

Avenue, NW., Washington, DC 20230; telephone: (202) 482-0180 and (202) 482-4477, respectively.

SUPPLEMENTARY INFORMATION:

Background

We initiated an antidumping investigation on glycine from India. See *Glycine from India, Japan, and the Republic of Korea: Initiation of Antidumping Duty Investigations*, 72 FR 20816 (April 26, 2007). On October 26, 2007, we issued our preliminary determination of sales at less than fair value (not yet published). We stated in our October 26, 2007, preliminary determination that we used total facts available, including an adverse inference, for one firm, Nutracare International/Salvi Chemical Industries (Salvi), which did not respond to our quantity and value (Q&V) questionnaire and, therefore, withheld requested information and significantly impeded this proceeding pursuant to section 776(a) of the Act. We stated further that, because it did not cooperate by not acting to the best of its ability, in reaching our preliminary determination we applied total adverse facts available to Salvi pursuant to section 776(b) of the Act.

There were nine firms in addition to Salvi which did not respond to our Q&V questionnaire and, to clarify our inadvertent error of omission of these firms, we are amending our preliminary determination. The firms which failed to respond to our request for information and for which we are applying adverse facts available in accordance with sections 776(a) and 776(b) of the Act are as follows: Abhiyan Media Pvt. Ltd., Ashok Alco-Chem, Ltd., Bimal Pharma, Pvt., Ltd., Euro Asian Industrial Co., EPIC Enzymes Pharmaceuticals & Industrial, Indian Chemical Industries, Kumar Industries, Sisco Research Laboratories Pvt. Ltd, and Sealink International, Inc.

Amended Preliminary Determination

We preliminarily determine that the following weighted-average dumping margins exist for the period January 1, 2006, through December 31, 2006:

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-845]

Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Glycine From India

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

DATES: *Effective Date:* November 7, 2007.

SUMMARY: The purpose of this amended preliminary determination is to clarify an inadvertent error in the preliminary determination we issued on October 26, 2007, that imports of glycine from India are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act).

FOR FURTHER INFORMATION CONTACT: George Callen or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution

Manufacturer/exporter	Weighted-average margin (percent)
Paras Intermediates Ltd.	0.00
Abhiyan Media Pvt. Ltd.	121.62
Advanced Exports/Aico Laboratories	121.62
Ashok Alco-Chem, Ltd.	121.62
Bimal Pharma, Pvt., Ltd.	121.62
Euro Asian Industrial Co.	121.62
EPIC Enzymes Pharmaceuticals & Industrial	121.62
Indian Chemical Industries	121.62
Kumar Industries	121.62

Manufacturer/exporter	Weighted-average margin (percent)
Nutraceutical International/Salvi Chemical Industries	121.62
Sisco Research Laboratories Pvt. Ltd.	121.62
Sealink International, Inc.	121.62
All Others	45.82

Suspension of Liquidation

In accordance with section 733(d) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of glycine from India that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margin, as indicated in the chart above, as follows: (1) The rates for the mandatory respondents except Paras will be the rates we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 45.82 percent. These suspension-of-liquidation instructions will remain in effect until further notice.

In accordance with 19 CFR 351.204(e)(2), because the weighted-average margin for Paras is zero, we will not instruct CBP to suspend liquidation of merchandise produced and exported by Paras.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our amended preliminary determination of sales at less than fair value. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threatening material injury to, the U.S. industry. The deadline for the ITC's determination would be the later of 120 days after the date of the preliminary determination or 45 days after the date of our final determination.

Public Comment

Interested parties are invited to comment on the amended preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the final verification report in this proceeding. Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the

deadline for the submission of case briefs. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide us with a copy of the public version of such briefs on diskette.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing normally will be held two 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. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. We will make our final determination within 75 days after the date of the preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: November 1, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7-21872 Filed 11-6-07; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-845]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Glycine From India

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

DATES: *Effective Dates:* November 7, 2007.

SUMMARY: We preliminarily determine that imports of glycine from India are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act).

Interested parties are invited to comment on this preliminary determination. We will make our final determination within 75 days after the date of this preliminary determination.

FOR FURTHER INFORMATION CONTACT: George Callen or Kristin Case, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0180 and (202) 482-3174, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 26, 2007, the Department of Commerce (the Department) published in the **Federal Register** the initiation of an antidumping investigation on glycine from India. See *Glycine from India, Japan, and the Republic of Korea: Initiation of Antidumping Duty Investigations*, 72 FR 20816 (April 26, 2007) (*Initiation Notice*). The Department set aside a period for all interested parties to raise issues regarding product coverage. See *Initiation Notice*, 72 FR at 20817. We did not receive comments regarding product coverage from any interested party.

