

PRC exporters that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 112.64 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Schedule for Final Results of Review

The Department will disclose calculations performed in connection with the preliminary results of this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Any hearing will normally be held 37 days after the publication of this notice, or the first workday thereafter, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Requests for a public hearing should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) to the extent practicable, an identification of the arguments to be raised at the hearing.

Unless otherwise notified by the Department, interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 19 CFR 351.309(c)(ii). As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited in accordance with 19 CFR 351.309(c)(2)(ii). Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the case brief is filed in accordance with 19 CFR 351.309(d). The Department will issue the final results of this review, which will include the results of its analysis of issues raised in the briefs, not later than 120 days after the date of publication of this notice in

accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.213(h)(1).

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and this notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 31, 2008.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-836]

Glycine from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission

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

SUMMARY: In response to a request from Geo Specialty Chemicals, Inc. ("GSC"), a domestic glycine producer, the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on glycine from the People's Republic of China ("PRC"). This review covers Nantong Dongchang Chemical Industry Corporation ("Nantong Dongchang") and Baoding Mantong Fine Chemistry Co., Ltd. ("Baoding Mantong"). The period of review ("POR") is March 1, 2006, through February 28, 2007. On July 26, 2007, Nantong Dongchang indicated that it would not reply to the Department's antidumping questionnaire in this administrative review; therefore, we have preliminarily determined to apply facts otherwise available with an adverse inference ("AFA") to Nantong Dongchang. In addition, we have preliminarily determined that Baoding Mantong made sales below normal value ("NV"). With respect to the 21 other companies for

whom petitioners submitted a request for review and a subsequent timely withdrawal request, we are rescinding this review.¹ The preliminary results are listed below in the section titled "Preliminary Results of Review." If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection ("CBP") to assess the *ad valorem* margins against the entered value of each entry of the subject merchandise during the POR.

Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: April 4, 2008.

FOR FURTHER INFORMATION CONTACT:

Michael Quigley or Toni Dach, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4047, or (202) 482-1655, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 29, 1995, the Department published in the **Federal Register** an antidumping duty order on glycine from the PRC. *See Antidumping Duty Order: Glycine from the People's Republic of China*, 60 FR 16116 (March 29, 1995). On March 2, 2007, the Department published an *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 9505 (March 2, 2007). On March 28, 2007, GEO Speciality Chemicals, Inc. ("GSC"), requested that the Department conduct an administrative review of sales of subject merchandise by 26 companies to the United States during the POR, in accordance with section 351.213(b) of the Department's regulations. Those 26 companies are: A.H.A. International Company, Ltd.; Amol Biotech Limited; Baoding Mantong; Beijing Jian Li Pharmaceutical Company; Changzhou Dahua Importer and Exporter (Group); Chem-Base (Nantong) Laboratories Company; China Container Line (USA); Dongchang Chemical Industrial Company; Hua Yip Company, Inc.; Jizhou City Huayang Chemical Company, Ltd.; Nantong Dongchang; Orichem International Ltd.; Qingdao Samin Chemical Company,

¹ Although the Department initiated an administrative review for 24 companies, Nantong Dongchang was also identified in the initiation notice as Dongchang Chemical Industrial Company, as GSC indicated in its July 27, 2007, letter to the Department.

Ltd.; Shanghai Dayue International; Shanghai Light Industrial; Shanghai Waseto International; Sinochem Qingdao Company, Ltd.; Sinosweet Company, Ltd.; Sumec China Jiangsu Machinery; Sumec (On Behalf of Nantong); Taigeng Global Enterprises Ltd.; Textiles Silk Light Ind. Products; Tianjin Tiancheng Pharmaceutical Company; Weifang Sunwin Chemicals Company, Ltd.; Yicheng Logistics Shanghai Ltd.; and Zheijiang Ruili Cemented Carbide. On March 30, 2007, Nantong Dongchang requested an administrative review of its sales during the POR, in accordance with section 351.213(b) of the Department's regulations. On April 5, 2007, prior to initiation of the review, GSC withdrew its review request with respect to two companies: Hua Yip Company, Inc. and Taigeng Global Enterprises Ltd, because GSC was unable to provide addresses for these two companies.

