A-570-836
CCR (Salvi Chemical Industries Limited)
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February 2, 2018

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Senior Director
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the Antidumping Duty Changed Circumstances Review of Glycine from the People's Republic of China

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I. SUMMARY

The Department of Commerce (Commerce) finds that, based upon the record of the changed circumstances review (CCR), Salvi Chemical Industries Ltd. (Salvi) has not demonstrated that its sales of glycine are of non-Chinese origin, and therefore, Salvi, along with its importers, are not permitted to participate in a certification process.[1] Thus, glycine produced by Salvi continues to be subject to the Chinese Order on glycine.[2] We recommend that you approve the position described in the "Recommendation" section of this memorandum.

II. BACKGROUND

Commerce issued its *Preliminary Results* on August 7, 2017, in which it preliminarily determined that Salvi demonstrated that glycine produced by Salvi is no longer processed from Chinese-origin glycine. Commerce also stated that, should we affirm our preliminary finding in the final results of this CCR, we would notify U.S. Customs and Border Protection and permit Salvi's importers of subject merchandise to take part in the certification process established in the *Circumvention Determination* and Final Scope Ruling (*i.e.*, certify that the glycine being

[1] This determination applies to all importers of glycine produced by Salvi, including Nutracare International (Nutracare).
[2] *See* Antidumping Duty Order: Glycine from the People's Republic of China, 60 FR 16116 (March 29, 1995) (*Order*).

produced and imported is not processed Chinese-origin glycine).[3] On September 11, 2017, GEO Specialty Chemicals, Inc. (GEO), the domestic interested party, timely submitted a case brief.[4] Salvi did not file a case or rebuttal brief. Between August and October 2017, Commerce extended the deadline for the final results of review.[5] Commerce has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the final results of this review is now February 5, 2018.[6]

III. SCOPE OF THE ORDER

The product covered by this antidumping duty 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, reabsorbable amino acid, chemical intermediate, and a metal complexing agent. This proceeding includes glycine of all purity levels. Glycine is currently classified under subheading 2922.49.4020 of the Harmonized Tariff Schedule of the United States (HTSUS).[7] Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.[8]

IV. DISCUSSION OF ISSUES

In 2012, Commerce conducted an anti-circumvention inquiry, where it found that Salvi processed Chinese-origin glycine in India, and that such processing in India does not change country of origin. Accordingly, we determined that Salvi circumvented the *Order* and, therefore,

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[3] *See Glycine from the People's Republic of China: Preliminary Results of Changed Circumstances Review*, 82 FR 37564 (August 11, 2017) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum; *see also* 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) (*Circumvention Determination*) and accompanying Issues and Decision Memorandum for the Final Determination of the Anti-Circumvention Inquiry of the Antidumping Duty Order on Glycine from the People's Republic of China and Memorandum, "Final Scope Ruling Concerning the Antidumping Duty Order on Glycine from the People's Republic of China," dated December 3, 2012 (Final Scope Ruling).

[4] *See* GEO's Case Brief, "Glycine from the Peoples' Republic of China: GEO Specialty Chemicals' Case Brief," dated September 11, 2017 (GEO Case Brief).

[5] *See* Memorandum, "Glycine from the People's Republic of China: Extension of Deadline for Final Results of Changed Circumstances Review," dated August 4, 2017; *see also* Memorandum, "Glycine from the People's Republic of China: Extension of Deadline for Final Results of Chanced Circumstances Review," dated October 31, 2017.

[6] *See* Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days. The new deadline falls on Sunday, February 4, 2018. The next business day is Monday February 5, 2018.

[7] In separate scope rulings, Commerce determined that: (a) D(-) Phenylglycine Ethyl Dane Salt is outside the scope of the order and (b) Chinese-origin glycine exported from India remains the same class or kind of merchandise as the Chinese-origin glycine imported into India. *See Notice of Scope Rulings*, 62 FR 62288 (November 21, 1997) and *Circumvention Determination*, respectively.

[8] *See Order*.

could not take part in the certification process.[9] However, we stated that Salvi could request an administrative review or a CCR to demonstrate that the company is no longer processing and importing Chinese-origin glycine from India. If Commerce were to determine that Salvi is importing glycine produced using raw materials from India, importers of Salvi's product could certify that the glycine being produced and imported is not processed using Chinese-origin glycine.