On May 17, 2007, we issued the quantity-and-value (Q&V) questionnaire to all companies identified in the petition. In addition, we issued the Q&V questionnaire to companies in India for which we obtained public information indicating that the companies produced and/or exported glycine or pharmaceuticals. See the June 22, 2007, Memorandum to the File entitled "Issuance of Quantity and Value Questionnaires to Potential Indian Respondents." We received responses from seven companies. Based on an analysis of U.S. Customs and Border Protection (CBP) import statistics of Indian glycine under the Harmonized Tariff Schedule of the United States (HTSUS) number 2922.49.4020,

Advanced Exports/Aico Laboratories (AICO), Nutracare International/Salvi Chemical Industries (Salvi), and Paras Intermediates (Paras) account for more than 75 percent of imports. AICO and Paras responded to our Q&V questionnaire; Salvi did not respond. We selected AICO and Paras as mandatory respondents.

On May 25, 2007, the International Trade Commission (ITC) published its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of glycine from India. See *Glycine from India, Japan, and Korea*, 72 FR 29352 (May 25, 2007).

Period of Investigation

The period of investigation is January 1, 2006, through December 31, 2006.

Scope of Investigation

The merchandise covered by this investigation is glycine, which in its solid, *i.e.*, crystallized, form is a free-flowing crystalline material. Glycine is used as a sweetener/taste enhancer, buffering agent, reabsorbable amino acid, chemical intermediate, metal complexing agent, dietary supplement, and is used in certain pharmaceuticals. The scope of this investigation covers glycine in any form and purity level. Although glycine blended with other materials is not covered by the scope of this investigation, glycine to which relatively small quantities of other materials have been added is covered by the scope. Glycine's chemical composition is C₂H₅NO₂ and is normally classified under subheading 2922.49.4020 of the HTSUS.

The scope of this investigation also covers precursors of dried crystalline glycine, including, but not limited to, glycine slurry, *i.e.*, glycine in a non-crystallized form, and sodium glycinate. Glycine slurry is classified under the same HTSUS subheading as crystallized glycine (2922.49.4020) and sodium glycinate is classified under subheading HTSUS 2922.49.8000.

While HTSUS subheadings are provided for convenience and CBP purposes, our written description of the scope of this investigation is dispositive.

Issuance of Questionnaire

On June 26, 2007, we issued sections A, B, C, D, and E¹ of the antidumping

¹ Section A of the antidumping duty questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all of the company's home-

questionnaire to AICO and Paras. Although we received timely responses from Paras, we did not receive timely responses from AICO, as described in detail below, despite granting several extensions of the applicable deadlines.

Use of Facts Otherwise Available

For the reasons discussed below, we determine that the use of facts otherwise available with an adverse inference is appropriate for the preliminary determination with respect to Salvi and AICO.

A. Use of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information and in the form or manner requested, subject to sections 782(c)(1) and (e) of the Act, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in section 782(i) of the Act, the administering authority shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Act provides that, if the administering authority determines that a response to a request for information does not comply with the request, the administering authority shall promptly inform the responding party and provide an opportunity to remedy the deficient submission. Section 782(e) of the Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (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; and (5) the information can be used without undue difficulties.

Salvi—Salvi did not respond to our Q&V questionnaire and, therefore, did not provide any information necessary to calculate an antidumping margin for the preliminary determination. On June 1, 2007, we sent Salvi a follow-up letter

market sales of the foreign like product or, if the home market is not viable, of sales of the foreign like product in the most appropriate third-country market. Section C requests a complete listing of the company's U.S. sales of subject merchandise. Section D requests information about the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E requests information on further-manufacturing activities.

informing it that failure to respond might result in the application of facts available, including an adverse inference, in accordance with section 776 of the Act and pursuant to 19 CFR 351.308. Salvi still did not respond to our Q&V questionnaire and, thus, withheld requested information and significantly impeded this proceeding. Pursuant to section 776(a) of the Act, in reaching our preliminary determination, we have used total facts available for Salvi because it did not provide the data we needed to decide whether it should be selected as a mandatory respondent.