On April 27, 2007, the Department initiated the antidumping duty administrative review with respect to the 24 remaining companies. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 20986 (April 27, 2007). On June 14, 2007, the Department selected Baoding Mantong and Nantong Dongchang as mandatory respondents. *See Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, through Christopher D. Riker, Program Manager, AD/CVD Operations, Office 9, from Catherine C. Bertrand, Senior International Trade Analyst, AD/CVD Operations, Office 9, regarding 2006/2007 Antidumping Duty Administrative Review of Glycine from the People's Republic of China: Selection of Respondents*. On November 30, 2007, the Department extended the deadline for the publication of the preliminary results to March 31, 2008. *See Glycine from the People's Republic of China: Extension of Time Limits for the Preliminary Results of the 2006–2007 Administrative Review*, 72 FR 67701 (November 30, 2007).

Questionnaires

On June 14, 2007, the Department issued standard non-market economy ("NME") antidumping duty questionnaires to Baoding Mantong and Nantong Dongchang. On July 3, 2007, and July 23, 2007, the Department issued extensions of the deadline for Nantong Dongchang to file its response to the questionnaire. On July 26, 2007, Nantong Dongchang notified the Department that it would not reply to the Department's antidumping questionnaire in this administrative review. On July 27, 2007, GSC withdrew

its request for administrative review for all companies except Nantong Dongchang and Baoding Mantong.

Baoding Mantong submitted its section A response on July 5, 2007, and its response to sections C and D on July 20, 2007. Baoding Mantong submitted supplemental responses on December 3, 2007, February 28, 2008, and March 7, 2008.

Surrogate Country and Factors

On September 17, 2007, the Department's Office of Policy issued a memorandum listing India, Sri Lanka, Egypt, Indonesia, and the Philippines as economically comparable surrogate countries for this review. On October 5, 2007, we invited interested parties to comment on the Department's surrogate country selection and to submit publicly available information to value the factors of production ("FOPs"), and attached the memorandum outlining the appropriate surrogate countries in this case based solely on economic comparability. *See Letter to All Interested Parties, from Scot T. Fullerton, Program Manager, Office 9, Import Administration, regarding 2006–2007 Administrative Review of Glycine from the People's Republic of China ("China"): Surrogate Country List, at Attachment One ("Surrogate Country Letter Attachment")*. On November 20, 2007, Baoding Mantong submitted comments regarding the selection of surrogate values. On February 7, 2008, GSC submitted information for the Department to consider in valuing the FOPs. On February 29, 2008, GSC submitted comments regarding the surrogate value information placed on the record. All surrogate value data submitted by both parties were from Indian sources.

When the Department is investigating imports from an NME country, section 773(c)(1) of the Tariff Act of 1930, as amended ("the Act"), directs it to base NV, in most circumstances, on the NME producer's FOPs, valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the factors of production, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.

India is among the countries comparable to the PRC in terms of overall economic development. In its February 7, 2008, letter commenting on

surrogate country selection, GSC suggested that India be the primary surrogate country because it is a significant producer of glycine (whereas the other selected countries are not), and also because of the availability of surrogate value data from Indian sources. In addition, based on publicly available information placed on the record (*i.e.*, export data as found in the Surrogate Country Letter Attachment), India is a significant producer of the subject merchandise. Furthermore, India has been the primary surrogate country in past segments of this case, and both GSC and Baoding Mantong submitted surrogate values based solely on Indian data that are contemporaneous to the POR.

Given that India meets the criteria listed in sections 773(c)(4)(A) and (B) of the Act, interested parties have placed only Indian surrogate value information on the record of this review, and our use of India as the surrogate country in past reviews of glycine, we have selected India as the surrogate country for purposes of these preliminary results. The sources of the surrogate factor values are discussed under the "Normal Value" section below and in Memorandum to the File through Scot T. Fullerton, Program Manager, Office 9 from Toni Dach, International Trade Analyst, Office 9: Administrative Review of Glycine from the People's Republic of China: Surrogate Values for the Preliminary Results, March 28, 2008 ("Surrogate Values Memo"). In accordance with 19 CFR 351.301(c)(3)(ii), for the final results of an antidumping administrative review, interested parties may submit publicly available information to value the factors of production within 20 days after the date of publication of the preliminary determination.²

Scope of the Order

The product covered by the order is glycine, which is a free-flowing crystalline material, like salt or sugar.

