



A-570-836  
Sunset Review  
**Public Document**  
E&C Office VI: DC

November 28, 2016

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

FROM: Erin Begnal *EB*  
Director, Office III  
Antidumping and Countervailing Duty Operations

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

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### **Summary**

In the sunset review of the antidumping duty order covering glycine from the People's Republic of China (PRC), GEO Specialty Chemical, Inc. (domestic interested party) submitted an adequate substantive response. No respondent interested party submitted a substantive response. In accordance with our analysis of the domestic interested party's substantive response, we recommend you approve the positions described in the "Discussion of the Issues" section of this memorandum. The following is a complete list of issues in the sunset review:

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

### **Background**

On August 8, 2016, the Department received a timely and complete notice of intent to participate in the sunset review from GEO Specialty Chemicals, Inc. and Chattem Chemicals, Inc.<sup>1</sup> However, on August 25, 2016, Chattem Chemicals, Inc. withdrew its intent to appear as a party to this review.<sup>2</sup> On August 30, 2016, pursuant to 19 CFR 351.218(d)(3), GEO Specialty Chemicals, Inc. filed a timely and adequate substantive response within 30 days after the date of

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<sup>1</sup> See Letter from GEO Specialty Chemicals, Inc. and Chattem Chemicals, Inc. to the Department of Commerce regarding "Sunset Review (4<sup>th</sup> Review) of the Antidumping Duty Order on Glycine from the People's Republic of China: Domestic Interested Parties' Notification of Intent to Participate," dated August 8, 2016.

<sup>2</sup> See Letter from Chattem Chemicals, Inc. to the Department of Commerce regarding "Sunset Review (4<sup>th</sup> Review) of the Antidumping Duty Order on Glycine from the People's Republic of China: Amendment of Entry Appearance," dated August 25, 2016.

publication of the sunset initiation.<sup>3</sup> The Department did not receive timely substantive responses from any respondent interested party with respect to the order on glycine from the PRC. As a result, pursuant to section 751(c)(3)(B) of the Tariff Act of 1930 (the Act) and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of the antidumping duty order on glycine from the PRC.

### **Scope of the Order**

For the scope of the order, *see* the accompanying *Federal Register* notice.

### **History of the Order on Glycine from the PRC**

On January 30, 1995, the Department published its final affirmative determination in the less than fair value (LTFV) investigation of glycine from the PRC in the *Federal Register*.<sup>4</sup> In the investigation, the Department established a margin of 155.89 percent *ad valorem* for all manufacturers/producers/exporters of glycine from the PRC. On March 29, 1995, the Department published the antidumping duty order on glycine from the PRC.<sup>5</sup> The petitioners in the original investigation were Chattem Chemicals, Inc. and Hampshire Chemical Corp.

On February 9, 2011, the Department published its final results of the third sunset review of the antidumping duty order on glycine from the PRC, in which it determined that revocation of the *Order* would be likely to lead to continuation or recurrence of dumping at the rate of 155.89 percent for Baoding Nantong and the PRC-wide entity.<sup>6</sup> On August 30, 2011, the U.S. International Trade Commission (the ITC) published its determination that revocation of the *Order* would be likely to lead to continuation or recurrence of material injury to the domestic industry.<sup>7</sup> On November 15, 2005, the Department published a notice of continuation of the *Order*.<sup>8</sup>

Since the publication of the prior sunset review final results, the Department has completed several administrative reviews. These reviews resulted in the following weighted-average margins: 453.79 percent for Baoding Mantong Fine Chemistry Co., Ltd. (Baoding Mantong)

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<sup>3</sup> See *Initiation of Five-Year (“Sunset”) Review*, 81 FR 50462 (August 1, 2016) and Letter from GEO Specialty Chemicals, Inc. to the Department of Commerce regarding “Sunset Review (4<sup>th</sup> Review) of the Antidumping Duty Order on Glycine from the People’s Republic of China: Substantive Response to Notice of Initiation,” dated August 30, 2016 (GEO’s Substantive Response).

<sup>4</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Glycine From the People’s Republic of China*, 60 FR 5620 (January 30, 1995).

<sup>5</sup> See *Antidumping Duty Order: Glycine From the People’s Republic of China*, 60 FR 16116 (March 29, 1995) (*Order*).

