

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-533-845, A-580-858, A-588-868]

**Glycine from India, Japan, and the Republic of Korea: Initiation of Antidumping Duty Investigations**

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

**EFFECTIVE DATE:** April 26, 2007.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:****The Petitions**

On March 30, 2007, the Department of Commerce (the Department) received petitions concerning imports of glycine from India (*Indian Petition*), Japan (*Japanese Petition*), and the Republic of Korea (Korea) (*Korean Petition*) (collectively, the Petitions), filed in proper form by Geo Specialty Chemicals, Inc. (Petitioner). See the Petitions for the Imposition of Antidumping Duties on Imports of Glycine from India, Japan, and the Republic of Korea filed on March 30, 2007. On April 5, 2007, the Department issued a request for additional information and clarification of certain areas of the Petitions. Based on the Department's request, Petitioner filed Petition Supplements on April 3, 12, 13, 17, and 18, 2007. In the April 18, 2007, Petition Supplement, Petitioner confirmed the final scope language. In addition, Petitioner submitted certain revisions to their cost calculations for India, Japan and Korea. We note that, although this revised cost data

contained minor errors, Petitioner's revisions to that data were generally consistent with the revisions made by the Department. See "Cost of Production and Constructed Value section," below. Also based on the Department's request, the Petitioner refiled certain submissions to correct (1) the designation of information that may not be released under APO and (2) their request for business proprietary treatment of certain information on April 10 and 13, 2007.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), Petitioner alleges that imports of glycine from India, Japan, and Korea are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

#### Period of Investigation (POI)

In accordance with section 351.204(b) of the Department's regulations, because the petition was filed on March 30, 2007, the proposed period of investigation for India, Japan and Korea is January 1, 2006 through December 31, 2006, as this includes the four most recently completed fiscal quarters as of February 2007.

#### Scope of the Investigations

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

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

classified under subheading HTSUS 2922.49.8000.

While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of these investigations is dispositive.

#### Comments on the Scope of the Investigations

During our review of the Petitions, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calendar days of the publication of this notice. Comments should be addressed to Import Administration's Central Records Unit (CRU), Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

#### Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed by an interested party on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if (1) the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product and (2) the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC) is responsible for determining whether "the domestic industry" has been injured and must also determine what constitutes a domestic like product in order to define

the industry. While the Department and the ITC must apply the same statutory definition regarding the domestic like product, they do so for different purposes and pursuant to separate and distinct authority. See section 771(10) of the Act. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to law.<sup>1</sup>

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

With regard to domestic like product, Petitioner does not offer a definition of domestic like product distinct from the scope of each investigation. Based on our analysis of the information submitted in the petitions, we have determined that the domestic like product consists of all grades of glycine, as well as sodium glycinate, which is defined in the "Scope of the Investigations" section above, and we have analyzed industry support in terms of the domestic like product.

We received no expression of opposition to these petitions from any member of the domestic industry. Petitioner accounts for a sufficient percentage of the total production of the domestic like product, and the requirements of section 732(c)(4)(A) are met. Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. See "Office of AD/CVD Operations Initiation Checklist for the Antidumping Duty Petition on Glycine from India," at Attachment II (April 19, 2007) (*India AD Initiation Checklist*), "Office of AD/CVD Operations Initiation Checklist for the Antidumping Duty Petition on Glycine from Japan," at Attachment II (April 19, 2007) (*Japan AD Initiation Checklist*), and "Office of AD/CVD Operations Initiation Checklist for the Antidumping Duty Petition on Glycine from Korea," at Attachment II (April 19, 2007) (*Korea AD Initiation Checklist*), on file in the CRU.

<sup>1</sup> See *USEC, Inc. v. United States*, 25 CIT 49, 55-56 (January 24, 2001) (citing *Algoma Steel Corp. v. United States*, 12 CIT 518 (June 8, 1988)).

### Allegations and Evidence of Material Injury and Causation

Petitioner alleges that the U.S. industry producing the domestic like product is materially injured, or is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than normal value (NV). Petitioner contends that the industry's injured condition is illustrated by the decline in customer base, market share, domestic shipments, prices, financial performance, and lost sales. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* the country-specific *Initiation Checklists* at Attachment III.

### Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations on imports of glycine from India, Japan, and Korea. The sources of data for the deductions and adjustments relating to the U.S. price as well as NV for India, Japan, and Korea are also discussed in the country-specific *Initiation Checklists*. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we will reexamine the information and revise the margin calculations, if appropriate.

### Export Price (EP)

Petitioner calculated EP using information from sales the company lost to Indian, Japanese, and Korean exporters. When based on lost sale prices, Petitioner adjusted U.S. prices for home market inland freight, international freight, U.S. inland freight, distributor mark-up, and credit expenses. *See Indian Petition* at page 28, *Japanese Petition* at page 30, and *Korean Petition* at pages 31–32.