² In accordance with 19 CFR 351.301(c)(1), for the final results of this administrative review, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information placed on the record. The Department generally will not accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

Glycine is produced at varying levels of purity and is used as a sweetener/taste enhancer, a buffering agent, reabsorbable amino acid, chemical intermediate, and a metal complexing agent. This review covers glycine of all purity levels. Glycine is currently classified under subheading 2922.49.4020 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheading is provided for convenience and Customs purposes, the written description of the merchandise under the order is dispositive.

Separate Rate

A designation of a country as an NME remains in effect until it is revoked by the Department. See section 771(18)(C)(i) of the Act. Accordingly, there is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate. It is the Department's standard policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in the *Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("Sparklers"), as amplified by the *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("Silicon Carbide"). With respect to Nantong Dongchang, as noted above, Nantong Dongchang withdrew from participation in the administrative review; therefore Nantong Dongchang has failed to demonstrate its eligibility for a separate rate. See "PRC-Wide Rate and Facts Otherwise Available" Section, below.

A. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR at 20589. In a prior

administrative review for this case, the Department granted a separate rate to Baoding Mantong. See *Glycine from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 70 FR 47176 (August 12, 2005). However, it is the Department's policy to evaluate requests for a separate rate individually, regardless of whether the respondent received a separate rate in the past. See *Manganese Metal From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12440, 12441–12442 (March 13, 1998).

In this review, Baoding Mantong submitted a complete response to the separate rates section of the Department's NME questionnaire. See Baoding Mantong section A response, July 5, 2008. In its response, Baoding Mantong includes PRC government laws and regulations with respect to corporate ownership, its business license, and narrative information regarding the company's operations and selection of management. The information provided by Baoding Mantong supports a finding of a *de jure* absence of governmental control over their export activities based on: (1) an absence of restrictive stipulations associated with the exporter's business license; and (2) the legal authority on the record decentralizing control over the respondents, as demonstrated by the PRC laws placed on the record of this review. No party submitted information to the contrary. Accordingly, we preliminarily find an absence of *de jure* control.

B. Absence of De Facto Control

The absence of *de facto* governmental control over exports is based on whether the respondent: (1) sets its own export prices independent of the government and other exporters; (2) retains the proceeds from its export sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) has the authority to negotiate and sign contracts and other agreements; and (4) has autonomy from the government regarding the selection of management. See *Silicon Carbide*, 59 FR at 22587; *Sparklers*, 56 FR at 20589; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

In its questionnaire responses, Baoding Mantong submitted evidence indicating an absence of *de facto* governmental control over its export activities. Specifically, this evidence indicates that: (1) Baoding Mantong sets

its own export prices independent of the government and without the approval of a government authority; (2) Baoding Mantong retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) Baoding Mantong has a general manager with the authority to negotiate and bind the company in an agreement; (4) the general manager is selected by the board of directors, and the general manager appoints the deputy managers and the manager of each department; and (5) there is no restriction on the company's use of export revenues. Therefore, the Department preliminarily finds that Baoding Mantong has established *prima facie* that it qualifies for a separate rate under the criteria established by *Silicon Carbide* and *Sparklers*.

Partial Rescission of Review

In accordance with 19 CFR 351.213(d)(1), as a timely withdrawal request was submitted to the Department by GSC on July 27, 2007, we are rescinding this administrative review with respect to the following 21 companies: A.H.A. International Company, Ltd.; Amol Biotech Limited; Beijing Jian Li Pharmaceutical Company; Changzhou Dahua Importer and Exporter (Group); Chem-Base (Nantong) Laboratories Company; China Container Line (USA); Jizhou City Huayang Chemical Company, Ltd.; Oricem International Ltd.; Qingdao Samin Chemical Company, Ltd.; Shanghai Dayue International; Shanghai Light Industrial; Shanghai Waseta International; Sinochem Qingdao Company, Ltd.; Sinosweet Company, Ltd.; Sumee China Jiangsu Machinery; Sumec (On Behalf of Nantong); Textiles Silk Light Ind. Products; Tianjin Tiancheng Pharmaceutical Company; Weifang Sunwin Chemicals Company, Ltd.; Yicheng Logistics Shanghai Ltd.; and Zhejiang Ruili Cemented Carbide.³

