it is, in  
5 order to compete effectively with the imported product  
6 that you're handling, if you're going to sell it  
7 against the domestic product, assuming the domestic  
8 industry isn't having supply problems, what kind of  
9 discount do you have to offer on  
10 price in order to compete?

11 MR. FREY: It depends on the commodity. In  
12 the current climate, the last couple of years, we've  
13 been up against Chinese material. We've had to maybe  
14 offer five to ten percent less. But our experience  
15 has been, when we've been up against GEO, we have not  
16 had to reduce our prices, as previously stated.  
17 Because there's just quiet a bit of antipathy out  
18 there by buyers, as you've read. There's others,  
19 also.

20 CHAIRMAN PEARSON: So is the argument that,  
21 as a risk management strategy, U.S. users of glycine  
22 need to have access to some foreign source of supply?

23 MR. FREY: Absolutely. And regardless of  
24 what is happening here with deliveries from the  
25 Petitioner's point of view, most big companies are

1 always double or triple source, because there can  
2 always be a problem. The problem here, we feel, and I  
3 feel that the big end users feel the same is, this has  
4 been a consistent pattern of non-reliability and some  
5 other factors. That's why I think they're trying even  
6 more so to double or triple source.

7 CHAIRMAN PEARSON: What advantages do the  
8 U.S. producers have in the marketplace? You're  
9 working with some of the same customers that they do.

10 MR. FREY: Yes.

11 CHAIRMAN PEARSON: And you're competing  
12 against them. How do see their advantages, relative  
13 to what you can offer?

14 MR. FREY: Well, I think in a normal  
15 circumstance, and I've been in the import business  
16 since 1979. I mean, a normal advantage that a  
17 domestic has is service. With that service, it  
18 usually carries more inventories than we would as a  
19 importer, et cetera, varying grades, different  
20 packaging, et cetera. But when that particular aspect  
21 goes out the window, it's a crap shoot.

22 CHAIRMAN PEARSON: And in this industry,  
23 what does service mean? Is it just the timelines of  
24 delivery, or are there after sale service issues, if  
25 the product isn't running right in a user's process or

1 what?

2 MR. FREY: Well, I think it's both. But I  
3 think generally, most of the product that comes in  
4 here, as I think some of the other Petitioner's  
5 mentioned, is suitable for pet food. Some of the  
6 antiperspirant stuff is a little more stringent, as  
7 far as specifications. I forgot the first part of  
8 your question.

9 CHAIRMAN PEARSON: Well, the question had to  
10 do with, what were the elements of service.

11 MR. FREY: Oh, I think when I look at  
12 service, I have an MBA in international business and  
13 in marketing, it's satisfying the customers' wants and  
14 needs. If you don't get the product there on time,  
15 and they have to shut down production or they have to  
16 buy from somebody else at a higher price, that's not  
17 service.

18 So I'm answering it kind of in a negative  
19 way. But really, what I consider service is timely  
20 deliveries and sound product.

21 CHAIRMAN PEARSON: When you mentioned sound  
22 product, is this a product where there has been a  
23 tendency of the customer receiving a grade that's  
24 slightly different than he or she is used to.

25 MR. FREY: We've had a few problems.

1 Because one of the gentlemen mentioned, it is very  
2 hydroscopic, and we've had problems with that,  
3 generally. We had an anti-caking agent, with the  
4 customer's permission, which keeps it from caking.  
5 But in cases where it has, or we haven't added an  
6 anti-caking agent, we have it re-ground and return it  
7 to the customer. That's also a service.

8 CHAIRMAN PEARSON: I think, at that point, I  
9 will pass to Vice Chairman Aranoff.

10 VICE CHAIRMAN ARANOFF: Thank you, Mr.  
11 Chairman; and Mr. Frey, thank you for being here today  
12 to answer our questions. Are you familiar with the  
13 Korean or Japanese product?

14 MR. FREY: Yes, I believe I am.

15 VICE CHAIRMAN ARANOFF: Is there anything  
16 that sets the Indian product apart from the Korean or  
17 Japanese-produced glycine?

18 MR. FREY: As far as I know, the Japanese,  
19 generally we've sold to customers. In fact, one of  
20 the customers we recently sold part of these -- to was  
21 Yuki Gosei. The customer can generally be used  
22 interchangeably Showa Denko, the other producer, has  
23 always had a reputation of the highest quality, which  
24 is why I believe Chattem is probably using their  
25 product.

1                   Korea, I confirm what one of the gentleman  
2                   said before. We know of no production in Korea.  
3                   Neither do our principles in India. Our theory has  
4                   been that the stuff that was coming in from Korea was  
5                   re-packed Chinese material. I have no proof of that;  
6                   nothing substantive. But just from what I know about  
7                   the market and have heard, that's what we believe. As  
8                   GEO said, we've never been able to locate a producer  
9                   in Korea, in particular; just traders that claim to  
10                  sell Korean-made product.

11                  VICE CHAIRMAN ARANOFF: Okay, I appreciate  
12                  that. So you said your company actually has handled  
13                  imports of Japanese product?