AICO—In this case, AICO did not provide pertinent information we requested that is necessary to calculate an antidumping margin for the preliminary determination. The following is a summary of our attempts to receive a complete response from AICO. On April 19, 2007, we initiated the less-than-fair value (LTFV) investigation of glycine from India. In that initiation, we also initiated an investigation of sales at prices below the cost of production in the comparison market. The statutory date of the preliminary determination at this time was September 6, 2007. On June 26, 2007, we issued our standard questionnaire. The section A response was due on July 16, 2007, 21 days from the issuance of the questionnaire, and the section B, C, and D responses were due on August 2, 2007, 39 days from the issuance of the questionnaire.

On July 10, 2007, AICO requested an extension of 45–60 days to submit its section A response. We granted AICO an additional 14 days, and the revised due date for its section A response was July 30, 2007. Four days after the extended deadline for its section A response and one day after the due date for AICO's sections B, C, and D responses, on August 3, 2007, we received from AICO an incomplete, two-page section A response and a request for a "4–5 week" extension of the deadline to submit section B, C, and D responses. We granted AICO a two-week extension until August 16, 2007, for its sections B, C, and D responses and also requested that it file a complete section A response at the same time it submitted its section B, C, and D responses.

On August 16, 2007, we received AICO's revised section A response and a request from AICO for a one-month extension for the submission of its section B, C, and D responses. We gave AICO a two-week extension for its section B, C, and D responses until August 30, 2007. On September 5, 2007, six days after the deadline, we received AICO's section B and C responses and a request for a two-week extension for

its submission of its section D response, *i.e.*, until September 15, 2007.

On September 14, 2007, we informed AICO that, despite the fact that we had given it several extensions and a total of 66 days to respond to our original questionnaire, we had received AICO's section B and C responses six days after the due date. We also informed it that we had received its request for an additional extension of time to respond to section D of our questionnaire six days after the already-extended due date for the section D response. We declined to give AICO any further extensions and returned its sections B and C responses as untimely.

AICO did not file its sections B and C responses in a timely matter despite having been granted multiple extensions of time. Therefore, AICO failed to provide information requested by the established deadlines. See section 776(a)(2)(B) of the Act. Also, AICO did not respond at all to section D of our questionnaire, thereby withholding, among other things, cost-of-production information that is necessary for reaching the applicable determination. See section 776(a)(2)(A) of the Act. In granting extensions, we informed AICO repeatedly that, if we did not receive submissions by the stated deadline, we may reject the submission and use facts available in the preliminary determination.

By not providing its submissions by the applicable deadlines, AICO did not provide information we need to calculate an antidumping margin for the preliminary determination. Thus, in reaching our preliminary determination, pursuant to sections 776(a)(2)(A) and (B) of the Act, we have based the dumping margin on facts otherwise available for AICO.

B. Application of Adverse Inferences for Facts Available

In applying the facts otherwise available, section 776(b) of the Act provides that, if the administering authority finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority, in reaching the applicable determination under this title, the administering authority may use an inference adverse to the interests of that party in selecting from among the facts otherwise available.

Adverse inferences are appropriate "to ensure 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. No.

103-316, vol. 1 (1994) at 870 (SAA). Further, "affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference." See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27340 (May 19, 1997). Pursuant to section 782(d) of the Act, the Department provided Salvi and AICO with notice informing them of the consequences of their failure to respond adequately to the Department's request for information. Nevertheless, Salvi did not respond to the Q&V questionnaire and AICO did not respond adequately, completely, or in a timely manner to the standard questionnaire. This constitutes a failure on the part of Salvi and AICO to cooperate to the best of their ability to comply with requests for information by the Department within the meaning of section 776(b) of the Act. Because Salvi and AICO did not provide information we requested, section 782(e) of the Act is not applicable. Based on the above, the Department has preliminarily determined that Salvi and AICO failed to cooperate to the best of their ability and, therefore, in selecting from among the facts otherwise available, an adverse inference is warranted. See, *e.g.*, *Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000).

C. Selection and Corroboration of Information Used as Facts Available

Where the Department applies adverse facts available because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. See also 19 CFR 351.308(c) and the SAA at 870. In this case, because we are unable to calculate a margin for Salvi and AICO and because an adverse inference is warranted, we have assigned to Salvi and AICO a margin of 121.62 percent, the highest margin alleged in the petition. See *Petition for the Imposition of Antidumping Duties on Imports of Glycine from India, Japan, and the Republic of Korea* dated March 30, 2007 (*Petition*), and the supplements to the *Petition* filed on behalf of Geo Specialty Chemicals, Inc. (the petitioner), and dated April 3, 12, 13, 17, and 18, 2007, as recalculated in the April 19, 2007, "Office of AD/CVD Operations Initiation Checklist for the Antidumping Duty Petition on Glycine from the India

"(*Initiation Checklist*) on file in Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

When using facts otherwise available, section 776(c) of the Act provides that, when the Department relies on secondary information (such as information contained in the petition) rather than on information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably available at its disposal.

