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DATE: December 2, 2013

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

FROM:  Christian Marsh   
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Rescission of the  
Antidumping Duty New Shipper Review of Glycine from the  
People's Republic of China

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## SUMMARY

We have analyzed the comments of the interested parties in the above-referenced antidumping duty new shipper review of glycine from the People's Republic of China (PRC). The company subject to this new shipper review is Hebei Donghua Jiheng Fine Chemical Company, Ltd. (Donghua Fine Chemical). Based on our analysis of the comments, we recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum.

## BACKGROUND

On August 23, 2013, we published our *Preliminary Rescission*.<sup>1</sup> On September 12, 2013, pursuant to 19 CFR 351.301(c)(3)(ii) and 351.408(c), Donghua Fine Chemical and Hebei Donghua Jiheng Chemical Company, Ltd. (Donghua Chemical) (collectively, the Hebei Companies) and GEO Specialty Chemicals, Inc. (GEO), a domestic interested party in this proceeding, submitted information regarding the selection of the surrogate country and use of surrogate value information.<sup>2</sup> On September 23, 2013, both Donghua Fine Chemical and GEO

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<sup>1</sup> See *Glycine from the People's Republic of China: Preliminary Rescission of Antidumping Duty New Shipper Review*; 2012, 78 FR 52501 (August 23, 2013); see also Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, regarding, "Decision Memorandum for Preliminary Results of Antidumping Duty New Shipper Review: Glycine from the People's Republic of China" (Preliminary Decision Memorandum); Memorandum to Richard O. Weible, Director, Antidumping and Countervailing Duty Operations, Office 7, Import Administration, regarding, "Proprietary Decision Memorandum for Preliminary Results of Antidumping Duty New Shipper Review: Glycine from the People's Republic of China" (Proprietary Preliminary Decision Memorandum) (collectively, *Preliminary Rescission*).

<sup>2</sup> We note that GEO also submitted information regarding the selection of the surrogate country and use of surrogate value information prior to our *Preliminary Rescission*, on June 28, 2013. See letter to the Department regarding, "Glycine from the People's Republic of China: GEO Specialty Chemicals' Comments on Selection of Surrogate



submitted rebuttal comments concerning information regarding the selection of the surrogate country and use of surrogate value information. Also on September 23, 2013, both the Hebei Companies and GEO filed case briefs.<sup>3</sup> On September 30, 2013, both the Hebei Companies and GEO submitted rebuttal briefs.<sup>4</sup> Finally, on October 18, 2013, we tolled the deadline for these final results.<sup>5</sup>

On November 4, 2013, we met separately with counsel representing both the Hebei Companies and GEO to discuss issues discussed in their case and rebuttal briefs.<sup>6</sup>

No party requested a hearing following the *Preliminary Rescission*.

Based on our analysis of the comments received, we have not revised our *Preliminary Rescission* decision to rescind this new shipper review. Our findings and conclusions stated in the *Preliminary Rescission* are herein incorporated by reference; however, we will address the specific issues argued by the parties below.

## **SCOPE OF THE ORDER**

The product covered by this order is glycine, which is a free-flowing crystalline material, like salt or sugar. Glycine is produced at varying levels of purity and is used as a sweetener/taste enhancer, a buffering agent, re-absorbable amino acid, chemical intermediate, and a metal complexing agent. Glycine is currently classified under subheading 2922.49.4020 of the Harmonized Tariff Schedule of the United States (HTSUS). The scope of this order includes glycine of all purity levels.

Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.<sup>7</sup>

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Country for Valuing Factors of Production and Surrogate Value Data for Valuing the Hebei Companies' Factors of Production."

<sup>3</sup> See Case Brief on Behalf of the Hebei Companies regarding Glycine from the People's Republic of China, dated September 23, 2013 (the Hebei Companies' Case Brief); see also Case Brief on Behalf of GEO regarding Glycine from the People's Republic of China, dated September 23, 2013 (GEO's Case Brief).