14                  MR. FREY: No, I handled Yuki Gosei when I  
15                  was with a different company. But I just said, with  
16                  some of the orders we just recently took at a higher  
17                  price, one or two of the buyers were using the  
18                  Japanese product. So it can be used generally  
19                  interchangeably with the Indian.

20                  VICE CHAIRMAN ARANOFF: Okay, thanks; In our  
21                  staff report we have a chart, and I'm referring to  
22                  Figure 4-6 for those who have access to the report.  
23                  It shows that while there were noticeable spikes in  
24                  the level of subject imports in months that followed  
25                  disruptions in domestic supply, both in 2004 and then

1 again this year, there were also substantial spikes  
2 during period that were not characterized by these  
3 kind of disruptions.

4 It's obviously one thing to turn to a  
5 foreign source to ensure against supply shortages.  
6 But it's another to keep increasing imports from that  
7 kind of a source in the absence of a domestic supply  
8 shortage. Do you have a possible explanation for  
9 what's been going on?

10 MR. FREY: No, I don't. I just think any  
11 company, be it an importer like myself or a  
12 manufacturer who wants to sell -- and believe it or  
13 not, we can get a higher price here in the United  
14 States than in India.

15 As multi-nationals do and this especially  
16 applies to the price of glycine in Europe with the  
17 Chinese, there are different market prices for  
18 different countries. In a country like India, the  
19 market price is much lower. So if they could get  
20 better pricing in India, they'd be selling in India.  
21 So the motivation is profit. That's what we're in  
22 business for.

23 VICE CHAIRMAN ARANOFF: Okay, in your  
24 company's testimony at our preliminary staff  
25 conference, you indicated that the U.S. producers'



1 losses or any injury to them were the result of a poor  
2 history of customer service and supply reliability.  
3 GEO argues that it's customer service performance and  
4 its supply reliability have increased under its new  
5 ownership. They had, in that case, what they would  
6 view as just a small blip this year.

7 Do you sense, as you talk to customers, that  
8 they're getting credit for improve customer service,  
9 or that customers really don't see a difference?

10 MR. FREY: No, and in fact, I can give you  
11 two names of two large buyers that you could speak to.  
12 I think one did speak to Russell Duncan, and that's  
13 hardly the case. I think they would have been here  
14 today, if they could.

15 In fact, my detection, and this is not  
16 slanderous in any form, I think by the tenor and tone  
17 of Mr. Coleman's letter, that's the same feeling I'm  
18 getting from other people.

19 VICE CHAIRMAN ARANOFF: Okay, now Mr.  
20 Coleman's letter obviously it has a pretty recent  
21 date, and deals with this most recent period of  
22 disruption. Were you talking to customers during 2006  
23 when there was a substantial improvement in the on-  
24 time delivery for GEO?

25 MR. FREY: Yes, we were. But in 2006,

1 everything we did was on a contract basis, so we were  
2 not actively really soliciting any product. I mean,  
3 people would call us, ask for product. We'd give them  
4 a spot price, which is different than naturally a  
5 contract price.

6 But as I said, we ostensibly, for two and-a-  
7 half years, have sold to just one client; and that's a  
8 distributor who's been selling to the end user,  
9 Nestle. So we have made no intentional activity to  
10 drive the price down and go out and sell the stuff.  
11 We only act upon it when we're called. That's not how  
12 we do it.

13 VICE CHAIRMAN ARANOFF: Okay, now when you  
14 say you're selling under a contract, do you have with  
15 that distributor an annual contract?

16 MR. FREY: Yes, it's usually 12 months. The  
17 quantity is fixed and the price is fixed for the year.  
18 We've dealt with a few of the largest producers.  
19 We've never been asked to give a meter release clause.

20 VICE CHAIRMAN ARANOFF: Okay, so this  
21 customer, this distributor first came to you in 2004,  
22 and you've just been doing an annual contract since  
23 then?

24 MR. FREY: Yes, that's correct, until this  
25 year.

1           VICE CHAIRMAN ARANOFF: You can answer this  
2           confidentially if you want, but have the quantities  
3           changed significantly, or have you been doing about  
4           the same volume of business each year?

5           MR. FREY: Well, from what I understand,  
6           they're buying most of their material now from China  
7           because their price was cheaper than ours.

8           VICE CHAIRMAN ARANOFF: So the quantities  
9           have actually declined?

10          MR. FREY: Yes. Yes. In 2007, yes.

11          VICE CHAIRMAN ARANOFF: In 2007, okay. What  
12          about the prices? Our staff report, our data shows  
13          that, in general, prices in the U.S. market have gone  
14          up from 2004 to 2006.

15          MR. FREY: Yeah, we had some material we  
16          reprocessed that we -- I don't remember the exact  
17          selling price, but we've recently sold material as  
18          high as like \$2.45 a pound. So, yes, they have been  
19          going up since the initial.