The SAA clarifies that "corroborate" means the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. As stated 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; 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)), to corroborate secondary information, the Department will examine, to the extent practicable, the reliability and relevance of the information used. The Department's regulations state 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. See 19 CFR 351.308(d) and the SAA at 870.

For the purposes of this investigation, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the *Petition* during our pre-initiation analysis and for purposes of this preliminary determination. See *Initiation Checklist*. We examined evidence supporting the calculations in the *Petition* to determine the probative value of the margins alleged in the *Petition* for use as adverse facts available for purposes of this preliminary determination. During our pre-initiation analysis, we examined the key elements of the export-price and

normal-value calculations used in the *Petition* to derive margins. Also, during our pre-initiation analysis, we examined information from various independent sources provided either in the *Petition* or, based on our requests, in supplements to the *Petition*, that corroborates key elements of the export-price and normal-value calculations used in the *Petition* to derive estimated margins.

The petitioner calculated export prices using lost sales reports from sales staff. See the *Petition* at 27–29. The Petitioner adjusted U.S. prices for foreign inland freight, international freight, U.S. inland freight, distributor mark-up, and credit charges using publicly available data. See *Petition* at Exhibits 1–4 and 6. The petitioner arrived at adjusted, per pound, U.S. dollar figures per pound for technical grade glycine, food grade glycine, and pharmaceutical grade glycine, the same unit and currency on which normal value was calculated. See Volume I of the *Petition* at pages 27–29, Volume II of the *Petition* at DOC Exhibits 1–7, the April 12, 2007, supplement to the *Petition*, at Exhibit A, and the April 13, 2007, supplement to the *Petition*, at Exhibit L.

Based on our review of the information contained in the *Petition*, we recalculated net export prices (based on price quotes) by excluding an adjustment to export price for U.S. credit expenses. Because the petitioner did not provide supporting documentation for its home-market interest rate, we did not make an adjustment to normal value for home-market credit expenses. We also recalculated the net export prices based on price quotes by revising the reported value associated with a distributor's mark-up. See Volume II of the *Petition*, at Exhibits DOC–1, DOC–27 through DOC–29, and the April 13, 2007, supplement to the *Petition*, at Exhibits L, M, and N. In addition, we recalculated the distributor's mark-up value using a reseller's average mark-up percentage based on the industry practice of glycine sales in the United States. See *Initiation Checklist*, Attachment VI. Based on our examination of the aforementioned information, we consider the petitioner's calculation of net U.S. prices corroborated.

With respect to normal value, the petitioner stated that, because it does not sell glycine in the Indian market, it does not have specific knowledge of how glycine is sold, marketed, or packaged in the Indian market. Therefore, the petitioner determined the price of glycine sold in the Indian

market and the cost of production (COP) based on market research of Indian manufactures of glycine. The petitioner was able to determine domestic Indian prices based on price quotes, obtained by a market researcher, from two Indian manufacturers of glycine. See the Memorandum to the File entitled "Telephone Call to Market Research Firm Regarding the Antidumping Petition on Glycine from India," dated April 19, 2007. These price quotations identified specific terms of sale and payment terms. See Volume II of the *Petition*, at Exhibits DOC–17, DOC–18, DOC–22, and DOC–23. These per pound price quotes were for technical grade glycine, USP grade glycine (food grade), and pharmaceutical grade glycine.

Based on our review of the information contained in the *Petition*, we recalculated normal value for Indian glycine (when based on price quotations) by excluding the adjustment for home-market and U.S. credit expenses. See *Initiation Checklist*.