PRC Wide Rate and Facts Otherwise Available

Nantong Dongchang, which was selected as a mandatory respondent, did not respond to the Department's request for information, and thus has failed to demonstrate its eligibility for a separate rate. The PRC-wide rate applies to all entries of subject merchandise except for entries from PRC producers/exporters that have their own calculated

³ Tianjin Tiancheng Pharmaceutical Company has a separate rate, and we will liquidate its entries 15 days after publication of this notice. As the remaining 20 companies do not have a separate rate, they are considered part of the PRC-wide entity and any entries will be liquidated at the conclusion of this review.

rate. See “Separate Rates” section above. Companies that have not demonstrated their entitlement to a separate rate are appropriately considered to be part of the PRC-wide entity. Therefore, we determine it is necessary to review the PRC-wide entity, because Nantong Dongchang is subject to the instant proceeding. In doing so, we note that section 776(a)(1) of the Act mandates that the Department use the facts available if necessary information is not available on the record of an antidumping proceeding. In addition, section 776(a)(2) of the Act provides that if an interested party or any other person: (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i) of the Act, the Department shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination under this title. Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department shall promptly inform the party submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that party with an opportunity to remedy or explain the deficiency. Section 782(d) of the Act additionally states that if the party submits further information that is unsatisfactory or untimely, the administering authority may, subject to subsection (e), disregard all or part of the original and subsequent responses. Section 782(e) of the Act provides that the Department shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority if: (1) the information is submitted by the deadline established for its submission; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the administering authority with respect to

the information; and (5) the information can be used without undue difficulties.

As addressed below for Nantong Dongchang, we find that the PRC-wide entity, which includes Nantong Dongchang, did not respond to our request for information and that necessary information either was not provided, or the information provided could not be verified and is not sufficiently complete to enable the Department to use it for these preliminary results. Therefore, we find it necessary, under section 776(a)(2) of the Act, to use facts otherwise available as the basis for the preliminary results of this review for the PRC-wide entity.

Nantong Dongchang submitted a response to the Department’s Quantity and Value questionnaire. The Department granted Nantong Dongchang an extension on July 3, 2007, and another extension on July 23, 2007 to submit its section A response. However, on July 26, 2007, the Department received a notification from Nantong Dongchang stating that it would not submit responses to the Department’s antidumping questionnaires. See July 26, 2007, letter to the U.S. Department of Commerce, from Nantong Dongchang. Because Nantong Dongchang did not provide its initial questionnaire response, or continue to participate in the review, the company denied the Department an opportunity to analyze any of its POR-specific sales and production information, as well as its eligibility for a separate rate. Because Nantong Dongchang denied the Department the opportunity to further investigate its quantity and value response and, despite several extensions, did not submit any responses to the Department’s section A, C and D questionnaires, the Department has preliminarily determined that Nantong Dongchang significantly impeded the Department’s proceeding by withholding information, and failing to respond to the Department’s request for information within the Department’s specified deadlines. Therefore, pursuant to sections 776(a)(2)(A), (B), and (C) of the Act, the Department preliminarily finds that the application of facts available is appropriate for these preliminary results.

Pursuant to section 776(b) of the Act, we find that the PRC-wide entity, which includes Nantong Dongchang, failed to cooperate by not acting to the best of its ability. As noted above, Nantong Dongchang indicated to the Department that it would not participate in this review, or otherwise did not provide the requested information, despite repeated requests that it do so. This POR-specific information was in

the sole possession of Nantong Dongchang, and could not be obtained otherwise. Thus, because Nantong Dongchang, and thus the PRC-wide entity, refused to participate fully in this proceeding, we find it appropriate to use an inference that is adverse to the interests of the PRC-wide entity in selecting from among the facts otherwise available. By doing so, we ensure that the companies that are part of the PRC-wide entity, including Nantong Dongchang, will not obtain a more favorable result by failing to cooperate than had they cooperated fully in this review.