<sup>4</sup> See Rebuttal Brief on Behalf of the Hebei Companies regarding Glycine from the People's Republic of China, dated September 30, 2013 (the Hebei Companies' Rebuttal Brief); see also Rebuttal Brief on Behalf of GEO regarding Glycine from the People's Republic of China, dated September 30, 2013 (GEO's Rebuttal Brief).

<sup>5</sup> As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, we have exercised our discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013. See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (October 18, 2013). Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day. The revised deadline for the final results of this review is now December 2, 2013.

<sup>6</sup> See Memorandum to the File, "Antidumping Duty New Shipper Review Concerning Glycine from the People's Republic of China: Ex parte Meeting with Respondent's (Hebei Donghua Jiheng Fine Chemical Company, Ltd.'s) Counsel," dated November 6, 2013; see also Memorandum to the File, "Antidumping Duty New Shipper Review Concerning Glycine from the People's Republic of China: Ex parte Meeting with Domestic Interested Party's (GEO Specialty Chemical, Inc.'s) Counsel," dated November 6, 2013.

<sup>7</sup> In a separate scope ruling, the Department determined that D(-) Phenylglycine Ethyl Dane Salt is outside the scope of the order. See *Notice of Scope Rulings*, 62 FR 62288 (November 21, 1997).

## DISCUSSION OF THE ISSUES

### Comment 1: Interpretation of the New Shipper Review Certification Requirement

#### The Hebei Companies' Position

The Hebei Companies argue that our interpretation of the new shipper review certification requirement is contrary to our regulations and statute and that even if they were to be considered affiliated with companies that previously shipped glycine to the United States, it “would not matter because the exports claimed did not occur during the period of investigation.”<sup>8</sup> Specifically, the Hebei Companies state that 19 CFR 351.214(b)(2)(iii)(A) and section 751(a)(B)(i) of the Tariff Act of 1930, as amended (the Act) “lay{s} out the exact criteria for requesting a new shipper review,” and that it “turn{s} on whether the requesting company either shipped subject merchandise *during the investigation* or was affiliated with a company that did.”<sup>9</sup>

The *Preliminary Rescission*, the Hebei Companies claim, “tacks on an additional requirement, which is that the new shipper needs to establish that the exporter requesting a new shipper review certify as to the date of entry of its subject merchandise and that it request a review within one year of the date of entry a new shipper review.”<sup>10</sup> The Hebei Companies argue that “the only way to interpret this requirement in a way that is compatible with the statute and the Department’s regulations, however, is to interpret the certification as establishing a deadline to request a review for the entries at issue.”<sup>11</sup> The Hebei Companies state that whether an exporter, or an affiliate of that exporter, also had made a prior, entirely separate, entry of subject merchandise is “irrelevant,” because the certification is intended to “prevent requests for reviews of stale entries (*i.e.*, by requiring that any request be initiated within a month, so that reviews are not occurring any later than would occur for an administrative review), not to create a new requirement for requesting a new shipper review that is nowhere found in the statute.”<sup>12</sup> Thus, “{e}ven if Respondents were to be considered affiliated with two companies that previously shipped to the United States years ago, it would not matter, because the exports claimed did not occur during the period of investigation.”<sup>13</sup>

#### GEO's Position

GEO agrees with the Department’s interpretation of the statute, regulations, and the new shipper review certification requirements in the *Preliminary Rescission*. GEO argues that this interpretation is “reasonable, supported by substantial evidence, and in accordance with law” and that the Hebei Companies’ interpretation of the statute and regulations would “lead to an absurd and illogical result that would allow parties to request new shipper reviews whenever they want, as many times as they want, and in place of administrative reviews, fundamentally transforming the administrative review provisions.”<sup>14</sup>

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<sup>8</sup> See the Hebei Companies’ Case Brief at 4-7.

<sup>9</sup> *Id.* at 4-5.

<sup>10</sup> *Id.* at 5-6.

<sup>11</sup> *Id.* at 6.

<sup>12</sup> *Id.* at 6-7.

<sup>13</sup> *Id.* at 7.

<sup>14</sup> See GEO’s Rebuttal Brief at 3-5.