20          VICE CHAIRMAN ARANOFF: Okay. One of the  
21          things that we discussed with the morning -- the  
22          earlier panel was the comment that some maintenance  
23          matter about how -- if it can't get access to glycine  
24          in the U.S., views as a reasonable price and  
25          reasonable assurance of delivery, that they could move

1 their own production overseas or lose business to  
2 competitors located overseas for their own product.  
3 Do you view that as a realistic possibility?

4 MR. FREY: Yes, I do, because if this  
5 particular duty is imposed and I think with India,  
6 it's 171 percent, we will not be stocking any  
7 material. We will only be doing some back-to-back  
8 business. And if the market price doesn't go up  
9 substantially, we will not be competitive. Our recent  
10 sale was just strictly out of necessary due to  
11 cancellation of contract. So, yeah, I would agree  
12 wholeheartedly, because we have no intention of  
13 stocking any material at that kind of price. We don't  
14 know what's going to happen and we have to post a huge  
15 bond for everything we bring in.

16 VICE CHAIRMAN ARANOFF: Do you actually  
17 stock product, yourself, or do you just transfer  
18 directly to your distributor, who stock --

19 MR. FREY: No, we do both. We keep small  
20 stock, maybe one or two containers at a time, no more  
21 than that.

22 VICE CHAIRMAN ARANOFF: Okay, all right.  
23 Thank you, very much, for those answers.

24 CHAIRMAN PEARSON: Commissioner Okun?

25 COMMISSIONER OKUN: Thank you, Mr. Chairman,

1 and I join my colleagues, Mr. Frey, thanking you for  
2 appearing here today and for the cooperation that  
3 you've given with your client in filling out the  
4 record here. You may have said this, but I'm not sure  
5 if I heard it correctly. You have noted, in response  
6 to a question of the decline -- there was decline in  
7 volume from your client and that you had suspected  
8 they had bought -- that there had been an increase in  
9 Chinese imports into the market. Do you have a sense  
10 of what the price differences are between Chinese  
11 product and Indian product? I mean, when you're out  
12 there quoting or have been quoting, even with your  
13 distributor, is there an acknowledged spread out there  
14 for the product?

15 MR. FREY: Well, I would say prior to the  
16 Nantong decision, I would say probably maybe a  
17 difference of maybe 50 cents a kilo, something like  
18 that -- I'm guessing -- about 25 cents a pound.

19 VICE CHAIRMAN ARANOFF: With the Chinese  
20 price being lower by 25 cents a pound?

21 MR. FREY: Yes.

22 VICE CHAIRMAN ARANOFF: And what about with  
23 regard to Belgian product?

24 MR. FREY: I really can't answer that.

25 VICE CHAIRMAN ARANOFF: In the posthearing?

1           MR. FREY: Yes. I think it was like if I  
2 recall the two containers that I saw that came in in  
3 2006, they're like over \$4 a pound, something in that.  
4 But don't hold me to that. It's just conjecture.

5           VICE CHAIRMAN ARANOFF: Okay. And then you  
6 had talked about -- or responses about what happens in  
7 this market if there is an order in place and you have  
8 said that your client can't continue to, I guess, do  
9 large volumes in the U.S. market at those prices. Can  
10 you help give a sense of where you think the market  
11 could go? In other words, on the one hand, what I  
12 hear you saying is U.S. producers cannot fulfill  
13 demand in the U.S. market. Customers want alternative  
14 suppliers. Alternative suppliers at 10 percent  
15 increase in price? Is it a 20 percent increase in  
16 price? Or is there some sense where they can't do  
17 that either?

18           MR. FREY: Well, I have the sense that  
19 buyers will pay more, which is witnessed by what I  
20 said before. But, we're not sitting here. We'd like  
21 to make more money on our products, too. But I really  
22 don't have any idea, but I see a trend -- I've gotten  
23 some quotations out of China and the c.i.f. price is  
24 over \$3 a pound.

25           VICE CHAIRMAN ARANOFF: Okay. And then I

1 know you had talked about, from your perspective, the  
2 shipments that you've made in, you've been in this  
3 most recent period, were in response to delayed  
4 shipments by GEO. Is that --

5 MR. FREY: That's correct.

6 VICE CHAIRMAN ARANOFF: Okay. And I just  
7 want to make sure, because it's hard to tell quickly  
8 trying to go through the record, whether we have the  
9 specific information, if you have any more specifics  
10 about those time periods when you were shipping and  
11 whether we could have them in record. In other words,  
12 it helps us complete the record to have the specifics.

13 MR. FREY: I can -- I don't have it with me,  
14 but I could check when I get back to my office and e-  
15 mail it to you or something.

16 VICE CHAIRMAN ARANOFF: Okay. If you could  
17 just work with those --

18 MR. FREY: And I'll double check with my  
19 customer, too, because he would have the purchase  
20 record, also.

21 VICE CHAIRMAN ARANOFF: Right, right. Okay.  
22 Well, if you --

23 MR. FREY: All right.

24 VICE CHAIRMAN ARANOFF: -- could work with  
25 our staff to make sure that we have that in there.

1 And when you talked about kind of the first move into  
2 the market from your client was with -- to a  
3 distributor, who then sells to Nestle?