In the *Preliminary Results* of this CCR, we determined that, since the *Circumvention Determination* and Final Scope Ruling were issued, Salvi demonstrated that the glycine produced by Salvi was no longer processed using Chinese-origin glycine.[10]

We received comments regarding one issue, as discussed below. Upon review of the comments received and based upon our examination of the record evidence, we find that Salvi has not demonstrated conclusively that the sales of glycine reported by Salvi are of non-Chinese origin glycine. Accordingly, we find that Salvi, along with its importers, should not be permitted to participate in the certification program.

Comment 1: Whether Salvi is Producing Glycine from Non-Chinese Origin Raw Materials and May Participate in the Certification Process

GEO's Case Brief:

- GEO argues that there are significant inconsistencies that undercut Commerce's preliminary conclusion that Salvi shipped Indian-origin glycine to the Unites States since the *Circumvention Determination*.[11]
- GEO believes that the glycine Salvi imported to the United States in 2014 and 2015 was Chinese-origin glycine. GEO bases its conclusion in part on one of Salvi's questionnaire responses, where it identified purchases of amino acetic acid from its importer, Nutracare. GEO questions why it would purchase this input from its importer into the United States, rather than another Indian company, and asserts that this was a way for Salvi to continue to purchase and use Chinese-origin raw materials in its glycine production.[12]
- GEO also argues that the production records provided by Salvi, and requested by Commerce, do not tie to Salvi's invoices of imports to the Unites States. GEO contends that the glycine Salvi imported to the United States is not Indian-origin glycine, but is glycine sold by Nutracare (*i.e.*, an affiliated trading company), and believed to be Chinese-origin glycine.[13]

[9] In December 2012, the certification process was established as a result of our anti-circumvention determination and scope inquiry. The certification permitted importers of companies that were not circumventing the *Order* to import glycine into the United States, and not be subject to the China glycine antidumping rate.
[10] *See* Preliminary Decision Memorandum.
[11] *See* GEO's Case Brief at 2-3.
[12] *Id*. at 4-5 (citing to GEO's Letter, "Glycine from the People's Republic of China: GEO's Comments Regarding Salvi's September 26, 2016 Response to the Department's September 9, 2016 Questionnaire," dated October 6, 2016 (GEO's October 6, 2016 Comments).
[13] *Id*. at 6.

- GEO argues that verification in the 2014-2015 administrative review was concluded prior to Salvi placing information on our record regarding its imports to the United States. GEO argues that Commerce did not verify the two imports to the United States that are being reviewed in this CCR, and Commerce should not rely on the verification report to determine whether Salvi is now producing glycine from non-Chinese origin raw materials.[14]
- GEO further argues that it is unlikely that importers of Salvi-origin glycine will comply with Commerce's certification process.[15]

No other comments were received from interested parties.

Commerce's Position:
We agree with the petitioner. Salvi requested this CCR to demonstrate that it was producing glycine from non-Chinese origin glycine and should, therefore, be permitted to participate in the certification program established as part of the *Circumvention Determination* and Final Scope Ruling. For the reasons stated below, we have reconsidered our *Preliminary Results* and find that Salvi has not demonstrated that the glycine it reported as being the most recently produced and shipped to the United States is non-Chinese origin glycine and, therefore, that Salvi and its importers, including Nutracare, are not eligible to participate in the certification program.

Prior to initiating the CCR, Commerce issued a questionnaire to Salvi requesting that Salvi provide supporting documentation (*e.g.*, production records, inventory records, certificates of analyses, sales records, invoices, Salvi's purchase register, and "Central Excise Register" records) for a recent time period (*i.e.*, 2015-2016) to substantiate Salvi's claim that its purchases of inputs necessary to produce glycine are sourced from Indian manufacturers.[16] If Salvi was unable to provide documentation for 2015-2016, we requested that Salvi provide available documentation for the most recent years, and explain why it has not produced glycine in recent years. In response to this questionnaire, Salvi provided production records, sales invoices, and other supporting documentation for its two imports of glycine to the United States in 2014.[17] GEO filed comments regarding Salvi's submission, raising issue with the batch number on the batch manufacturing records and the sales invoices, and the fact that Salvi purchased amino acetic acid, *i.e.*, glycine, from Nutracare, a non-producing trading company.[18] GEO claimed that the batch number on the batch manufacturing records do not match those batch numbers on the sales invoices and, as a result, GEO argued that Commerce should deny the CCR request.[19] Commerce, however, determined that Salvi had submitted a sufficient request and initiated the CCR.[20]