First, based on the Hebei Companies' interpretation of the statute and regulations, GEO argues, "parties or their affiliates that did not ship during the period of investigation could eschew administrative reviews for new shipper reviews to gain advantages like posting bonds instead of cash deposits, accelerated timetables and guaranteed company-specific rates for orders with many exporters."<sup>15</sup> The Department certification requirements, GEO states, "ensure that the administrative review provisions are preserved by limiting new shipper reviews to an exporter's 'first' entry, 'first' shipment, and 'first' sale."<sup>16</sup>

Second, GEO argues that in *Marvin Furniture* the U.S. Court of International Trade (CIT) stated that the certification requirements in 19 CFR 351.214(b)(2)(iv) "seek to obtain documentation not only to establish that an exporter or producer is 'new' but also to provide the basis upon which the Department can undertake the review and calculate an individual antidumping rate."<sup>17</sup> GEO claims that the certifications are "critical in ensuring the Department will have accurate entry information *after* the Department initiates the new shipper review" and "complement" the certification requirements identified in the statute and regulations.<sup>18</sup>

Therefore, GEO argues, "because the Hebei Companies made shipments through affiliates that were not documented in their initiation request, the request was 'facially infirm' under 19 CFR 351.214(b)(2)(iv)(A) and 351.214(b)(2)(iv)(C)."<sup>19</sup>

#### Department's Position

In our *Preliminary Rescission*, we determined that Donghua Fine Chemical did not meet our requirements to qualify for a new shipper review. Specifically, our analysis of record evidence indicated that both Donghua Fine Chemical and Donghua Chemical appear to be affiliated with entities that entered subject merchandise into the United States more than one year prior to Donghua Fine Chemical's request for a new shipper review. We further noted that the Hebei Companies provided inconsistent responses to our requests for information and failed to provide additional information regarding ownership and affiliation. Therefore, we preliminarily determined that Donghua Fine Chemical failed to certify to its first U.S. shipment and its first U.S. sale, as required by 19 CFR 351.214(b)(2)(iv)(A) and (C).<sup>20</sup> Furthermore, we preliminarily determined that because the Hebei Companies did not report Donghua Fine Chemical's first shipment of subject merchandise in its request for a new shipper review, Donghua Fine Chemical did not meet the deadline requirements of 19 CFR 351.214(c).<sup>21</sup> Thus, because Donghua Fine Chemical's request did not satisfy the regulatory requirements for a new shipper review, we preliminarily determined that it was appropriate to rescind the new shipper review on this basis.

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<sup>15</sup> *Id.* at 4.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* (quoting *Marvin Furniture (Shanghai) Co. Ltd v. United States*, 867 F. Supp. 2d 1302, 1308 (CIT 2012), *reh'g denied*, 899 F. Supp. 2d 1352 (CIT 2013) (*Marvin Furniture*)).

<sup>18</sup> *Id.* at 4-5.

<sup>19</sup> *Id.* at 5.

<sup>20</sup> While not explicitly stated in the preliminary rescission, we also find that Donghua Fine Chemical failed to certify to its first U.S. entry.

<sup>21</sup> While not explicitly stated in the preliminary rescission, we also find that Donghua Fine Chemical did not report its first U.S. entry.

## *Statutory and Regulatory Framework*

As outlined in section 751(a)(2)(B) of the Act and 19 CFR 351.214, the new shipper review provisions require that the entity making a request for a new shipper review must document and certify, among other things: (A) the date on which subject merchandise of the exporter or producer making the request was first entered, or withdrawn from warehouse, for consumption, or, if it cannot establish the date of first entry, the date on which the exporter or producer first shipped the merchandise for export to the United States; (B) the volume of that and subsequent shipments; and (C) the date of the first sale to an unaffiliated customer in the United States.<sup>22</sup> If these requirements, among others, are met, the Department will initiate a new shipper review to determine whether the new shipper is eligible for an individual weighted-average dumping margin.<sup>23</sup> Further, an exporter or producer must request a new shipper review within one year of the date of the first entry (or if appropriate, first shipment for export to the United States).<sup>24</sup>