4 MR. FREY: Right.

5 VICE CHAIRMAN ARANOFF: And tell me that  
6 time period again.

7 MR. FREY: I believe it started, I think it  
8 was 2005, like first quarter.

9 VICE CHAIRMAN ARANOFF: Okay.

10 MR. FREY: It was all very -- from what I  
11 understand, I don't really know, it's secondhand  
12 information, but it was over a contract dispute that  
13 they had with the Petitioner.

14 VICE CHAIRMAN ARANOFF: Okay. And, again,  
15 if there is any more specific information about that,  
16 that you could share, because we do have some  
17 information here about specific purchasers. I'm not  
18 sure that all of that is included.

19 MR. FREY: I can give you the names, also,  
20 of the appropriate buyers, if you'd like.

21 VICE CHAIRMAN ARANOFF: Okay. If you then  
22 work with --

23 MR. FREY: Yeah.

24 VICE CHAIRMAN ARANOFF: -- staff to make --  
25 because, I know they've been in contact with a number



1 of purchasers.

2 MR. FREY: Yeah.

3 VICE CHAIRMAN ARANOFF: So, they may be more  
4 aware of this, locating it right here. I think that  
5 that covers the questions I have here. Thank you,  
6 very much, for those responses. Thank you, Mr.  
7 Chairman.

8 MR. FREY: You're welcome.

9 CHAIRMAN PEARSON: Commissioner Lane?

10 COMMISSIONER LANE: Mr. Frey, I want to  
11 thank you for being here today and answering our  
12 questions. And I don't have any questions. Thank  
13 you.

14 MR. FREY: Thank you.

15 CHAIRMAN PEARSON: Commissioner Williamson?

16 COMMISSIONER WILLIAMSON: Thank you, Mr.  
17 Chairman. Also, I express my appreciation, Mr. Frey,  
18 for coming down to testify. I was wondering, your  
19 Indian partner, ICO, what process do they use? Are  
20 they using that HCN process to make glycine or the  
21 MCA?

22 MR. FREY: I honestly don't know, to be  
23 perfectly honest. I've seen their plant one time and  
24 I'm not a chemist. I really don't know. All I know  
25 that is that I've made doubly sure they're using

1 acetic acid and not repacking Chinese material.

2 COMMISSIONER WILLIAMSON: Okay. Do you  
3 know, do they make other chemicals in their plant or  
4 other products in the plant?

5 MR. FREY: In the glycine plant, no.

6 COMMISSIONER WILLIAMSON: So, the glycine is  
7 not a byproduct or there's not something else that  
8 they -- I know some of the companies in the U.S.,  
9 plants in the U.S. are usually making other products.  
10 I take it that's not the case there.

11 MR. FREY: They do make glycolic acid, which  
12 is cosmetic specialty, which is also -- but, it's a  
13 different plant.

14 COMMISSIONER WILLIAMSON: I see, okay.  
15 Thank you. Now, you mentioned the question of  
16 transshipments and I think you mentioned that Korea,  
17 you thought, all of that was transshipment. Are there  
18 other places where transshipments are a factor, in  
19 term of glycine?

20 MR. FREY: I know there are quite -- I think  
21 there are quite a few out of the U.K., but I'm not 100  
22 percent positive.

23 COMMISSIONER WILLIAMSON: Okay. And I guess  
24 you, also, said there was probably some coming out of  
25 India, too, companies?

1           MR. FREY: I believe so, because, again, I  
2 don't know this for a fact, but you're asking my  
3 opinion, and I think that's the reason that Kumar shut  
4 down, because they had been soliciting us for three  
5 years and their prices were like too good to be true.  
6 And we, also, have an agreement with ICO, but I was  
7 always suspicious, because when something is too  
8 cheap, you wonder what the story is. And there were  
9 extensive rumors that they were repacking.

10           COMMISSIONER WILLIAMSON: Okay. You  
11 mentioned -- made reference to unsavory business  
12 practices. Is that what you were talking about, this  
13 -- earlier in your testimony, and I didn't get the  
14 context?

15           MR. FREY: What I meant was -- now this is  
16 what I've heard from my distributor via Nestle, but I  
17 understand that the reason we were able to get into  
18 Nestle, I can be wrong, was that the -- I think the  
19 contract of 2005, there was a fixed price and the  
20 Petitioner tried to raise it in the middle of the  
21 contract term, which I don't know what their terms and  
22 conditions are, but -- and whether Nestle was right or  
23 wrong, but they were very upset about it and that's  
24 why they came to our distributor.

25           COMMISSIONER WILLIAMSON: Okay. So, it was

1 a contract dispute?

2 MR. FREY: Yes; as far as know, yeah.

3 COMMISSIONER WILLIAMSON: If December's  
4 problems and some of these protection problems were  
5 eliminated or addressed, would you think U.S.  
6 producers could be competitive in the domestic market?