<sup>6</sup> See *Notice of Final Results of Expedited Sunset Review of the Antidumping Duty Order: Glycine from the People’s Republic of China*, 76 FR 7150 (February 9, 2011) (*Third Glycine Sunset Notice*) and accompanying Issues and Decision Memorandum.

<sup>7</sup> See *Glycine from China*, 76 FR 55109 (September 6, 2011), and USITC Publication 4255 (August 2011), titled *Glycine from China: Investigation No. 731-TA-718 (Third Review)*.

<sup>8</sup> See *Glycine from the People’s Republic of China: Continuation of Antidumping Duty Order*, 76 FR 57951 (September 19, 2011).

(2010-2011);<sup>9</sup> 453.79 percent for the PRC-wide entity (including Baoding) (2011-2012);<sup>10</sup> 453.79 percent for the PRC-wide entity (including Hebei Donghua Jiheng Fine Chemical Co., Ltd.) (2012-2013);<sup>11</sup> and 143.87 for Baoding (2013-2014).<sup>12</sup> The results of some of the prior proceedings are currently in litigation.<sup>13</sup>

On October 20, 2016, the Department published its final results for the antidumping duty administrative review for the March 1, 2014 through February 28, 2015, period.<sup>14</sup> During this review, the Department found that there were no shipments of Chinese-origin glycine during the period of review.

The Department is currently conducting an administrative review covering entries of Baoding Mantong for the 2015-2016 review period.<sup>15</sup>

A new shipper review was initiated since the publication of the final results of the third sunset review, but it was rescinded.<sup>16</sup>

### *Anti-Circumvention Inquiry and Scope Rulings*

The Department conducted an antidumping circumvention inquiry from October 2010 through December 2012.<sup>17</sup> As a result of that inquiry, the Department made a partial affirmative circumvention determination for two Indian glycine producers/exporters, AICO Laboratories India Ltd. (AICO) and Salvi Chemical Industries Limited (Salvi).<sup>18</sup> Specifically, the Department determined that AICO and Salvi had circumvented the *Order*. Additionally, in December 2012, the Department clarified that the scope of the *Order* included technical or crude Chinese-origin glycine that was further processed in India.<sup>19</sup>

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<sup>9</sup> See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 77 FR 64100 (October 18, 2012).

<sup>10</sup> See *Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 20891 (April 8, 2013).

<sup>11</sup> See *Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 6476 (October 31, 2014).

<sup>12</sup> See *Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 62027 (October 15, 2015).

<sup>13</sup> *Baoding Mantong Fine Chemistry Co. v. United States*, Court No. 12-00362 (the appeal of the final results of the 2010-2011 administrative review); *Glycine & More, Inc. v. United States*, Court No. 13-00167 (the appeal of the final results of the 2011-2012 administrative review); and *Evonik Rexim (Nanning) Pharmaceutical Co. Ltd. et al v. United States*, Court No. 15-00296 (the appeal of the final results of the 2013-2014 administrative review).

<sup>14</sup> See *Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 81 FR 72567 (October 20, 2016) and accompanying Issues and Decision Memorandum.

<sup>15</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 26203 (May 2, 2016).

<sup>16</sup> See *Glycine From The People's Republic of China: Final Rescission of Antidumping Duty New Shipper Review; 2012*, 78 FR 73837 (December 9, 2013).

<sup>17</sup> See *Glycine From the People's Republic of China: Final Partial Affirmative Determination of Circumvention of the Antidumping Duty Order*, 77 FR 73426 (December 10, 2012) and accompanying Issues and Decision Memorandum.

<sup>18</sup> *Id.*

<sup>19</sup> See Final Scope Ruling Concerning the Antidumping Duty Order on Glycine from the People's Republic of China, Memorandum from Richard Weible to Gary Taverman, dated December 3, 2012.

### *Changed Circumstances Review*

The Department did not conduct any changed circumstances reviews during the 2011-2015 time period.

### *Duty Absorption Finding*

The Department has made no duty absorption findings.

## **Discussion of the Issues**

### *Legal Framework*

In accordance with section 751(c)(1) of the Act, the Department is conducting this sunset review to determine whether revocation of the antidumping duty order would be likely to lead to a 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 periods before, and the periods after, the issuance of the antidumping duty order.