## *Analysis*

In their Case Brief, the Hebei Companies contend that our preliminary determination to rescind Donghua Fine Chemical's new shipper review based on the fact that it failed to certify to its first U.S. shipment and its first U.S. sale is contrary to the statute and our regulations (specifically, our interpretation "creates a new and additional requirement, which is that a company must request a new shipper review following its first shipment to the United States."<sup>25</sup> Rather, according to the Hebei Companies, the only permissible interpretation of the certification requirement in light of the statute and regulations is that it establishes a deadline to request a review for the entries at issue to prevent requests of stale entries (*i.e.*, by requiring that any request be initiated within a month, so that reviews are not occurring any later than they would occur for an administrative review).<sup>26</sup> We disagree with the Hebei Companies' interpretation of the statute and our regulations.

While it is true that the statute requires that the requesting company not be affiliated with any company that shipped subject merchandise during the period of investigation (POI), our regulations expand upon that framework and additionally require a requesting company to identify and certify to the date of its *first* U.S. entry or shipment and its *first* U.S. sale.<sup>27</sup> The regulations also require that any request for a new shipper review must occur within one year of a requesting company's *first* entry or shipment.<sup>28</sup> Thus, the certification requirements seek to obtain documentation to establish that an exporter or producer is, in fact, a *new shipper* that has not exported (or been affiliated with an exporter or producer that did export) to the United States before the applicable deadline (*i.e.*, prior to one year before the *first* entry or shipment).

We disagree with the Hebei Companies argument that the only purpose of the certification requirements is to prevent requests for stale entries. As stated above, the regulations clearly require that the deadline for requesting a new shipper review falls within one year of either 1) the

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<sup>22</sup> See 19 CFR 351.214(b)(2)(iv)(A)-(C).

<sup>23</sup> See generally 19 CFR 351.214(b)(2).

<sup>24</sup> See 19 CFR 351.214(c) (referring to the date in 19 CFR 351.214(b)(iv)(A)).

<sup>25</sup> See the Hebei Companies' Case Brief at 3.

<sup>26</sup> *Id.* at 6-7.

<sup>27</sup> See 19 CFR 351.214(b)(2)(iv)(A) and (C).

<sup>28</sup> See 19 CFR 351.214(c) (referencing the date in 19 CFR 351.214(b)(2)(iv)(A)).

company's first shipment, or 2) the company's first entry. We also note that, depending on the timing of the request in relation to the ongoing administrative review period, the new shipper review period of review will not necessarily cover this first entry or shipment. Thus, contrary to the Hebei Companies' argument, the purpose of the certification requirement is not to certify that this initial entry or shipment is stale and not reviewable, but rather, it facilitates the requirement that the company requesting the review must be a "new" shipper.

We also disagree with the Hebei Companies argument that whether an exporter, or an affiliate of that exporter, also had made a prior, entirely separate, entry of subject merchandise is "irrelevant." We agree with GEO that the Hebei Companies' interpretation of the statute and our regulations is illogical because it would render the administrative review process meaningless. Specifically, this interpretation would permit a company or any of its affiliates that did not ship during the POI to bypass the administrative review process in order to secure the benefits of a new shipper review (*e.g.*, posting bonds in lieu of cash deposits, accelerated proceeding timetables, and company-specific dumping margins in situations where many exporters are covered by an order).<sup>29</sup> Moreover, following the rationale put forth by the Hebei Companies, a company could request as many new shipper reviews as it chose so long as it was not affiliated with an entity that shipped during the period of the original investigation. Our certification requirements thus limit new shipper reviews to those exporters that can certify that their request for a new shipper review is made within one year of their first entry or shipment.