Based on the petitioner's initial cost model, all of the domestic Indian prices of glycine were found to be above cost, and, therefore, there was no allegation of sales at prices below COP. See, e.g., Volume I of the *Petition*, at page 33, Volume II of the *Petition*, at Exhibits DOC–17—DOC–20, and the April 13, 2007, supplement to the *Petition*, at pages 2–3 and Exhibits B, F, and I, and the discussion of export price above. In its April 13, 2007, supplement to the *Petition*, in response to questions by the Department regarding cost methodology, however, the petitioner revised its cost-calculation methodology and calculated Indian COP based on publicly available cost information. Based on the new cost methodology, the petitioner recalculated the cost of USP grade glycine and this resulted in the Indian market prices of USP grade glycine being significantly below the COP for that specific product. The petitioner alleged that these sales in the Indian market did not form an adequate basis for comparison to the U.S. prices and that normal value in those instances should be based on the constructed value of the merchandise. See the April 13, 2007, supplement to the *Petition*, at 5 and Exhibit I, and Volume II of the *Petition*, at Exhibits DOC–17 and DOC–18.

Further, because this methodology provided information demonstrating reasonable grounds to believe or suspect that sales of glycine in India were made at prices below the fully absorbed COP within the meaning of section 773(b) of the Act, the petitioner requested that the Department conduct a cost investigation for respondents in India. See the April 13, 2007, supplement to the *Petition*, at

5, Exhibit I, and Volume II of the *Petition* at Exhibits DOC–17 and DOC–18.

Further, section 773(b)(1) of the Act requires that the Department have "reasonable grounds to believe or suspect" that below-cost sales have occurred before initiating such an investigation. Reasonable grounds exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices. See section 773(b)(2)(A) of the Act.

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM), selling, general, and administrative (SG&A) expenses, and packing expenses. To calculate the COM, the petitioner multiplied the usage quantity of each input needed to produce one metric ton (MT) of glycine by the value of that input. The petitioner obtained all of the quantity and value data it used to calculate the COM from public sources. The petitioner obtained the input-usage factors from the public record of the 1997–1998 administrative review of glycine from the People's Republic of China (PRC). See *Initiation Notice*, 72 FR 20819. The petitioner asserted that the producer in the PRC 1997–1998 review produced glycine by the same production method that producers in India use. The petitioner obtained the values for the inputs from various public sources. The petitioner calculated factory overhead, SG&A, and the financial-expense ratios based on the Indian surrogate ratios that the Department used in the preliminary results of the 2005–2006 administrative review of the antidumping duty order on glycine from the PRC. Where the Department used constructed value to determine normal value in that review, the petitioner added an amount for profit from the same financial statements the Department used.

We adjusted petitioner's calculation of SG&A expenses to apply the SG&A rate to COM inclusive of factory overhead. We did not include a separate financial-expense amount as the petitioner did because the SG&A ratio already included financial expense. See the *Initiation Checklist* for a full description of the petitioner's methodology and the adjustments the Department made to the petitioner's calculations.

Because it alleged sales below cost, pursuant to sections 773(a)(4), (b) and (e) of the Act, the petitioner also based normal value for Indian sales of a certain grade glycine on constructed

value. The petitioner calculated constructed value using the same COM, SG&A, and financial-expense figures it used to compute the COP. Consistent with section 773(e)(2) of the Act, the petitioner included an amount for profit in constructed value. See the April 13, 2007, supplement to the *Petition*, pages 1–5, Exhibit I.

The petitioner obtained the values for the inputs from various public sources. Specifically, the petitioner valued raw materials using import statistics in the World Trade Atlas for the year 2006, exclusive of imports from non-market and heavily subsidized economies, which is the latest Indian import data available. See *Initiation Checklist* at 9. The petitioner valued labor costs using the average per-hour wages for India for 2004 using the International Labour Organization's Yearbook of Labour Statistics and per-capita gross national income obtained from the World Bank. The petitioner did not adjust the labor data for wage inflation. See *Initiation Checklist* at 10. The petitioner valued electricity and water consumption using data from page 43 of the Key World Energy Statistics 2003, published by the International Energy Agency, which were attached to the 2005–2006 *Preliminary Results of Antidumping Duty Administrative Review and Preliminary Rescission of Glycine from the People's Republic of China, Surrogate Value Memo*, at Exhibit 6, dated April 2, 2007. The petitioner did not adjust the electricity data for inflation. See *Initiation Checklist* at 10.

Because the petitioner demonstrated, and we confirmed, the validity of the input-usage quantities it used in its COP/constructed-value build-up, used public sources of information, such as official import statistics, that we confirmed were accurate to value inputs of production, and used documents that were used in the Department's prior decisions and that we consider to be accurate to compute factory overhead, SG&A, financial expense, and profit, we consider the petitioner's calculation of normal value corroborated. Further, we consider the petitioner's calculation of normal value corroborated because the bulk of the calculations relied on publicly available information or import statistics which do not require further corroboration. Therefore, because we confirmed the accuracy and validity of the information underlying the derivation of margins in the *Petition* by examining source documents as well as publically available information, we preliminarily determine that the margins in the *Petition* are reliable for the purposes of this investigation.