As explained in the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, the Department normally determines that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping when: (a) dumping continued at any level above *de minimis* after issuance of the order; (b) imports of the subject merchandise ceased after issuance of the order; or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.<sup>20</sup>

Alternatively, the Department normally will determine that revocation of an antidumping duty order is not likely to lead to continuation or recurrence of dumping where dumping was eliminated after issuance of the order and import volumes remained steady or increased.<sup>21</sup> In addition, as a base period of import volume comparison, it is the Department's practice to use the one-year period immediately preceding the initiation of the investigation, rather than the level of pre-order import volumes, as the initiation of an investigation may dampen import volumes and, thus, skew comparison.<sup>22</sup>

Further, section 752(c)(3) of the Act states that the Department shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Generally, the

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<sup>20</sup> See SAA, H.R. Rep. No. 103-316, Vol. 1 (1994), at 889-90; see also, *Folding Gift Boxes from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 72 FR 16765 (April 5, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>21</sup> See *Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (*Sunset Policy Bulletin*).

<sup>22</sup> See, e.g., *Stainless Steel Bar from Germany; Final Results of the Sunset Review of the Antidumping Duty Order*, 72 FR 56985 (October 5, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

Department selects the margin(s) from the final determination in the original investigation, as this is the only calculated rate that reflects the behavior of exporters without the discipline of an order in place.<sup>23</sup> However, the Department may use a rate from a more recent review, if this rate may be more representative of a company's behavior in the absence of an order (*e.g.*, where a company increases dumping to maintain or increase market share with an order in place).<sup>24</sup>

In February 2012, the Department announced that it was modifying its practice in sunset reviews such that it will not rely on weighted-average dumping margins that were calculated using the methodology found to be World Trade Organization (WTO)-inconsistent.<sup>25</sup> In the *Final Modification for Reviews*, the Department stated that “only in the most extraordinary circumstances” would it rely on margins other than those calculated and published in prior determinations.<sup>26</sup> The Department further stated that apart from the “most extraordinary circumstances,” it would “limit its reliance to margins determined or applied during the five-year sunset that were not determined in a manner found to be WTO-inconsistent” and that it “may also rely on past dumping margins that were not affected by the WTO-inconsistent methodology, such as dumping margins recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of total adverse facts available, and dumping margins where no offsets were denied because all comparison results were positive.”<sup>27</sup>

Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of “zero or *de minimis* shall not by itself require” the Department to determine that revocation of an antidumping duty order would not be likely to lead to a continuation or recurrence of sales at LTFV. Our analysis of the comments submitted by the domestic interested party follows.

## *Analysis*

### 1. Likelihood of Continuation or Recurrence of Dumping

#### Domestic Interested Party Comments

Domestic interested party argues that revocation of the *Order* will likely lead to the continuation or recurrence of dumping of glycine from the PRC. According to domestic interested party, dumping margins have persisted since the last sunset review and, in fact, are overall much higher than they were at the time of the last sunset review. Domestic interested party contends that all Chinese-glycine exporters that do not have separate rates are subject to a dumping margin of 453.79 percent.<sup>28</sup> Furthermore, according to domestic interested party, the only company that

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<sup>23</sup> See SAA at 890 and *Sunset Policy Bulletin* at section II.B.1. See, *e.g.*, *Persulfates From the People's Republic of China: Notice of Final Results of Expedited Second Sunset Review of Antidumping Duty Order*, 73 FR 11868 (March 5, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>24</sup> See SAA at 890-91; *Sunset Policy Bulletin* at section II.B.2.

<sup>25</sup> See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Anti-dumping Duty Proceedings; Final Modification*, 77 FR 8101, 8103 (February 14, 2012) (*Final Modification for Reviews*).