Selection of Adverse Facts Available (“AFA”) Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. In reviews, the Department normally selects, as AFA, the highest rate on the record of any segment of the proceeding. See, e.g., *Freshwater Crawfish Tail Meat from the People’s Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 68 FR 19504, 19506 (April 21, 2003). The Court of International Trade (“CIT”) and the Court of Appeals for the Federal Circuit have consistently upheld the Department’s practice in this regard. See *Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990) (“*Rhone Poulenc*”); *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1335 (CIT 2004) (upholding a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in a LTFV investigation); see also *Kompass Food Trading Int’l v. United States*, 24 CIT 678, 680 (2000) (upholding a 51.16 percent total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and *Shanghai Taoen Int’l Trading Co., Ltd. v. United States*, 360 F. Supp. 2d 1339, 1348 (CIT 2005) (upholding a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review).

The Department’s practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse “so as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely

manner.” See *Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998). The Department’s practice also ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.” See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, vol. 1 (1994) (“SAA”), at 870; see also *Notice of Final Determination of Sales at Less than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 76910, 76912 (December 23, 2004); *D&L Supply Co. v. United States*, 113 F.3d 1220, 1223 (Fed. Cir. 1997). In choosing the appropriate balance between providing respondents with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent’s prior commercial activity, selecting the highest prior margin “reflects a common sense inference that the highest prior margin is the most probative evidence of current margins because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.” *Rhone Poulenc*, 899 F.2d at 1190. Consistent with the statute, court precedent, and its normal practice, the Department has assigned the rate of 155.89 percent, the highest rate on the record of any segment of the proceeding, to the PRC-wide entity, which includes Nantong Dongchang, as AFA. See, e.g., *Glycine from the People’s Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 70 FR 58185 (October 5, 2005) (“*Glycine Sunset Results*”). As discussed further below, this rate has been corroborated.

Corroboration of Secondary Information Used as AFA

Section 776(c) of the Act provides that, where the Department selects from among the facts otherwise available and relies on “secondary information,” the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department’s disposal. Secondary information is described in the SAA as “{i}nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.” See SAA at 870. The SAA states that “corroborate” means to determine that the information used has probative value. The

Department has determined that to have probative value, information must be reliable and relevant. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from Japan, and Tapered Roller Bearings Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997). The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. SAA, at 870. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: High and Ultra-High Voltage Ceramic Station Post Insulators from Japan*, 68 FR 35627 (June 16, 2003) unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: High and Ultra-High Voltage Ceramic Station Post Insulators from Japan*, 68 FR 62560 (November 5, 2003); *Notice of Final Determination of Sales at Less Than Fair Value: Live Swine From Canada*, 70 FR 12181, 12183 (March 11, 2005).

To be considered corroborated, information must be found to be both reliable and relevant. Unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only sources for calculated margins are administrative determinations. The AFA rate we are applying for the current review, 155.89 percent, the PRC-wide rate established in the LTFV investigation, was determined to have probative value during the 2005 sunset review of glycine from the PRC, as the Department found it to be the only margin that reflects the actions of the PRC-wide entity absent the discipline of an order. See *Glycine from the People’s Republic of China; Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 70 FR 58185 (October 5, 2005) and accompanying 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, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, at Comment 2 (“*Glycine Sunset Review*”). Furthermore, no information has been presented in the current review that calls into question the reliability of this information. Thus, the Department finds that the information continues to be reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. See, e.g., *Fresh Cut Flowers from Mexico; Final Results of Antidumping Administrative Review*, 61 FR 6812, 6814 (February 22, 1996). Similarly, the Department does not apply a margin that has been discredited. See *D & L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). As noted, the AFA rate we are applying for the current review was determined to have probative value during the 2005 sunset review of glycine from the PRC, as the Department found it to be the only margin that reflects the actions of the PRC-wide entity absent the discipline of an order. See *Glycine Sunset Review*. Moreover, as there is no information on the record of this review that demonstrates that this rate is not appropriately used as adverse facts available, we determine that this rate has relevance.

As the AFA rate is both reliable and relevant, we find that it has probative value. As a result, the Department preliminarily determines that the AFA margin is corroborated for the purposes of this administrative review and may reasonably be applied to the PRC-wide entity, which includes Nantong Dongchang. Because these are the preliminary results of the review, the Department will consider all margins on the record at the time of the final results of review for the purpose of determining the most appropriate final margin for Nantong Dongchang. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 1139 (January 7, 2000) unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation*, 65 FR 42669 (July 11, 2000).