In making a determination as to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. 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. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin as "best information available" (the predecessor to "facts available") because the margin was based on another company's uncharacteristic business expense that resulted in an unusually high dumping margin.

In *Am. Silicon Techs. v. United States*, 273 F. Supp. 2d 1342, 1346 (CIT 2003), the court found that the adverse facts-available rate bore a "rational relationship" to the respondent's "commercial practices" and was, therefore, relevant. In the pre-initiation stage of this investigation, we confirmed that the calculation of margins in the *Petition* reflects commercial practices of the particular industry during the period of investigation. Further, no information has been presented in the investigation that calls into question the relevance of this information. As such, we preliminarily determine that the highest margin in the *Petition*, which we determined during our pre-initiation analysis was based on adequate and accurate information and which we have corroborated for purposes of this preliminary determination, is relevant as the adverse facts-available rate for Salvi and AICO in this investigation.

Similar to our position in *Polyethylene Retail Carrier Bags from Thailand: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53405 (September 11, 2006) (unchanged in *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review*, 72 FR 1982 (January 17, 2007)), because this is the first proceeding involving Salvi and AICO, there are no probative alternatives. Accordingly, by using information that was corroborated in the pre-initiation stage of this investigation and preliminarily determined to be relevant to Salvi and AICO in this investigation, we have corroborated the adverse facts-available rate "to the extent practicable." See section 776(c) of the Act, 19 CFR 351.308(d), and *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1336 (CIT 2004), which states,

"pursuant to the 'to the extent practicable' language * * * the corroboration requirement itself is not mandatory when not feasible." Therefore, we find that the estimated margin of 121.62 percent in the *Initiation Notice* has probative value. Consequently, in selecting a rate to apply as adverse facts available, with respect to Salvi and AICO, we have applied the margin rate of 121.62 percent, the highest estimated dumping margin set forth in the notice of initiation. See *Initiation Notice*, 72 FR 20820.

Fair-Value Comparison

Paras was the sole selected respondent which provided timely responses to all sections of our questionnaire and supplemental questionnaires. We have calculated a margin for Paras using the information and methodology we describe below.

Comparison-Market Sales

In order to determine whether there was a sufficient volume of sales of glycine in the comparison market to serve as a viable basis for calculating the normal value, we compared the volume of Paras's home-market sales of the foreign like product to its volume of the U.S. sales of the subject merchandise in accordance with section 773(a)(1) of the Act. Paras's quantity of sales in the home market was greater than five percent of its sales to the U.S. market. Based on this comparison of the aggregate quantities of the sales in comparison market (India) and the United States and absent any information that a particular market situation in the exporting country did not permit a proper comparison, we determined that the quantity of the foreign like product sold by the respondent in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a)(1) of the Act. Thus, we determined that Paras's home market was viable during the period of investigation. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based normal value for the respondent on the prices at which the foreign like product was first sold for consumption in the exporting country in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the U.S. sales.

Export Price

We calculated export price in accordance with section 772(a) of the Act because Paras sold the merchandise

to unaffiliated purchasers in the United States prior to importation. We based export price on the packed, delivered, duty-unpaid price to the unaffiliated purchasers in the United States. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. We added duty drawback to the gross unit price. See section 772(c)(1)(B) of the Act.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products covered by the scope of the order which were produced and sold by Paras in the home market during the period of investigation to be foreign like products for the purpose of determining appropriate product comparisons to glycine sold in the United States. We compared U.S. sales to sales made in the comparison market during the period of investigation.

We found there were sales of identical merchandise in the comparison market made in the ordinary course of trade to compare to Paras's U.S. sales. In making product comparisons, we defined identical foreign like products based on the physical characteristics reported by Paras in the following order of importance: type, grade, specification, and nominal grade. For more information, see "Analysis Memorandum of Paras Intermediates, Pvt. Ltd., for the Preliminary Determination of the Less-Than-Fair-Value Investigation on Glycine from India" dated October 26, 2007 (*Prelim Memo*).

Cost of Production

Based on allegations contained in the petition and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that glycine sales were made in India at prices below the COP. See *Initiation Notice*, 72 FR at 20818. As a result, the Department has conducted an investigation to determine whether Paras made home-market sales at prices below its COP during the period of investigation within the meaning of section 773(b) of the Act. For Paras, we conducted the COP analysis as described below. We were unable to conduct a cost investigation of Salve and AICO because of their failure to respond to our questionnaire in a timely manner.