7 MR. FREY: Well, I don't really know what  
8 their costs are. But, I think -- I would say, yes,  
9 because we have every intention -- we've been trying  
10 to raise our price for the last year or two and every  
11 buyer tells you a different story. And I think  
12 regardless of what happens here, as far as the duties,  
13 I think with the Chinese being whelped in a little  
14 more, I do think prices should go up. I don't know if  
15 that will make GEO competitive, because I don't know  
16 what they'll go up to and I really don't -- wasn't  
17 paying attention or listening to their costs. So,  
18 sorry, I can't answer that fuller.

19 COMMISSIONER WILLIAMSON: Okay, thank you.  
20 Just one other question. Do I understand that, in  
21 general, for the import -- is there a distinction  
22 between the imports and the domestic production, in  
23 terms of they're sold, or is everybody using  
24 contracts, in general?

25 MR. FREY: Well, I think it's both, but I

1 think the majority of the glycine business that I've  
2 seen over the last 24 years is like, I think Judy  
3 pointed out, there's like four or five big buyers and  
4 they generally buy on a yearly basis, because the item  
5 is a staple and they need it and they need -- and the  
6 reason they do it on a contract basis, even though  
7 sometimes they are paying more, is because they --  
8 it's incumbent on them to have enough of a supply to  
9 keep their plants running. And I think that's what's  
10 been the ongoing problem lately with a lot of the  
11 different customers, that they're not getting the  
12 products when they want it and when they need it.

13 COMMISSIONER WILLIAMSON: But, in terms --  
14 okay, so in terms of -- but, everybody tends to want  
15 to get -- prefer long-term contracts; is that the  
16 case, or at least a year-long contract sort of thing?

17 MR. FREY: Well, as a salesperson, as a  
18 marketing person, you have to adhere to what the  
19 customer wants and that's where we've -- that's what  
20 our pattern has been. Now, granted, we've only had  
21 over the last two-and-a-half years one long-term  
22 contract with premium ingredients for Nestle. Other  
23 people I've spoke to, that I know very well, also --  
24 it's the same, they ask for a yearly price. Now, from  
25 what I'm seeing, and I'm getting a million calls a

1 day, because of all this stuff is -- everybody wants  
2 to -- not everybody, but the tendency is still to book  
3 for the year, but no one wants to, because we don't  
4 know what's going to happen. But, I would say that  
5 tendency, yes, is still there, if all other things  
6 were equal.

7 COMMISSIONER WILLIAMSON: Okay, good; good.  
8 Well, thank you, very much, for your testimony. I  
9 have no further questions.

10 CHAIRMAN PEARSON: I have no further  
11 questions. Madam Vice Chairman? Oh, it's been a  
12 number of months since I've done that. I recognize  
13 Commissioner Pinkert.

14 COMMISSIONER PINKERT: Thank you, Mr.  
15 Chairman, and thank you for testifying today, Mr.  
16 Frey. I've a few questions for you about the pricing  
17 power issue that I raised earlier with the earlier  
18 panel. Would you say that right now, GEO has dominant  
19 pricing power in the U.S. market or would you say that  
20 the imposition of final orders would give it dominant  
21 pricing power in the U.S. market?

22 MR. FREY: I think the latter, yes, and I  
23 would say the former partially, because, as I stated  
24 earlier, they've put the fear of God in buyers by  
25 first stating they were going to bring this suit and

1 also now that the preliminary duties have been  
2 assessed, it does add a particular advantage to them,  
3 yes; but naturally, not the same as if it were a final  
4 act.

5 COMMISSIONER PINKERT: Well, that raises a  
6 question in my mind about the role of the non-subject  
7 imports, which could potentially come into the U.S.  
8 market, if we enter final orders -- or final orders  
9 were entered, I should say, in this case. Do you have  
10 any thoughts about that?

11 MR. FREY: In what regard?

12 COMMISSIONER PINKERT: Any thoughts about  
13 whether the pricing power that they would enjoy in the  
14 U.S. market, in the event that there were orders,  
15 would be undercut by non-subject imports coming into  
16 the U.S. market?

17 MR. FREY: No, I don't think so, because I  
18 think really the only -- I think the only -- and this  
19 is not -- this is just conjecture, I would see the  
20 only new entry would be Belgium and their price would  
21 be high, because of the Euro dollar, and that's only  
22 one competitor. Everybody else has some kind of duty  
23 against them. So like Mr. Coleman said, it's kind of  
24 turning out to be almost a monopolistic situation, as  
25 far as we see it.

1                   COMMISSIONER PINKERT: And what about the  
2 argument that the customers, in fact, are highly  
3 concentrated in the U.S. market; that is, relatively  
4 few customers controlling relatively large amounts of  
5 purchases? Does that, in any way, balance out what  
6 you're talking about, with regard to the monopolistic  
7 situation?