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> See GEO's Substantive Response at 6.

has a separate rate—Baoding Mantong—has a dumping rate of 143.87 percent.<sup>29</sup>

Citing the SAA, domestic interested party states that if companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed.<sup>30</sup> Furthermore, domestic interested party notes that “the Department normally determines that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping when dumping continued at any level above *de minimis* after issuance of the order . . . .”<sup>31</sup>

Domestic interested party argues that the PRC’s rapidly increasing glycine capacity should compel the Department to consider factors, including production capacity and capacity utilization, in determining whether dumping will continue if the *Order* were revoked. Domestic interested party states that production capacity has increased as follows: (1) between 22 million pounds and 33 million pounds during the investigation, (2) 50 million pounds during the time of the second sunset review, (3) 1.2 billion pounds during the time of the third sunset review, and (4) over 600,000 metric tons {approximately 1.3 billion pounds} during this current sunset review, even though per-manufacturer capacity utilization rarely exceeded 50 percent.<sup>32</sup> Domestic interested party adds that “by 2020 the Chinese industry will have the capacity to produce 900,000 metric tons {approximately 2 billion pounds} . . . .”<sup>33</sup>

According to domestic interested party, the United States is an attractive target for the PRC’s overcapacity and underutilized capacity. Domestic interested party concludes that PRC glycine exporters will flood the U.S. market with their excess capacity at prices that will depress and suppress U.S. industry prices if the *Order* is revoked.

### Department’s Position

As explained in the Legal Framework section above, the Department’s determination concerning whether revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping is based, in part, upon guidance provided by the legislative history accompanying the Uruguay Round Agreements Act (*i.e.*, the SAA; House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report); and Senate Report, S. Rep. No. 103-412 (1994) (Senate Report)). Consistent with the SAA, the Department will make its likelihood determination on an order-wide basis.<sup>34</sup> Further, when determining whether revocation of the order would be likely to lead to continuation of dumping, sections 752(c)(1)(A) and (B) of the Act instruct the Department to consider: (1) the weighted-average dumping margins determined in the investigation and subsequent reviews; and (2) the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping duty order.

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<sup>29</sup> *Id.*

<sup>30</sup> See SAA at 889.

<sup>31</sup> See GEO’s Substantive Response at 7, citing *Policy Bulletin* at 18872.

<sup>32</sup> *Id.*, at Exhibits 3 and 4, citing *Glycine From China, Investigation No. 731-TA-718 (Second Review)*, USITC Publication 3810 (October 2005) at 9-10.

<sup>33</sup> *Id.*, at 10.

<sup>34</sup> See SAA at 879.

As part of its determination of whether revocation of an antidumping order is likely to lead to the continuation or recurrence of dumping, the Department will examine whether: (a) dumping continued at any level above *de minimis* after the issuance of the order or suspension agreement; (b) imports of the subject merchandise ceased after the issuance of the order or the suspension agreement; and (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined.<sup>35</sup>

Pursuant to 752(c)(1)(B) of the Act, the Department considers the volume of imports in determining whether revocation of the order would likely lead to continuation or recurrence of dumping. The Department's practice is to compare import volumes during the year preceding initiation of the underlying investigation to import volumes since the last continuation notice.

We examined import volumes from the ITC's Trade Dataweb for 2011 through 2015, which is the five-year period that follows the five-year period examined in the prior sunset review, and we compared this to the import volume in pre-investigation period. The Department notes that in 1994, one year prior to the issuance of the order, the import volume of glycine from the PRC was 728,635 kilograms (kg).<sup>36</sup> During the 2011-2015 period, imports of glycine from the PRC ranged from 7,000 kg to 2,280,000 kg, and averaged 758,800 kg, indicating an overall increase in imports from the pre-order period.<sup>37</sup> In 2014 and 2015, the import volumes of glycine from the PRC decreased to 28,000 kg and 7,000 kg, respectively.<sup>38</sup> However, as domestic interested party noted, above, dumping margins have increased, or remained steady, with regard to Baoding Mantong.

Drawing from the ITC trade data and the industry-sponsored study submitted by domestic interested party, we note that although exports of PRC glycine to the United States have decreased in recent administrative reviews, for the majority of the five-year period of this sunset review, PRC exporters have continued to dump when selling glycine in the U.S. market. Where companies continue to dump with the discipline of an order in place, it is reasonable for the Department to assume that dumping would continue if the discipline were removed.<sup>39</sup> In light of the continued existence of dumping, the Department finds that revocation of the *Order* would be likely to lead to the continuation or recurrence of dumping.

## 2. Magnitude of the Dumping Margin Likely to Prevail

### Domestic Interested Party Comments

Citing the SAA and the *Sunset Policy Bulletin*, domestic interested party states that the Department normally selects dumping margins calculated in the original investigation to

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<sup>35</sup> See, e.g., *Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Argentina, Brazil, and Germany: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 71 FR 59079 (October 6, 2006) and accompanying Issues and Decision Memorandum at 1.