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the costs of materials and labor employed in producing the foreign like product, the SG&A expenses, and all costs and expenses incidental to

packing the merchandise. In our COP analysis, we used the home-market sales and COP information Paras provided in its questionnaire responses, including its home-market and COP databases. The Department issued a detailed supplemental section D questionnaire on October 9, 2007, to Paras to address various questions and fundamental issues, including transactions with affiliated parties and further processing of imported materials, after reviewing the original section D response dated August 27, 2007. The due date for the response to the supplemental questionnaire is October 30, 2007, which is later than the statutory deadline for this preliminary determination. Upon receipt of a response from Paras, we will analyze these issues, provide a memorandum discussing the results of our analysis to the respondents and the petitioner, and allow the parties to comment prior to the final determination.

After calculating the COP and in accordance with section 773(b)(1) of the Act, we tested home-market sales of the foreign like product to determine whether they were made at prices below the COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. The home-market prices were exclusive of any applicable movement charges, billing adjustments, discounts, and indirect selling expenses. Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of Paras's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in substantial quantities within an extended period of time. Where 20 percent or more of Paras's sales of a given product were at prices less than the COP, we disregarded the below-cost sales of that product because we determined that the below-cost sales were made in substantial quantities within an extended period of time, pursuant to sections 773(b)(2)(B) and (C) of the Act and because, based on comparisons of prices to weighted-average COPs for the period of investigation, we determined that these below-cost sales were made at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. See *Prelim Memo*.

Consequently, we disregarded Paras's below-cost sales of products where 20 percent or more of the product were at prices less than the COP and used the remaining sales as the basis for

determining normal value, in accordance with section 773(b)(1) of the Act.

Normal Value

We based normal value for Paras on the prices of the foreign like products sold to its comparison-market customers. When applicable, we made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. In addition, we made adjustments for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. For comparisons to export price, we made circumstance-of-sale adjustments by deducting home-market direct selling expenses incurred on home-market sales from, and adding U.S. direct selling expenses to, normal value.

Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determined normal value based on sales in the home market at the same level of trade as the export-price sales. Pursuant to 19 CFR 351.412(c)(1), the normal-value level of trade is based on the starting price of the sales in the home market or, when normal value is based on constructed value, the starting price of the sales from which we derive SG&A expenses and profit. For export-price sales, the U.S. level of trade is based on the starting price of the sales to the U.S. market.

To determine whether normal-value sales are at a different level of trade than the export-price sales, the Department examines stages in the marketing process and selling functions along the chain of distribution between the producer and the customer. If the comparison-market sales are at a different level of trade than the export-price sales and the difference affects price comparability, as manifested by a pattern of consistent price differences between comparison-market sales at the normal-value level of trade and comparison-market sales at the level of trade of the export transaction, the Department makes a level-of-trade adjustment under section 773(a)(7)(A) of the Act. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732 (November 19, 1997).

In determining whether Paras made sales at different levels of trade, we obtained information from Paras regarding the marketing stages for the reported U.S. and home-market sales,

including a description of the selling activities it performed for each channel of distribution. Generally, if the reported levels of trade are the same, the selling functions and activities of the seller at each level of distribution should be similar. Conversely, if a party reports that levels of trade are different for different groups of sales, the selling functions and activities of the seller for each distribution group should be dissimilar.

Export-Price Sales

Sales Process and Marketing Support

Paras reported export-price sales to the United States through two channels of distribution, end-users and traders. We examined the chain of distribution and the selling activities associated with sales reported by Paras to these two channels of distribution in the United States. Based on Paras's response, we determined that it provided relatively equal levels of support for most sales-process and marketing-support functions. These functions include, among other functions, sales forecasting, advertising, and sales promotion. It provided less training for end-users than it did for traders and slightly less inventory maintenance for end-users.

Paras did not report any billing adjustments, early-payment discounts, quantity discounts, or rebates for its sales to the United States. Based on the limited information we received from Paras, we determine that the degree of sales process and marketing support provided is medium.

Freight and Delivery

Paras provided less freight and delivery for end-users. For traders, Paras may ship, at the trader's request, the order directly to the trader's customers. We determine that the degree of freight and delivery services provided is higher for traders than for end-users.

Warehousing

Paras reported that none of the subject merchandise sold in United States during the period of investigation was shipped to a warehouse or other intermediate location to either channel of distribution.