Non-Market Economy Country

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy ("NME") country. *See, e.g., Honey from the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Administrative Review*, 71 FR 34893 (June 16, 2006), and *Honey from the People's Republic of China: Final Results and Rescission in Part, of Antidumping Duty New Shipper Reviews*, 72 FR 37715 (July 11, 2007). Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is a NME country shall remain in effect until revoked by the administering authority. *See, e.g., Carbazole Violet Pigment 23 From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Rescission in Part*, 71 FR 65073, 65074 (November 7, 2006) unchanged in *Carbazole Violet Pigment 23 from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 72 FR 26589 (May 10, 2007). None of the parties to this proceeding have contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Normal Value Comparisons

To determine whether Baoding Mantong's sales of the subject merchandise to the United States were made at a price below NV, we compared its United States prices to a normal value, as described in the "United States Price" and "Normal Value" section of this notice.

U.S. Price

A. Export Price

In accordance with section 772(a) of the Act, we calculated the export price ("EP") for certain sales to the United States for Baoding Mantong because the first sale to an unaffiliated party was made before the date of importation and the use of constructed EP ("CEP") was not otherwise warranted. We calculated EP based on the FOB price to unaffiliated purchasers in the United States.⁴ In accordance with section 772(c)(2) of the Act, as appropriate, we deducted from the starting price to unaffiliated purchasers foreign inland

freight. This service was either provided by an NME vendor or paid for using an NME currency. Thus, we based the deduction of these movement charges on surrogate values. *See* Surrogate Values Memo for details regarding the surrogate values for movement expenses.

Normal Value ("NV")

1. Methodology

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.

2. Factor Valuations

In accordance with section 773(c)(1) of the Act, we calculated NV based on factors of production reported by respondent for the POR. To calculate NV, we multiplied the reported per unit factor-consumption rates by publicly available Indian surrogate values. In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory of production or the distance from the nearest seaport to the factory of production where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407–1408 (Fed. Cir. 1997). Where we did not use Indian import data, we calculated freight based on the reported distance from the supplier to the factory.

With regard to surrogate values from import statistics, we disregard prices that we have reason to believe or suspect may be subsidized, such as the prices of inputs from Indonesia, South Korea and Thailand. We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these

countries may be subsidized. *See Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004) and accompanying Issues and Decision memorandum at Comment 7 ("CTVs from the PRC"). The legislative history provides guidance that in making its determination as to whether input values may be subsidized, the Department is not required to conduct a formal investigation. Instead, the Department is to base its decision on information that is available to it at the time it makes its determination. *See* H.R. Rep. 100–576 (1988) at 590. Therefore, based on the information currently available, we have not used prices from these countries in calculating the surrogate values based on Indian import data. We have also disregarded Indian import data from countries that the Department has previously determined to be NME countries, as well as imports from unspecified countries. *See CTVs from the PRC*.

It is the Department's practice to calculate price index adjusters to inflate or deflate, as appropriate, surrogate values that are not contemporaneous with the POR using the wholesale price index for the subject country. *See, e.g., Certain Preserved Mushrooms from the People's Republic of China: Preliminary Results of the Antidumping Duty New Shipper Review*, 71 FR 38617, 38619 (July 7, 2006), unchanged in final, *Certain Preserved Mushrooms from the People's Republic of China: Final Results of the Antidumping Duty New Shipper Review*, 71 FR 66910 (November 17, 2006). Therefore, where publicly available information contemporaneous with the POR with which to calculate surrogate values could not be obtained, surrogate values were adjusted using the Wholesale Price Index ("WPI") for India, as published in the International Financial Statistics ("IFS") of the International Monetary Fund ("IMF"). Surrogate values denominated in foreign currencies were converted into U.S. dollars ("USD") using the applicable average exchange rate based on exchange rate data from the Department's website. In accordance with 19 CFR 351.301(c)(3)(ii), for the final determination in an administrative review, interested parties may submit publicly available information to value the factors of production within 20 days after the date of publication of the preliminary results. *See* Surrogate Values Memo.

⁴ We note that certain of Baoding Mantong's sales appeared to have entered the United States as "type 1" entries not subject to antidumping duties. *See* Letter from Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9, to Baoding Mantong, dated February 29, 2008. We have referred this matter to CBP for possible enforcement action.