Petitioner also calculated EP from Korea using the free-on-board (FOB) foreign-port average unit customs values (AUVs) for 2006 for import data obtained from the U.S. International Trade Commission data website. Petitioner used the HTSUS subheading under which all three grades of subject merchandise (pharmaceutical, technical, and food) are imported (2922.49.4020). Petitioner provided shipment data from PIERS Global Intelligence Services for the same HTSUS subheading to

demonstrate that most entries of glycine from Korea during 2006 were of "pure food grade" glycine. *See* Volume II of the Petitions at Exhibit DOC–15. Petitioner made an adjustment to the AUV-based EP from Korea for foreign inland freight.

### Revisions to Export Price (EP)

Based on our review of the information contained in the Petitions, we recalculated net EP (when based on a price quotation) by excluding an adjustment to EP for U.S. credit expenses. We also recalculated net EP (when based on a price quotation) by revising the reported amount associated with a distributor's mark-up to reflect the percentage mark-up. Petitioner stated that this mark-up was an average mark-up for glycine sales in the United States. *See* Volume II of the Petitions at Exhibits DOC–27 through DOC–29; also April 13, 2007, Petition Supplement at Exhibits L, M, and N. *See Initiation Checklists*.

### Normal Value (NV)

#### *India and Japan*

Petitioner stated that, since it does not sell glycine in the Indian, Japanese, or Korean markets, it does not have specific knowledge of how glycine is sold, marketed, or packaged in those domestic markets. Petitioner was able to determine domestic Indian and Japanese prices for glycine by obtaining price quotations, through an economic consultant, from Indian and Japanese manufacturers of glycine. *See* memoranda "Telephone Call to Market Research Firm Regarding the Antidumping Petition on Glycine from India," and "Telephone Call to Market Research Firm Regarding the Antidumping Petition on Glycine from Japan," dated April 19, 2007. These price quotations identified specific terms of sale and payment terms. Petitioner made adjustments for home market credit for Indian sales. Petitioner did not make adjustment for home market credit to Japanese prices. *See* Volume II of the Petitions at Exhibits DOC–17–18 and 22–23.

### Revisions to Normal Value

Based on our review of the information contained in the Petitions, we recalculated NV for India and Japan (when based on price quotations) by excluding the adjustment for home market and U.S. credit expenses. *See India AD Initiation Checklist* and *Japan AD Initiation Checklist*.

### Sales Below Cost Allegation for India and Japan

Petitioner has provided information demonstrating reasonable grounds to believe or suspect that certain sales of glycine in India and Japan were made at prices below the fully absorbed cost of production (COP), within the meaning of section 773(b) of the Act, and has requested that the Department conduct country-wide sales below COP investigations. An allegation of sales below COP in a petition need not be specific to individual exporters or producers. *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316, Vol. 1 (1994) at 833. Thus, Commerce will consider allegations of below-cost sales in the aggregate for a foreign country. *Id.* Further, section 773(b)(2)(A) of the Act requires that the Department have "reasonable grounds to believe or suspect" that below-cost sales have occurred before initiating such an investigation. Reasonable grounds exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices. *Id.*

As described in the section below on "Cost of Production and Constructed Value," the Department calculated a country-specific COP for a certain grade of glycine for India and Japan. Based upon a comparison of price quotations for sales of that same grade glycine in India and Japan and the country-specific COP of the product, we find reasonable grounds to believe or suspect that sales of glycine in India and Japan were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating country-wide cost investigations with regard to both India and Japan. Because it alleged sales below cost, pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, Petitioner also based NV for Indian and Japanese sales of a certain grade glycine on constructed value (CV).

#### *Korea*

Petitioner claimed that, despite extensive efforts to determine prices in Korea, it was not able to obtain usable price information for calendar year 2006 either for sales of glycine in Korea or for sales of glycine by Korean producers/exporters in third countries. *See e.g., Korean Petition* at pages 27 and 35 and April 19, 2007; as well as Memorandum to File, "Telephone Call to Market Research Firm Regarding the

Antidumping Petition on Glycine from Korea" (April 19, 2007). Consequently, Petitioner relied on COP and CV information in determining NV for Korea. See "Cost of Production and Constructed Value," section below.

#### **Cost of Production and Constructed Value**

As noted above, Petitioner was unable to obtain usable price information for Korea; therefore, the appropriate basis for normal value for comparison to EP from Korea is CV. Also, as discussed above, Petitioner has established that certain sales of glycine in India and Japan were made at prices below the fully absorbed COP, within the meaning of section 773(b) of the Act. As such, CV was used for India and Japan when the home market prices for a certain grade glycine used in the cost comparisons fell below the COP. The calculation of COP and CV for each of the three countries is set forth below.

