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Sunset Review
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DATE: September 29, 2005

MEMORANDUM TO: Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

FROM: Barbara E. Tillman
Acting Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset Review of
the Antidumping Duty Order on Glycine from the People's Republic
of China; Final Results

Summary

We have analyzed the substantive responses of the interested parties in the sunset review of the antidumping duty order covering glycine from the People's Republic of China ("PRC"). We recommend that you approve the positions we have developed in the Discussion of the Issues section of this memorandum. Below is the complete list of the issues in this sunset review for which we received a substantive response:

1. Likelihood of continuation or recurrence of dumping
2. Magnitude of the margin likely to prevail

History of the Order

The antidumping duty order on glycine from the PRC was published in the *Federal Register* on March 29, 1995. See *Antidumping Duty Order: Glycine From the People's Republic of China*, 60 FR 16116 (March 29, 1995). In the order, the Department of Commerce ("Department") assigned the weighted-average dumping margin of 155.89 percent *ad valorem* to all PRC manufacturers/exporters of the subject merchandise.

The Department has completed one administrative review and one new shipper review since that time. See *Glycine From the People's Republic of China: Amended Final Results of New Shipper Administrative Review*, 66 FR 13284 (March 5, 2001), *Glycine from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 70 FR 47176 (August 12, 2005), and *Glycine from the People's Republic of China: Notice of Amended*

Final Results of Antidumping Duty Administrative Review, 70 FR 54012 (September 13, 2005). The order remains in effect for all manufacturers and exporters of the subject merchandise. We note that the Department has not conducted any duty-absorption investigations in this proceeding.

Discussion of the Issues

In accordance with section 751(c)(1) of the Tariff Act of 1930, as amended (“the Act”), the Department conducted this sunset review to determine whether revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making these determinations, the Department shall consider both the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the International Trade Commission (“ITC”) the magnitude of the margin of dumping likely to prevail if the order were revoked. Below we address the comments of the interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

The domestic interested parties argue that dumping of the subject merchandise will continue or recur should the Department revoke the order. In support of their argument, the domestic interested parties contend that PRC manufacturers/exporters have continued to dump the subject merchandise in the United States at levels above *de minimis* since the issuance of the order. The domestic interested parties also claim that import volumes of the subject merchandise declined dramatically after the issuance of the order. Finally, domestic interested parties argue that there is strong evidence that glycine produced in the PRC is being transshipped through other countries. (*See* July 1, 2005, Substantive Response of the domestic interested parties at 10 – 14.)

With respect to import volumes, the domestic interested parties note that, in the year before the order was imposed, 1994, imports of glycine from the PRC totaled 1,606,000 pounds. Since then, the domestic interested parties claim, imports of the subject merchandise have not exceeded one-third of the pre-order volume in any single year. The domestic interested parties argue that a comparison of post-order import volumes of the subject merchandise to the pre-order import volume indicates that PRC manufacturers’/exporters’ import volume in the post-order period is significantly lower than pre-order levels. *Id.*

Concerning transshipment, the domestic interested parties note that they believe PRC glycine is being transshipped through other countries, such as Japan and South Korea, based on the absence of production in those countries and the significantly increased level of glycine imports since 2000. Furthermore, domestic interested parties note that though South Korea has

no known glycine producers, imports to the United States reached 1,151,000 pounds in 2004 at a price per pound, which is comparable to the PRC price. *Id.*

In conclusion, the domestic interested parties contend the Department should determine that dumping would be likely to continue if the order were revoked because import volumes of glycine from the PRC significantly declined, the dumping of the subject merchandise continued at levels above *de minimis* after the issuance of the order, and producers in the PRC are likely transshipping glycine to the United States. *Id.*

Department's Position

Consistent with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (“URAA”), specifically the Statement of Administrative Action (“SAA”), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994) (“House Report”), and the Senate Report, S. Rep. No. 103-412 (1994) (“Senate Report”), the Department’s determinations of likelihood of continuation or recurrence of dumping will be made on an order-wide basis. In addition, the Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.

In addition, pursuant to 752(c)(1)(B) of the Act, the Department considers the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping order.

In this case, the Department found dumping at above *de minimis* levels in the original antidumping duty investigation and one administrative review and one new shipper review regarding glycine from the PRC. In addition, the Department finds that imports of subject merchandise from the PRC have significantly decreased since the issuance of the original order. We note that in the period since the first sunset review of this order (2001), annual glycine imports from the PRC have ranged from 102,889 kilograms to 251,535 kilograms, which continues to be significantly below the import levels prior to the publication of the order.¹ Therefore, given the existence of dumping margins at above *de minimis* levels, the significant decrease of imports since the issuance of the original order, and the absence of argument or evidence to the contrary, the Department finds that dumping would likely continue or recur if the order were revoked.

The Department notes the domestic interested parties’ concerns regarding transshipment of glycine from the PRC. However, the Department also notes that a sunset proceeding is not the proper proceeding to address this issue.

¹ Data is from the ITC Data Web (<http://dataweb.usitc.gov/>). We note that glycine imports through June 2005 were 296,614 kg, which if annualized would still be below the level in 1994 (1,606,000 pounds or 728,477 kg).

2. Magnitude of the Margin Likely to Prevail

Interested Party Comments

In their substantive response, the domestic interested parties argue that the country-wide antidumping duty margin from the original investigation will likely prevail if the order were revoked. *See* Domestic Response at 14. The domestic interested parties request the Department report to the ITC that dumping would continue at a margin of 155.89 percent. *Id.*

Department's Position

The Department normally will provide to the ITC the company-specific margin from the investigation for each company. For companies not investigated specifically or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the “All Others” or “Country-wide” rate from the investigation. *See* Section 752(c)(3) of the Act; SAA at 890. Exceptions to this approach include the use of a more recently calculated margin, where appropriate.

The Department agrees with domestic interested parties that it is appropriate to report to the ITC for all companies the PRC-wide rate from the investigation. The Department views the PRC-wide rate as probative of the behavior of PRC exporters if the order were revoked, as it is the only margin that reflects their actions absent the discipline of an order. Therefore, pursuant to section 752(c) of the Act, the Department will report to the ITC the company-specific and the country-wide rate at levels indicated in the Final Results of Review section of this notice.

Final Results of Review

We determine that revocation of the antidumping duty order on glycine from the PRC would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (percent)
Baoding Mantong Fine Chemistry Co., Ltd.	155.89
Nantong Dongchang Chemical Industry Corp.	155.89
PRC-wide Rate	155.89

Recommendation

Based on our analysis of the substantive response received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of review in the *Federal Register*.

AGREE _____

DISAGREE _____

Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

(Date)