The Department used Indian Import Statistics to value the raw material and packing material inputs that Baoding Mantong used to produce the merchandise under review during the POR, except where listed below. For a detailed description of all surrogate values used for Baoding Mantong, see Surrogate Values Memo.

Raw Material:

To value liquid chlorine, the Department used the values reported for the purchase, manufacture, and sale of liquid chlorine from the publicly available 2006–2007 financial reports of Kanoria Chemicals & Industries Limited (“Kanoria”) and Tata Chemicals Limited (“Tata”), two chemical companies in India that use and produce liquid chlorine, submitted by Baoding Mantong on November 20, 2007. See Surrogate Values Memo.

By-Product:

Petitioner and Baoding Mantong both placed data from *Chemical Weekly* on the record to value hydrochloric acid. Consistent with past practice and these submissions, the Department has applied a surrogate value for hydrochloric acid using the values submitted by the parties from *Chemical Weekly*. See Surrogate Values Memo.

Energy:

Baoding Mantong reported the consumption of water, electricity, and coal as energy inputs consumed in the production of glycine. To value water, we calculated the average water rates from various regions as reported by the Maharashtra Industrial Development Corporation, <http://midcindia.org>, dated June 1, 2003, and inflated the value for water to be contemporaneous to the POR. See Surrogate Values Memo. To value electricity, we used the latest rates provided by the OECD’s International Energy Agency’s publication: *Key World Energy Statistics* from 2003. Because the electricity prices are based on annual year 2000 prices; we inflated the value for electricity to be contemporaneous to the POR average WPI rate. See Surrogate Values Memo.

Financial Ratios:

To value the surrogate financial ratios for factory overhead, selling, general & administrative expenses, and profit, the Department relied on publicly available information contained in the financial statements for the following two companies: Jubilant Organosys Limited of India (“Jubilant”), for fiscal year 2006–2007, submitted by Baoding Mantong on November 20, 2007; and Diamines and Chemical Limited

(“Diamines”), for fiscal year 2006–2007, submitted by GSC on February 7, 2008. The annual report covers the period April 1, 2006, to March 31, 2007, and includes data for the 2005–2006 fiscal year as well, covering the entire POR. We have determined that the financial statements for both Jubilant and Diamines are appropriate for use in these preliminary results because both Jubilant and Diamines are producers of comparable merchandise and their financial data are contemporaneous with the POR. See Surrogate Values Memo.

Wage Rate:

Because of the variability of wage rates in countries with similar levels of per capita gross national product, 19 CFR 351.408(c)(3) requires the use of a regression-based wage rate. Therefore, to value the labor input, we used the PRC’s regression-based wage rate published by Import Administration on its website, <http://www.trade.gov/ia/>. We note that this wage rate is calculated in accordance with the Department’s revised methodology. See *Expected Non Market Economy Wages: Request for Comments on 2006 Calculation*, 72 FR 949 (January 9, 2007) and *Antidumping Methodologies: Market Economy Inputs, Expected Non Market Economy Wages, Duty Drawback, and Request for Comments*, 71 FR 6176 (October 19, 2006). See also Surrogate Values Memo.

Movement Expenses:

To value truck freight, we calculated a weighted-average freight cost based on publicly available data from www.infreight.com, an Indian inland freight logistics resource website. See Surrogate Values Memo. For a comprehensive list of the sources and data used to determine the surrogate values for the FOPs, by-products, and the surrogate financial ratios for factory overhead, selling, general and administrative expenses, and profit, see Surrogate Values Memo.

Preliminary Results of the Review

The Department has determined that the following preliminary dumping margins exist for the period March 1, 2006, through February 28, 2007:

GLYCINE FROM THE PRC

Manufacturer/Exporter	Weighted-Average Margin (Percent)
Baoding Mantong Fine Chemistry Co., Ltd.	31.82

GLYCINE FROM THE PRC—Continued

Manufacturer/Exporter	Weighted-Average Margin (Percent)
PRC-Wide Rate (which includes Nantong Dongchang Chemical Industry Corporation)	155.89

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. See 19 CFR 351.309(c)(1)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than five days after the time limit for filing the case briefs. See 19 CFR 351.309(d).