#### **India**

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM); selling, general and administrative (SG&A) expenses; financial expenses; and packing expenses. To calculate the COM, Petitioner multiplied the usage quantity of each input needed to produce one metric ton (MT) of glycine by the value of that input. Petitioner obtained all of the quantity and value data it used to calculate the COM from public sources. Petitioner obtained the input usage factors from the public record of the 1997–1998 administrative review of glycine from the People's Republic of China (PRC). The producer in the 1997–1998 review produced glycine by the same production method that producers in India use. The petitioner obtained the values for the inputs from various public sources. Petitioner calculated factory overhead, SG&A and the financial expense rate based on the Indian surrogate ratios that the Department used in the preliminary results of the 2005–2006 administrative review of glycine from the PRC. Where we used CV to determine NV, Petitioner added an amount for profit from the same financial statements.

We adjusted Petitioner's calculation of SG&A to apply the rate to COM inclusive of factory overhead. We did not include a separate financial expense amount as petitioner did because the SG&A ratio already included financial expense. See the *India AD Initiation Checklist* for a full description of Petitioner's methodology and the adjustments the Department made to those calculations.

#### **Japan**

Pursuant to section 773(b)(3) of the Act, COP consists of COM; SG&A expenses; financial expenses; and packing expenses. To calculate the COM, Petitioner multiplied the usage quantity of each input needed to produce one MT of glycine by the value of that input. Petitioner obtained all of the quantity and value data it used to calculate the COM from public sources. As it did for the allegation involving India, Petitioner obtained the input usage factors from the public record of the 1997–1998 administrative review of glycine from the PRC. The producer in the 1997–1998 review produced glycine by the same production method that producers in Japan use. Petitioner obtained the values for the inputs from various public sources. Petitioner calculated average factory overhead, SG&A and the financial expense rate based on current financial statements of a Japanese producer of glycine. Where we used CV to determine NV, Petitioner added an amount for profit from the same financial statements.

We adjusted Petitioner's calculation of SG&A to apply the rate to COM inclusive of factory overhead. See *Japan AD Initiation Checklist* for a full description of Petitioner's methodology and the adjustments the Department made to those calculations.

#### **Korea**

Petitioner calculated the Korean COP using the same methodology to calculate COM as it used for Japan and India. That is, Petitioner calculated the Korean COM by multiplying the usage quantity of each input needed to produce one MT of glycine by the value of that input. Petitioner obtained all of the quantity and value data it used to calculate the COM from public sources. Petitioner obtained the input usage factors from the public record of the 1997–1998 administrative review of glycine from the PRC. The respondent in the 1997–1998 Chinese review produced glycine by the same production method that producers in Korea use. Petitioner obtained the values for the inputs from various public sources. Petitioner calculated factory overhead, SG&A and the financial expense rate based on the financial statements of a Korean producer of lysine and threonine, amino acids which use production methods similar to glycine. Because Petitioner used CV for NV for Korea, it added an amount for profit in accordance with section 773(e)(2) of the Act. The profit rate was based on the financial statements of the same Korean producer

of lysine and threonine. See *Korea AD Initiation Checklist*.

We adjusted Petitioner's calculated factory overhead to eliminate double counting of depreciation and amortization. We applied the SG&A rate to COM inclusive of factory overhead. We also adjusted Petitioner's calculation of the financial expense ratio to include interest income as a reduction to financial expense. See *Korea AD Initiation Checklist* for a full description of Petitioner's methodology and the adjustments the Department made to those calculations.

#### **Fair Value Comparisons**

Based on the data provided by Petitioner, and adjusted by the Department as described above, there is sufficient basis to find that imports of glycine from India, Japan, and Korea are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to home market prices and CV in India and Japan, and to CV for Korea, which were calculated in accordance with section 773(a)(4) of the Act, the dumping margins for glycine range from 5.67 to 121.62 percent for India, 70.21 to 280.57 percent for Japan, and 138.37 to 138.83 for Korea.

#### **Initiation of Antidumping Duty Investigations**

Based upon the examination of the Petitions on glycine from India, Japan, and Korea, the Department finds that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of glycine from India, Japan, and Korea are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act, unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

#### **Distribution of Copies of the Petitions**

In accordance with section 732(b)(3)(A) of the Act, copies of the public versions of the Petitions have been provided to the representatives of the Governments of India, Japan, and Korea. We will attempt to provide a copy of the public version of the Petitions to the foreign producers/exporters named in the Petitions.

#### **International Trade Commission Notification**

We have notified the International Trade Commission of our initiations, as required by section 732(d) of the Act.

**Preliminary Determination by the  
International Trade Commission**

The International Trade Commission will preliminarily determine, no later than May 14, 2007, whether there is a reasonable indication that imports of glycine from India, Japan, and/or Korea are materially injuring, or threatening material injury to, a U.S. industry. A negative ITC determination with respect to any of the investigations will result in that investigation being terminated; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: April 19, 2007.

**Joseph A. Spetrini,**

*Deputy Assistant Secretary for Import  
Administration.*

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<sup>1</sup> Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value (CV) of the merchandise under investigation.