8                   MR. FREY: No. I would say, no, if you're  
9 not competing with anybody else.

10                  COMMISSIONER PINKERT: If who is not  
11 competing with anybody else?

12                  MR. FREY: If these punitive duties are  
13 enacted, you're not going to see much material coming  
14 in from India and China, because we're not going to be  
15 able to keep inventories, et cetera, unless GEO raises  
16 their prices substantially and we could compete with  
17 those kind of punitive duties. But, I don't know,  
18 it's all conjecture. I don't know what their intent  
19 is and I don't know what your intent is. So, I can't  
20 really answer that.

21                  COMMISSIONER PINKERT: Well, I appreciate  
22 your answers and I have nothing further, Mr. Chairman.  
23 Thank you for the opportunity to ask questions of this  
24 witness.

25                  CHAIRMAN PEARSON: You're welcome. Madam



1 Vice Chairman?

2 VICE CHAIRMAN ARANOFF: Mr. Frey, one last  
3 question.

4 MR. FREY: Sure.

5 VICE CHAIRMAN ARANOFF: You indicated that  
6 you had visited ICO's facility in India on one  
7 occasion. Have you ever visited the facilities of any  
8 other Indian producers?

9 MR. FREY: No, I have not.

10 VICE CHAIRMAN ARANOFF: We have in our staff  
11 report a list of a number of Indian producers that the  
12 Petitioners identified in the petition, potential  
13 Indian producers, and I think that list is public.  
14 And other than Kumar, which we've heard something  
15 about, we haven't heard anything yet in the  
16 investigation about any of those other producers. If  
17 staff could supply you with that list, could you ask  
18 ECO if they know --

19 MR. FREY: Sure.

20 VICE CHAIRMAN ARANOFF: -- whether any of  
21 these producers actually exist and are producing this  
22 product?

23 MR. FREY: Absolutely.

24 VICE CHAIRMAN ARANOFF: Thank you, very  
25 much. That would be very helpful. Thank you, Mr.

1 Chairman.

2 CHAIRMAN PEARSON: Are there any further  
3 questions from the dais, particularly from  
4 Commissioner Pinkert?

5 (No further questions.)

6 CHAIRMAN PEARSON: Okay. Do members of the  
7 staff have questions for Mr. Frey?

8 MS. MAZUR: Mr. Chairman, staff has no  
9 questions.

10 CHAIRMAN PEARSON: Does counsel for the  
11 domestic industry have questions for Mr. Frey?

12 MR. HUSISIAN: No, we do not.

13 CHAIRMAN PEARSON: Okay. Well, then, Mr.  
14 Frey, thank you, very much, for your testimony.

15 MR. FREY: Thank you for having me.

16 CHAIRMAN PEARSON: The way things work now,  
17 we have closing comments. And for that closing, the  
18 Petitioners have 29 minutes from their direct  
19 testimony and five for the closing statement, so a  
20 total of 34. And you, Mr. Frey, have 39 left from  
21 your direct presentation and five for closing, or a  
22 total of 44. Now, the way it works is that the  
23 Petitioners get to go first and so we'll let them do  
24 that. And then if you have anything you would like to  
25 say in conclusion, in response --

1                   MR. FREY: I think I've covered it. And I  
2 have to be back in New York by 6:00, so I'll just let  
3 my testimony stand. I appreciate it.

4                   CHAIRMAN PEARSON: You have our permission  
5 to take off. Thank you, very much, for being here.

6                   MR. FREY: Okay. No handcuffs?

7                   CHAIRMAN PEARSON: No, no, you're free and  
8 clear.

9                   MR. FREY: I just have one questions, Mr.  
10 Pearson. I know the testimony was such about Nantong.  
11 Can anybody tell me what's going on with Bowding? Is  
12 there going to be an appeal for that or what?

13                   CHAIRMAN PEARSON: I certainly don't know.

14                   MR. FREY: Or is that under the DOC  
15 jurisdiction?

16                   CHAIRMAN PEARSON: That would be the  
17 Department of Commerce.

18                   MR. FREY: Okay, all right.

19                   CHAIRMAN PEARSON: Okay. So, Mr. Husisian,  
20 do you have -- are you ready to proceed with closing?  
21 Okay. And you will be doing that?

22                   MR. HUSISIAN: Yes, that's correct.

23                   CHAIRMAN PEARSON: Do you wish to come  
24 forward or to do it from there?

25                   MR. HUSISIAN: I might as well come forward.

1                   CHAIRMAN PEARSON: Please. If you choose  
2 not to take all 34 minutes, we won't hold that against  
3 you. Please proceed.

4                   MR. HUSISIAN: In consideration of all of  
5 our stomachs and the time, I will not be taking the  
6 full 34 minutes or anywhere close to it, in part,  
7 because I'm not going to go back into the data. I  
8 mean, the data showing material injury and causation  
9 is well laid out in the staff report and the  
10 questionnaires and is covered thoroughly in our brief.  
11 Instead, what I want to focus on is the topic that's  
12 captivated the Commission, which the issue of customer  
13 relations and what impact that should have on the  
14 evaluation of material injury in this case.