<sup>36</sup> See *Third Glycine Sunset Notice* and accompanying Issues and Decision Memorandum.

<sup>37</sup> See Attachment 1 to this memorandum.

<sup>38</sup> *Id.*

<sup>39</sup> See SAA at 890.

determine the magnitude of the margin of dumping likely to prevail if the order were revoked.<sup>40</sup> Domestic interested party notes that, currently, all Chinese-origin glycine exporters that do not have a separate rate are subject to a dumping margin of 453.79, a significant increase from the PRC-wide rate of 155.89 percent determined in the LTFV investigation.<sup>41</sup> Domestic interested party states that the Department should provide to the ITC the current dumping margin for all Chinese-origin glycine exporters that do not have a separate rate, which is 453.79 percent. In the alternative, domestic interested party states, the Department could use the rate for all Chinese companies from the original investigation, which is 155.89 percent.

### Department's Position

Normally, the Department will provide to the ITC the margin for each company from the investigation.<sup>42</sup> 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 rate from the investigation.<sup>43</sup> However, because this case involves the PRC, which the Department considers to be a non-market economy as defined by section 771(18) of the Act, the Department does not have an all-others rate; instead, there is a PRC-wide rate which applies to imports from an exporter that has not established its eligibility for a separate rate. The Department's preference for selecting a margin from the investigation is based on the fact that it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place.<sup>44</sup> Under certain circumstances, however, the Department may select a more-recently calculated margin to report to the ITC.<sup>45</sup>

The Department finds it appropriate to provide the ITC with the final determination rate from the investigation because this margin best reflects the behavior of manufacturers/producers/exporters of glycine without the discipline of the order in place. Therefore, the Department determines that the PRC-wide rate of 155.89 percent should be reported to the ITC. We have further determined that the margin was not affected by the denial of offsets in accordance with the *Final*

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<sup>40</sup> See GEO's Substantive Response at 7.

<sup>41</sup> *Id.*, at 7-8.

<sup>42</sup> See, e.g., *Eveready Battery Co., Inc. v. United States*, 77 F. Supp. 2d 1327, 1333 n.9 (CIT 1999).

<sup>43</sup> See *Certain Hot-Rolled Carbon Steel Flat Products from Argentina, the People's Republic of China, India, Indonesia, Kazakhstan, Romania, South Africa, Taiwan, Thailand, and Ukraine; Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders*, 71 FR 70506 (December 5, 2006) (*Hot-Rolled*), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>44</sup> *Id.*

<sup>45</sup> See section 752(c)(3) of the Act. See also, *Final Results of Full Sunset Review: Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands*, 65 FR 65294 (November 1, 2000), and accompanying Issues and Decision Memorandum at Comment 3.

*Modification for Reviews*.<sup>46</sup> Specifically, the Department calculated the dumping margins on the basis of best available information and were determined without employing the “zeroing” methodology. Domestic interested party has presented no argument as to why the Department should not utilize the 155.89 percent margin in this sunset review.

**Final Results of Review**

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

Exporter/Producer	Weighted-Average Margin (percent)
PRC-wide Entity (all manufacturers/producers/exporters)	155.89

**Recommendation**

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

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Agree

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Disagree

11/28/2016

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Signed by: PAUL PIQUADO  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

<sup>46</sup> As stated in the *Final Modification for Reviews*, “{i}f the dumping margins determined in a manner not found to be WTO-inconsistent in these disputes indicate that dumping continued with the discipline of the order in place, those dumping margins alone can form the basis for a determination that dumping will continue or recur if the order were to be revoked.” See *Final Modification for Reviews*, 77 FR at 8103. The Department announced it would cease zeroing in investigations on December 26, 2006. See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification*, 71 FR 7772 (December 27, 2006).

**ATTACHMENT I**

**Glycine: People's Republic of China**

**U.S. Imports for Consumption**

**Annual Data**

<b>Year</b>	<b>Quantity (in kilograms)</b>
2011	2,280,000
2012	997,000
2013	482,000
2014	28,000
2015	7,000

Source: <https://dataweb.usitc.gov>, using HTS number 2922494020, and converted from 1,000 units of quantity to actual amounts.