Any interested party may request a hearing within 30 days of publication of these preliminary results. See 19 CFR 351.310(c). Requests should contain the following information: (1) the party’s name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If we receive a request for a hearing, we intend to hold the hearing seven days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The Department intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. If these preliminary results are adopted in our final results of review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific (or customer) ad valorem duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the

examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis*.

Cash Deposit Requirements

Further, the following cash deposit requirements will be effective upon publication of the final results of the administrative review for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise exported by Baoding Mantong, the cash deposit rate will be that established in the final results of review; (2) for previously reviewed or investigated companies not listed above that have separate rates, the cash deposit rate will continue to be the company specific rate published for the most recent period; (3) for all other PRC exporters of subject merchandise, which have not been found to be entitled to a separate rate, the cash deposit rate will be PRC wide rate of 155.89 percent; (4) for all non PRC exporters of subject merchandise, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and this notice are in accordance with sections 751(a)(1) and 777(i) of the Act, 19 CFR 351.213, and 19 CFR 351.221(b)(4).

Dated: March 28, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8-7099 Filed 4-3-08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

A-552-802

Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Initiation of Antidumping Duty New Shipper Review

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

EFFECTIVE DATE: April 4, 2008.

SUMMARY: The Department of Commerce ("Department") has determined that a request for a new shipper review ("NSR") of the antidumping duty order on frozen warmwater shrimp ("shrimp") from the Socialist Republic of Vietnam ("Vietnam"), received on February 27, 2008, meets the statutory and regulatory requirements for initiation. The period of review ("POR") for this NSR is February 1, 2007 January 31, 2008.

FOR FURTHER INFORMATION CONTACT: Mark Manning or Howard Smith, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: 202-482-5253 and 202-482-5193, respectively.

SUPPLEMENTARY INFORMATION:

Background

The notice announcing the antidumping duty order on shrimp from Vietnam was published in the **Federal Register** on February 1, 2005. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam*, 70 FR 5152 (February 1, 2005).¹ On February 27, 2008, pursuant to section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.214(c), the Department received a NSR request from BIM Seafood Joint Stock Company ("BIM Seafood"). BIM Seafood certified that it produces and exports the subject merchandise upon which the request was based.

On February 29, 2008, the Department issued BIM Seafood a letter requesting that it resubmit the public version of its February 27, 2008, request. *See* the Department's February 29, 2008, letter to BIM Seafood. On March 4, 2008, BIM Seafood submitted a proper public

version, pursuant to 19 CFR 351.304(c)(1).

Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i), BIM Seafood certified that it did not export shrimp to the United States during the period of investigation ("POI"). In addition, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), BIM Seafood certified that, since the initiation of the investigation, it has never been affiliated with any Vietnamese exporter or producer who exported shrimp to the United States during the POI, including those not individually examined during the investigation. As required by 19 CFR 351.214(b)(2)(iii)(B), BIM Seafood also certified that its export activities were not controlled by the central government of Vietnam.

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2)(iv), BIM Seafood submitted documentation establishing the following: (1) the date on which BIM Seafood first shipped shrimp for export to the United States and the date on which the shrimp were first entered, or withdrawn from warehouse, for consumption; (2) the volume of its first shipment; and (3) the date of its first sale to an unaffiliated customer in the United States.

The Department conducted United States Customs and Border Protection ("CBP") database queries in an attempt to confirm that BIM Seafood's shipments of subject merchandise had entered the United States for consumption and that liquidation of such entries had been properly suspended for antidumping duties. The Department also examined whether the CBP data confirmed that such entries were made during the NSR POR. The information was examined was consistent with that provided by BIM Seafood.

Initiation of New Shipper Reviews

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(d)(1), the Department finds that BIM Seafood meets the threshold requirements for initiation of a NSR for the shipment of shrimp from Vietnam it produced and exported. *See* "Memorandum to File from Javier Barrientos, Senior Case Analyst, Certain Warmwater Shrimp from the Socialist Republic of Vietnam: Initiation of AD New Shipper Review for BIM Seafood Joint Stock Company," (March 26, 2008).

The Department intends to issue the preliminary results of this NSR no later than 180 days from the date of initiation, and final results no later than

¹ Therefore, a request for a NSR based on the annual anniversary month, February, was due to the Department by February 29, 2008. *See* 19 CFR 351.214(d)(1).