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[14] *Id*. at 2-4.
[15] *Id*. at 6-7.
[16] *See* Commerce's Letter re: First Supplemental Questionnaire for Salvi, dated September 9, 2016 (First Supplemental Questionnaire).
[17] *See* Salvi's Letter, "Glycine from the People's Republic of China: Changed Circumstances Review Response," dated September 26, 2016 (Salvi Questionnaire Response) at 2, Attachments 9 and 10.
[18] *See* GEO's October 6, 2016 Comments at 4-6.
[19] *Id*.
[20] See Glycine from the People's Republic of China: Initiation of Antidumping Duty Changed Circumstances Review, 81 FR 81064 (November 17, 2016).

Prior to the *Preliminary Results*, Salvi placed the verification report for Salvi from the 2014-2015 administrative review on the record.[21] Salvi placed this information on the record to demonstrate that glycine manufactured by Salvi in 2013, and imported by Nutracare to the United States during the 2014-2015 administrative review, as well as glycine manufactured by Salvi in India in 2016, was manufactured by Salvi using non-Chinese-origin glycine.[22] GEO objected to Salvi's claim that the verification report supports Salvi's alleged changed circumstances and argued that there have been no changes to Salvi's production capabilities since the *Circumvention Determination*.[23] For the *Preliminary Results*, the Department disagreed with GEO and preliminarily determined that Salvi was no longer processing Chinese-origin glycine and would be permitted, along with its importers, including Nutracare, to participate in the certification program.[24] Commerce relied on supporting documentation gathered during this CCR proceeding and on the verification reports for both Salvi and Nutracare in the 2014-2015 administrative review.[25] We preliminarily found that the supporting documentation showed that Salvi used only raw materials sourced from India for its production of glycine, and based on the verification report, Commerce found that the glycine imported to the United States was produced entirely by Salvi from raw materials sourced from India.[26]

Subsequent to the *Preliminary Results*, GEO filed its administrative case brief and argued that there are significant inconsistencies that do not support the conclusion that Salvi shipped Indian-origin glycine to the Unites States since the *Circumvention Determination* and Final Scope Ruling. Specifically, GEO noted that the batch numbers on the production records and invoices did not match, that Salvi purchased amino acetic acid (*i.e.*, glycine) from Nutracare, which GEO believed was Chinese in origin, and that Commerce should not rely on the 2014-2015 verification report, because it was concluded prior to Salvi placing information on our record about its imports to the United States.[27] Upon review of GEO's case brief, Commerce has reconsidered the evidence on the record, including the production records and invoices, the purchase register and analytical report, and the verification report from the 2014/2015 administrative review for these final results.[28]

As noted above, in response to Commerce's questionnaire, Salvi provided production records, sales invoices, and other supporting documentation for its two imports of glycine to the United

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[21] *See* Salvi's Letter, "Glycine from the People's Republic of China: Changed Circumstances Review; Placing Information from the 2014-2015 Administrative Review on the Administrative Record," dated October 20, 2016 (Salvi's October 20, 2016 Letter).
[22] *Id*. at 2.
[23] *See* GEO's Letter, "Glycine from the People's Republic of China: GEO's Comments Regarding Salvi's October 20, 2016 Placement of Information from the 2014-2015 Administrative Review on the Record," dated October 27, 2016 at 2-4.
[24] *See Preliminary Results* and accompanying Preliminary Decision Memorandum at 4.
[25] *See* Salvi's October 20, 2016 Letter.
[26] *See* 2014/2015 *Final Results* at 10; *see also* Memorandum, "Verification of the Questionnaire Responses of Salvi Chemical Industries Ltd. in the Antidumping Duty Review of Glycine from the People's Republic of China," dated August 19, 2016 (Verification Report).
[27] *See* GEO's Case Brief at 2-6.
[28] *See* Salvi's Questionnaire Response at Attachment 6, 7, 9, and 10; *see also* Verification Report.