We found that both distribution channels for sales to the U.S. market were similar with respect to sales process and marketing support but different with respect to freight services. Consequently we find that these channels constituted two distinct levels of trade.

Home-Market Sales

Sales Process and Marketing Support

Paras reported home-market sales during the period of investigation through two channels of distribution, end-users and traders. We examined the chain of distribution and the selling activities associated with sales reported by Paras to these two channels of distribution in the home market. Based on Paras's response, we determine that it provided relatively equal levels of support for most sales-process and marketing-support functions. These functions include, among other functions, sales forecasting, advertising, and sales promotion. It provided less training for end-users than it did for traders, however, as well as less technical assistance and market research for end-users than traders. With respect to inventory maintenance, Paras provided slightly less inventory maintenance for end-users.

Based on the limited information we received from Paras, we determine that the degree of sales process and marketing support provided is medium although it is slightly higher for traders.

Freight and Delivery

Paras provided less freight and delivery for end-users. For traders, Paras may ship, at the trader's request, the order directly to the trader's customers. We determine that the degree of freight and delivery services provided is higher for traders than for end-users.

Warehousing

Paras reported that none of the subject merchandise sold in the home market during the period of investigation was shipped to a warehouse or other intermediate location.

We found that both distribution channels in the home market were similar with respect to sales process and warehousing services but different with respect to freight services. Therefore, we find that these two channels constitute two distinct levels of trade.

Paras reported export-price sales through two channels of distribution. To the extent practicable, we compare normal value at the same level of trade as the U.S. price. The export-price level of trade for end-users is similar to the home-market level of trade for end-users with respect to sales process, freight services, and warehousing services. The export-price level of trade for traders differed from end-users with respect to freight and delivery and warehousing but was similar to the level of trade for home-market traders. We were able to

match all export-price sales to identical sales in the home-market but not always at the same level of trade. For those comparison-market sales for which we matched export-price sales at a different level of trade, we found that there was a pattern of price difference and we made a level-of-trade adjustment.

All-Others Rate

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-averaged dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated. In this case, the only individually investigated companies have margins which are zero or determined entirely under section 776. Under these circumstances, we have assigned, as the all-others rate, the simple average of the margins in the *Petition*. See *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Japan and Thailand*, 65 FR 5520, 5527–28 (February 4, 2000); see also *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Canada*, 64 FR 15457 (March 31, 1999). Consistent with our practice, we calculated a simple average of the rates in the *Petition*, as recalculated in the *Initiation Checklist* at Attachment VI and ranged in the *Initiation Notice*, and assigned this rate to all other manufacturers/exporters. See *Initiation Notice*, 72 FR at 20820. For details of these calculations, see the memorandum from George Callen to the File entitled "Antidumping Duty Investigation on Glycine from India—Analysis Memo for All-Others Rate," dated October 26, 2007.

Currency Conversion

Pursuant to section 773A(a) of the Act, we converted amounts expressed in foreign currencies into U.S. dollar amounts based on the exchange rates in effect on the date of the U.S. sale, as reported by the Federal Reserve Bank.

Preliminary Determination

We preliminarily determine that the following weighted-average dumping margins exist for the period January 1, 2006, through December 31, 2006:

Manufacturer/Exporter	Weighted-average margin (percent)
Paras Intermediates Ltd	0.00
Nutracare International/Salvi Chemical Industries	121.62
Advanced Exports/Aico Laboratories	121.62
All Others	45.82

Suspension of Liquidation

In accordance with section 733(d) of the Act, we will instruct CBP to suspend liquidation of all entries of glycine from India that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margin, as indicated in the chart above, as follows: (1) The rates for the mandatory respondents except Paras (see below) will be the rates we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 45.82 percent. These suspension-of-liquidation instructions will remain in effect until further notice.

In accordance with 19 CFR 351.204(e)(2), because the weighted-average margin for Paras is zero, we will not instruct CBP to suspend liquidation of merchandise produced and exported by Paras.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary determination of sales at less than fair value. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threatening material injury to, the U.S. industry. The deadline for the ITC's determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the final verification report in this proceeding. Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline for the submission of case

briefs. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide us with a copy of the public version of such briefs on diskette. Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing normally will be held two 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. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. We will make our final determination within 75 days after the date of this preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: October 26, 2007.

David M. Spooner,
Assistant Secretary for Import Administration.

[FR Doc. E7-21873 Filed 11-6-07; 8:45 am]

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