15                   To return to something I touched on earlier,  
16 customers like dumping. Especially, they like dumping  
17 in a commodity market, where the only thing that's  
18 distinguishing the product is the price for the  
19 product. And when you have dumping in that situation,  
20 it's a great situation for a customer. They have two  
21 choices. They can take the dumped product or they can  
22 go to their original supplier and say, why are you  
23 charging this much to me; I've got someone from India  
24 or Japan, who is willing to sell it for much less.  
25 And what you usually found happening was GEO would

1 say, okay, we're going to match that product and we're  
2 going to match that price, because they knew they  
3 didn't have anyway to distinguish it. And customers  
4 like that situation, because when you have dumping and  
5 you have cheap prices, you just pocket the savings.  
6 And what you see in the market today with the prospect  
7 that dumping isn't going to occur anymore and some  
8 pullback from the subject imports, you see a return to  
9 pricing like it was in 2000, before the rampant  
10 dumping and underselling started to occur. And that's  
11 not enough to make GEO whole, because import costs are  
12 higher than they were, but it's a reversal of the  
13 artificially low prices that you had seen and  
14 customers, like Summit, are not happy with that  
15 situation.

16 Now, what you have heard from Summit was,  
17 they're saying, we're worried about reliability. But,  
18 as you see in the record, customers had not problem  
19 staying with GEO, as long as it would match the dumped  
20 prices. GEO runs the world's largest licensed  
21 facility. And even at times when they couldn't reach  
22 full capacity utilization, because they were trying to  
23 hold the line on price, they were still the world's  
24 largest producer. They were one of the world's  
25 largest plant. So, customers were going with GEO and

1 getting the price from it, but this case is all about  
2 at what price. And that was what the customers are  
3 looking at and complaining about, like customers in  
4 any of the cases that you have before you, they would  
5 rather not see an order. They would rather have  
6 continued recourse to dumped unfairly traded imports.  
7 And that is what this case is about.

8 Now, the complaints about shutdown,  
9 obviously, also tie into this, as well. We've heard  
10 about how people are saying the shows -- that GEO is  
11 an unreliable supplier. Even moving beyond the point  
12 that Mr. Avraamides made, which was that they've  
13 worked through these issues and they don't have even a  
14 single delayed shipment in November, getting back to  
15 the exemplary on-time performance they had in 2006, it  
16 simply can't be the case that the performance of GEO  
17 during the shutdown is an explanation for what was  
18 happening during the POI, because the shutdown was in  
19 the last month of the period of investigation. The  
20 injury that you're seeing in the record over the  
21 period of investigation is not tied to the shutdown.  
22 It's tied to the subject imports, because that is what  
23 was going on.

24 Now, to the extent that the claim might be  
25 that while this shows our general concerns about GEO,

1 Mr. Avraamides and Mr. Eckman testified about the push  
2 that they made on customer service and you see the  
3 results in the staff report for all of GEO's  
4 customers, in terms of the improvement of their on-  
5 time performance. Summit is a data point. When it  
6 complains about how it was going on during -- what was  
7 going on during the shutdown, it's a data point that  
8 owns a pen and has written to you. But, it was one of  
9 the people, who were -- GEO was working through in  
10 this unanticipated, unexpected situation, where they  
11 hadn't built up enough inventory. And GEO values its  
12 customer relations. It values not squandering its  
13 improved reputation for good on-time deliveries, which  
14 you see and hear customers talking about in their  
15 questionnaires. But, it's not a reason that would  
16 have anything to do with whether or not an order is to  
17 be imposed, because the material injury that was  
18 occurring during the POI, by definition, wasn't being  
19 affected by that.

20 Now, during the course of the hearing, there  
21 was also some discussion about what is the reason that  
22 imports are coming in. Are they being sucked into the  
23 market, because of perhaps increase in demand or  
24 because customers are demanding it, when, in fact,  
25 they would prefer to deal with domestic sources or are

1 they, in fact, using dumping as a tool, to use low  
2 prices to pick up market share? And I think the idea  
3 that some of the questionnaires may have put forth  
4 that they basically were forced to go to the imports,  
5 when they really wanted to deal with domestic  
6 producers doesn't really hold up to serious scrutiny.  
7 I mean, the idea of being that, gee, we really wish we  
8 could deal with the domestic industry, but we were  
9 forced to go to the dumped imports and, by the way,  
10 they happened they were much cheaper, doesn't reflect  
11 how a marketplace really works. As Mr. Reilly said,  
12 if that were the situation, you would expect them --  
13 and the imports were being sucked in, you would expect  
14 them to be coming in at a premium. And you certainly  
15 wouldn't see a situation where one confronted with the  
16 dumped imports, they would be going back to GEO and  
17 saying, gee, if you match this price, you can keep  
18 this, and using it as a way to bludgeon down prices.  
19 And you see that happening quite consistently. If you  
20 think about it, when you have overwhelming  
21 underselling in a commodity market and a doubling of  
22 subject imports over that period of time, the only  
23 reason that the imports would be consistently  
24 underselling is because they want to pick up that  
25 market share and they want to displace the U.S.