It is our practice to deny new shipper status to any company that is affiliated with a company that had shipments of subject merchandise to the United States more than one year prior to the requesting company's request for a new shipper review under 19 CFR 351.214(b)(2)(iv)(A) and (C).<sup>30</sup> As explained further below in Comment 2 and in the Proprietary Analysis Memorandum (dated concurrently with this memo), record evidence demonstrates that Donghua Fine Chemical is likely affiliated with companies that had prior shipments of glycine to the United States. Thus, we continue to find that Donghua Fine Chemical failed to certify to its first U.S. entry, shipment, and U.S. sale, as required under 19 CFR 351.214(b)(2)(iv)(A) and (C). We also continue to find that Donghua Fine Chemical failed to report its first U.S. entry and/or its first U.S. shipment within one year of its request for a new shipper review, thus failing to satisfy the deadline requirement of 19 CFR 351.214(c). Because Donghua Fine Chemical's request did not satisfy

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<sup>29</sup> See also *Pujiang Talent Diamond Tools Co. v. United States*, 2013 Ct. Intl. Trade LEXIS 65, \*8-9 (CIT May 3, 2012) (noting that the purpose of the certification requirements is to "prevent{ } a producer that received a high rate during the investigation or a later review from taking advantage of a newly reviewed exporter's lower rate.") (emphasis added).

<sup>30</sup> See, *e.g.*, *Wooden Bedroom Furniture From the People's Republic of China: Final Rescission of Antidumping Duty New Shipper Review*, 77 FR 21536 (April 10, 2012) (*Wooden Bedroom Furniture from the PRC*) and accompanying Issues and Decision Memorandum at Comment 1; see also, *Fresh Garlic From the People's Republic of China: Final Rescission of Antidumping Duty New Shipper Reviews; 2010–2011*, 78 FR 18316 (March 26, 2013) (*Garlic from the PRC*) and accompanying Issues and Decision Memorandum at Comment 1; see also *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Rescission of Antidumping Duty New Shipper Review*, 76 FR 43262 (July 20, 2011) and Memorandum to the File, from Wendy J. Frankel, Director, through Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Intent to Rescind the New Shipper Review of Xiang Yang Automobile Bearing Co., Ltd. ("ZXY"), dated June 17, 2011 (We note that the memorandum to the file dated June 17, 2011, contains all of the analysis regarding our decision to preliminarily rescind this new shipper review. No comments were received based on our preliminary results in that proceeding).

the regulatory requirements for a new shipper review, we continue to determine that it is appropriate to rescind the new shipper review for Donghua Fine Chemical on this basis.

## **Comment 2: Affiliation Findings**

### The Hebei Companies' Position

The Hebei Companies argue that our “interpretations of the record { } are contrary to the reality of how the Hebei Donghua companies operate,” and that “many of these items are ones that ordinarily would be explored at verification.”<sup>31</sup>

### GEO's Position

GEO agrees with the affiliation findings outlined in our *Preliminary Rescission* and states that our findings were based on “undisputed record evidence from the Hebei Companies themselves and are in accordance with law.”<sup>32</sup> Furthermore, GEO contends that a verification of the Hebei Companies' questionnaire responses would not “disturb these facts, findings, or the other statutory grounds supporting these findings.”<sup>33</sup> GEO also urges the Department to issue a final rescission concluding that the Hebei Companies are in fact affiliated with the companies at issue.<sup>34</sup>

### Department's Position

As described in our *Preliminary Rescission*, our analysis of record evidence, indicated that both Donghua Fine Chemical and Donghua Chemical are likely affiliated with entities that entered subject merchandise into the United States more than one year prior to Donghua Fine Chemical's request for a new shipper review. In particular, we noted that although the Hebei Companies responded to our questions, these responses were deficient in many respects, provided confusing and often contradictory statements, failed to provide requested documentation, and overall did not consistently and clearly address our concerns.

We continue to determine that the Hebei Companies have not sufficiently demonstrated that Donghua Fine Chemical and Donghua Chemical are not affiliated with entities that entered subject merchandise into the United States more than one year prior to Donghua Fine Chemical's request for a new shipper review. As noted above, it is our practice to deny new shipper status to any company that is affiliated with a company that had shipments of subject merchandise to the United States more than one year prior to the requesting company's request for a new shipper review under 19 CFR 351.214(b)(2)(iv)(A) and (C). Therefore, we continue to find that Donghua Fine Chemical failed to certify to its first U.S. entry, shipment, and U.S. sale, as required under 19 CFR 351.214(b)(2)(iv)(A) and (C). We also continue to find that Donghua Fine Chemical failed to report its first U.S. entry and/or its first U.S. shipment within one year of its request for a new shipper review, thus failing to satisfy the deadline requirement of 19 CFR 351.214(c). Because Donghua Fine Chemical's request did not satisfy the regulatory

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<sup>31</sup> See the Hebei Companies' Case Brief at 7-10.