States.[29] In its narrative response, Salvi claimed that these documents included batch manufacturing records and sales invoices that tied the production documents to the two imports of glycine to the United States.[30] However, in reviewing GEO's arguments in its administrative case brief, we agree with GEO that the batch number on the batch manufacturing records do not match those batch numbers on the sales invoices.[31] Without the correct batch manufacturing record, Salvi has not demonstrated that the glycine it sold was produced from non-Chinese raw materials because the batch numbers are the only way to tie the production of glycine using non-Chinese origin glycine to the invoices of glycine sold by Salvi. Salvi did not submit an affirmative case or rebuttal brief and otherwise did not provide an explanation that would explain this discrepancy, which would aid Commerce in its analysis.[32]

Additionally, for the *Preliminary Results*, Commerce relied, in part, on the verification report from the 2014-2015 administrative review that indicated that in August 2016, Salvi was producing glycine from non-Chinese origin glycine.[33] Although the verification report from the prior administrative review and the above-referenced production documentation were submitted prior to the *Preliminary Results*, considering GEO's arguments in its administrative case brief, we have reconsidered this record information for these final results. Notably, the verification report preceded Salvi's submission on this record of the two imports of glycine to the United States that it claims are of non-Chinese origin and, as such, did not include verification of these two imports. As a result, the verification report cannot overcome the above inconsistency. Rather, we agree with GEO that we should not rely on the verification report to determine whether Salvi is producing glycine from non-Chinese origin raw materials at this time, because the verification report does not address the two imports Salvi used in its effort to demonstrate that it produces glycine from non-Chinese origin raw materials.[34]

Furthermore, as noted above, record evidence demonstrates that Salvi purchased amino acetic acid, *i.e.*, glycine, from Nutracare.[35] In the *Circumvention Determination*, domestic interested parties claimed that Salvi had used importers, suppliers, and importers as shields to avoid disclosing that Salvi has continued to circumvent the *Order* through new entities.[36] Nutracare is a known affiliate of Salvi that has previously imported Chinese-origin glycine.[37] The fact that Salvi purchased amino acidic acid from Nutracare raises concerns as to whether Salvi continues to process Chinese-origin glycine into a purer grade of glycine in India. As noted above, Commerce found in the Final Scope Ruling that Salvi's purer grade glycine, though processed in India, was within the scope of the *Order* because it was processed using Chinese-origin glycine.[38] Salvi had the opportunity to file rebuttal comments to explain these discrepancies, however, it failed to do so.

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[29] *See* Salvi's Questionnaire Response at 2.
[30] *Id*.
[31] *Id*.
[32] *Id.*
[33] *See* Verification Report at 10.
[34] *See* GEO's Case Brief at 2-4.
[35] *Id*., at Attachments 6-7.
[36] *See Circumvention Determination* and accompanying Issues and Decision Memorandum at 4.
[37] *Id*. at 3-5.
[38] *See* Final Scope Ruling.

For Salvi and its importers, including Nutracare, to qualify to participate in the certification process established in the *Circumvention Determination* and Final Scope Ruling, Commerce must determine that Salvi has demonstrated that it is no longer processing Chinese-origin glycine and, instead, is importing glycine produced from non-Chinese raw materials.[39] While there is evidence that Salvi purchased Indian-origin raw material inputs prior to this CCR, Salvi failed to demonstrate that the two imports of glycine to the United States that it reported as subject to this review were, in fact, produced by Salvi from non-Chinese origin raw materials.

V. RECOMMENDATION

Based upon the record of the changed circumstances review, we recommend finding that Salvi has not demonstrated that the sales of glycine by Salvi are of non-Chinese origin glycine. Accordingly, we recommend that Salvi, along with its importers, not be permitted to participate in the certification program and glycine produced by Salvi continue to be subject to the *Order*.

☒	☐
Agree	Disagree

2/2/2018

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Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

[39] *Id*.