1 production and increase their share. And that's  
2 exactly happened. The Commission sees it in case  
3 after case and that level of consistent underselling  
4 in a fungible commodity market is a powerful indicator  
5 of injury, the Commission has said in many cases, and  
6 the same is true here.

7 Mr. Frey talked about some of the prices he  
8 would see in the marketplace were too good to be true  
9 and that is the situation that customers like Summit  
10 want to keep in place. They want to keep in place  
11 prices that are too good to be true, whether they do  
12 it through buying from subject imports or they use it  
13 to push down prices from the domestic producers. The  
14 problem with that is the prices are too good to be  
15 true, because they are bought at the price of  
16 consistent losses by the U.S. industry. It is just  
17 not a tenable position to expect an entire U.S.  
18 industry to lose money year after year. When that  
19 happens, you see an inability to invest in production,  
20 as GEO had, their glycine recovery unit. They've  
21 known that it's been broken for years. It's not a  
22 surprise to them. But, there is no way they were  
23 going to invest in it, because they couldn't make an  
24 economic case for it.

25 And then you see a company like Chattem that

1 is saying, we can't compete against the imports. And  
2 that is all capacity that is available to be brought  
3 back onto the market and that can be brought back onto  
4 the market, if there is an economic case for Chattem  
5 and if there's an economic case for GEO. And that is  
6 what this case is about. It's about restoring prices  
7 to where they were before the dumping began, to where  
8 they were in around 2000, before they had the rampant  
9 underselling, to allow the U.S. industry to invest in  
10 its capacity, to allow it to streamline its  
11 production, and to allow it to invest in the capacity  
12 to serve the market properly.

13 We've heard from Mr. Frey about the export  
14 orientation of some of the people, that the producer,  
15 who likes to deal with it in India wants to sell 95  
16 percent of its production into the U.S. market.  
17 That's fine. There is nothing in a dumping order that  
18 would prevent that from occurring, but it would have  
19 to be at fairly-traded prices. And that is what's  
20 going on in this case and that's what the Commission  
21 has to look at, was the injury that was being seen  
22 over the period of investigation, the consistent  
23 losses, the loss of production capacity, the loss of  
24 market share, the loss of production-related workers,  
25 is that the kind of thing that the Commission

1 considers to be material injury? And when you see the  
2 doubling of the market share and the doubling in  
3 absolute terms of the imports and underselling in  
4 virtually every comparison period, is there a link  
5 between that injury and the subject imports?

6 I'm going to return to what I said at the  
7 beginning. To me, that's a textbook case, especially  
8 in a fungible commodity market, material injury. But,  
9 the data is in the record. You have to make your own  
10 determination. And we are happy to answer all of your  
11 questions, to help you reach that determination,  
12 because this is a very important case. It's a small  
13 industry in the United States. It's not like a steel  
14 case or a lumber case, where there are billions of  
15 dollars of production. Here, you're talking about a  
16 total market, even if all the production capacity of  
17 GEO and Chattem is on line, of \$15 to \$25 million or  
18 something like that. It's a small market, in terms of  
19 what you usually see, and it's a small market, in  
20 terms of the end products that it finds its way into.  
21 But, it's an extremely important case for GEO and for  
22 its employees and that's why they're here before you  
23 today and why this case still represents the one  
24 glimmer of hope that they have seen since they bought  
25 this facility. The order is essential to preserve the

1 U.S. industry. And I've always thought that that's the  
2 reason why this Commission exists, is when there is  
3 material injury and it's caused by reason of the  
4 imports and they can help save that industry, that  
5 they'll act in accordance with the law and make an  
6 affirmative injury finding. So, whatever we can do to  
7 answer your questions to help you reach that end goal,  
8 that's what we're here to do. And even though it's  
9 our closing remarks, if there's any further questions  
10 you have, we would be more than happy to answer them.  
11 Otherwise, we can all leave and eat.

12 CHAIRMAN PEARSON: Thank you, Mr. Husisian.  
13 My closing statements, in accordance with Title VII of  
14 the Tariff Act of 1930, post-hearing briefs,  
15 statements responsive to questions and requests of the  
16 Commission, and corrections to the transcript must be  
17 filed by December 5, 2007. Closing of the record and  
18 final release of data to parties, except for  
19 Commerce's final determination and supplemental briefs  
20 on India, on December 19, 2007. Final comments are  
21 due December 21 and supplemental briefs on India are  
22 due February 11, 2008. This hearing is adjourned.

23 (Whereupon, at 1:35 p.m., the hearing in the  
24 above-entitled matter was concluded.)

25 //

**CERTIFICATION OF TRANSCRIPTION**

**TITLE:** Glycine from India, Japan, & Korea  
**INVESTIGATION NOS:** 731-TA-1111-1113 (Final)  
**HEARING DATE:** November 28, 2007  
**LOCATION:** Washington, D.C.  
**NATURE OF HEARING:** Hearing

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

**DATE:** November 28, 2007

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

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

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

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

**SIGNED:** Christina Chesley  
Signature of Court Reporter