<sup>32</sup> See GEO's Rebuttal Brief at 6-11.

<sup>33</sup> *Id.* at 7.

<sup>34</sup> See GEO's Case Brief at 2.

requirements for a new shipper review, we continue to determine that it is appropriate to rescind the new shipper review for Donghua Fine Chemical on this basis.

Since much of the factual information used in our analysis and determination involves business proprietary information, a full summary of parties' arguments and a full discussion of the basis for our decision to rescind (and our response to the Hebei Companies' arguments) are set forth in the Proprietary Analysis Memorandum.<sup>35</sup>

### **Comment 3: Surrogate Values**

#### GEO's Position

GEO agrees with our decision to preliminarily rescind Donghua Fine Chemical's new shipper review, but argues that if we decide not to issue a final rescission, we should issue preliminary results first to allow the parties to comment on the calculations.<sup>36</sup>

Additionally, GEO argues that if we decide to calculate a margin for Donghua Fine Chemical and issue final results in place of a final rescission, we should use the surrogate values GEO has placed on the record to calculate that margin in the final results.<sup>37</sup> Specifically, GEO argues that we should use the financial ratios they suggest, deny any by-products offsets, use Global Trade Atlas (GTA) data to value coal and aqueous ammonia, and use the average unit value it submitted to value hexamine.<sup>38</sup>

First, GEO contends that "according to the applicable statute and regulations," we should "select financial ratios from companies producing 'comparable merchandise' in the surrogate country."<sup>39</sup> Specifically, GEO argues, for financial ratios, we should use the same financial statements for certain companies we relied upon in the 2010-2011 glycine from the PRC administrative review.<sup>40</sup>

Second, GEO contends that the Hebei Companies September 12, 2013, surrogate value submission "provide values for their by-products, ammonium chloride, and hydrochloric acid, that do not distinguish between the primary/virgin versions and the secondary/waste versions of these by-products."<sup>41</sup> GEO states that record evidence "overwhelmingly demonstrates" that the best value for these by-products is zero.<sup>42</sup> If we choose not to value these by-products at zero,

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<sup>35</sup> See Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, regarding "Proprietary Analysis Memorandum for the Final Rescission of the Antidumping Duty New Shipper Review of Glycine from the People's Republic of China," dated concurrently with these results and hereby adopted by the notice of our final rescission of review (Proprietary Analysis Memorandum).

<sup>36</sup> See GEO's Case Brief at 3.

<sup>37</sup> *Id.* at 3-12. Specifically, GEO advocates that we rely on surrogate value information it submitted in both its pre-preliminary results comments, submitted July 24, 2013, and the additional comments it submitted in its Case Brief in the wake of additional surrogate value information and arguments that both the Hebei Companies and GEO have placed on the record since then.

<sup>38</sup> *Id.* at 11-12.

<sup>39</sup> *Id.* at 4-7.

<sup>40</sup> *Id.* at 7.

<sup>41</sup> *Id.* at 7-9.

<sup>42</sup> *Id.* at 8-9.

GEO contends, we should use the values submitted to the record by GEO to avoid aberrational results.<sup>43</sup>

Third, GEO argues that instead of adopting the Hebei Companies proposal to “value coal based on a ‘benchmark’ value ‘regulated’ and ‘set by the Indonesian government’,” we should follow our “normal” practice of using the GTA import value for tariff classification 2701.19.00.00 to value coal consumption during the period of review.<sup>44</sup>

Fourth, GEO disagrees with the Hebei Companies’ assertion that they use anhydrous ammonia as their liquid ammonia input, claiming that “no substantive information” exists on the record to show whether the liquid ammonia the Hebei Companies use is either aqueous ammonia or anhydrous ammonia.<sup>45</sup> GEO argues, “the Department should continue its precedent and rely on the GTA value of aqueous ammonia that GEO provided.”<sup>46</sup>

Finally, GEO argues that the Hebei Companies “have not demonstrated that hexamine is not classifiable under 2933.99.90.00,” and that “their suggested alternative of Indian export values only is not consistent with the Department’s preference for broad and complete import data from all sources for the period of review.”<sup>47</sup> Therefore, GEO argues, the average unit value that GEO has submitted should be used to value hexamine as it “represents data from 18 different export sources and is thus broad - based and a complete composite of pricing in the Indonesian market for the period of review.”<sup>48</sup>

### The Hebei Companies’ Position

The Hebei Companies agree with GEO’s request that, in the event we decide not to issue a final rescission, we should issue preliminary results first to allow the parties to comment on the calculations.<sup>49</sup>

Additionally, the Hebei Companies argue that if we decide to calculate a margin for Donghua Fine Chemical and issue final results in place of a final rescission, we should not use the surrogate values GEO has placed on the record to calculate that margin in the final results. Specifically, the Hebei Companies argue that we should use the financial ratios they suggest, include by-product revenue, and use the data they submitted to value coal, aqueous ammonia, and hexamine.<sup>50</sup>

First, Donghua Fine Chemical argues that we should reject the use of GEO’s “unrepresentative” financial ratios.<sup>51</sup> The Hebei Companies contend that the companies that it puts forward “are chemical manufacturers, just like Respondent,” and that while they do not manufacture amino acids, they are “nonetheless still more representative of the true state of Respondent’s

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<sup>43</sup> *Id.* at 9.

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

<sup>45</sup> *Id.* at 10-11.

<sup>46</sup> *Id.* at 11.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *See* the Hebei Companies’ Rebuttal Brief at 1-2.

<sup>50</sup> *Id.* at 8-9.

<sup>51</sup> *Id.* at 2-6.

operations” and “make for better surrogate values, in line with the analysis performed by the Department in prior administrative reviews of glycine from China.”<sup>52</sup>

Second, the Hebei Companies disagree with GEO’s assertion that if we choose not to value these by-products at zero, we should use the values submitted to the record by GEO.<sup>53</sup> The Hebei Companies reiterate their point that we already have rejected GEO’s argument in a prior glycine administrative review and contend that GEO continues to “ignore that the normal approach of the Department is to include by-product revenue so long as two criterion are satisfied.”<sup>54</sup>

Third, the Hebei Companies argue that the coal surrogate value information submitted by GEO is “inaccurate” and should be rejected.<sup>55</sup> According to the Hebei Companies, we should “choose the value on the record that is for the type of coal that Respondent actually uses.”<sup>56</sup>

Fourth, the Hebei Companies agree with GEO’s statement that we should use the surrogate value for anhydrous ammonia and would be willing to provide the “exact kind of proof,” as identified by GEO, in an additional submission.<sup>57</sup>

Finally, the Hebei Companies argue that the hexamine values submitted by GEO are “unusable” and “unrepresentative”<sup>58</sup> because the values do not “represent the best information on the record, since it covers a large basket of products, most of which are not even hexamine.”<sup>59</sup> Therefore, the Hebei Companies argue, we should use their data for valuing hexamine.<sup>60</sup>

#### Department’s Position

As explained in Comments 1 and 2, we have found that Donghua Fine Chemical does not qualify as a new shipper and, therefore, we are rescinding its new shipper review. Since the review of Donghua Fine Chemical is being rescinded, issues regarding surrogate values are moot.

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<sup>52</sup> *Id.* at 5-6.

<sup>53</sup> *Id.* at 6-7.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.* at 7-8.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at 8.

<sup>58</sup> *Id.* at 8-9.

<sup>59</sup> *Id.* at 8.

<sup>60</sup> *Id.* at 9.

**RECOMMENDATION**

Based on our analysis of the comments received, we recommend adopting all of the above positions. If accepted, we will publish the final rescission in the *Federal Register*.

AGREE ✓ DISAGREE \_\_\_\_\_

  
\_\_\_\_\_  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

2 DECEMBER 2017  
Date