UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	**) Investigation Nos.:**
GLYCINE FROM CHINA, INDIA, JAPAN,	**) 701-TA-603-605 AND**
AND THAILAND	**) 731-TA-1413-1415 (FINAL)**

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UNITED STATES OF AMERICA

BEFORE THE

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AND THAILAND	)	731-TA-1413-1415
	)	(FINAL)

Main Hearing Room (Room 101)
U.S. International Trade
Commission
500 E Street, SW
Washington, DC
Tuesday, April 30, 2019

The meeting commenced pursuant to notice at 9:30 a.m., before the Commissioners of the United States International Trade Commission, the Honorable David S. Johanson, Chairman, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Commissioners:

Chairman David S. Johanson (presiding)

Commissioner Irving A. Williamson

Commissioner Meredith M. Broadbent

Commissioner Rhonda K. Schmidtlein

Commissioner Jason E. Kearns

Staff:

William R. Bishop, Supervisory Hearings and Information Officer

Tyrell Burch, Management Analyst

Sharon Bellamy, Records Management Specialist

Celia Feldpausch, Investigator

Elizabeth Nesbitt, International Trade Analyst

Nabil Abbyad, International Economist

Jennifer Brinckhaus, Accountant/Auditor

John Henderson, Attorney/Advisor

Douglas Corkran, Supervisory Investigator

Opening Remarks:

Petitioner (David Schwartz, Thompson Hine LLP)

Respondents (Lizbeth R. Levinson, Fox Rothschild LLP; and Jonathan T. Stoel, Hogan Lovells US LLP)

In Support of the Imposition of Antidumping and Countervailing Duty Orders:

Thompson Hine LLP

Washington, DC

on behalf of

GEO Specialty Chemicals, Inc.

Chattem Chemicals, Inc.

Kenneth Ghazey, President and Chief Executive Officer, GEO Specialty Chemicals, Inc.

Scot Lang, Senior Vice President, Water Treatment Chemicals Division GEO Specialty Chemicals, Inc.

Daniel Hughes, Glycine Business Manager, GEO Specialty Chemicals, Inc.

Jason Allen, Vice President and General Manager, Chattem Chemicals

Daniel Klett, Principal, Capital Trade Inc.

Rebecca Woodings, Economic Consultant

David Schwartz, Michelle Li and William Matthews - Of Counsel

In Opposition to the Imposition of Antidumping and Countervailing Duty Orders:
Hogan Lovells US LLP
Washington, DC
on behalf of
Ajinomoto Co, Inc.
Ajinomoto Health and Nutrition North America, Inc.
Michael Lish, Senior Vice President, Ajinomoto Health and Nutrition North America, Inc.
Jonathan T. Stoel, Warren H. Maruyama, Nicholas R. Sparks - Of Counsel

Hogan Lovells US LLP
Washington, DC
on behalf of
Nestle Purina PetCare Company
Jonathan T. Stoel and Lauren B. Cury - Of Counsel

Fox Rothschild LLP
Washington, DC
on behalf of
Yuki Gosei Kogyo Co., Ltd. ("Yuki Gosei")
Masaru Matsui, President, Yuki Gosei
Masao Matsukawa, Executive Officer and General Manager, Amino Acids Division, Yuki Gosei

APPEARANCES (Continued):

Paul Kreiter, Purchasing Manager, Fujimi Corporation

Masahiro Ariga, Development Section, Specialty Chemicals Department, Nagase & Co., Ltd.

Lizbeth R. Levinson - Of Counsel

Interested Party in Opposition:

Balchem Corporation
New Hampton, NY

Scott Mason, Vice President Manufacturing, Supply Chain

John L. Bedell, Senior Director, Global Supply Chain

Rebuttal/Closing Remarks:

Petitioner (David Schwartz and William Matthews, Thompson Hine LLP)

Respondents (Lizbeth R. Levinson, Fox Rothschild LLP; and Jonathan T. Stoel, Hogan Lovells US LLP)

I N D E X

I N D E X

P R O C E E D I N G S 9:31 a.m.

MR. BISHOP: Will the room please come to order?

CHAIRMAN JOHANSON: Good morning. On behalf of the U.S. International Trade Commission, I welcome you to this hearing regarding Investigation Nos. 701-TA-603 to 605 and 731-TA-1413 to 1415 involving Glycine from China, India, Japan and Thailand.

The purpose of these final investigations is to determine whether an industry in the United States is materially injured or threatened with material injury or the establishment of an industry in the United States is materially retarded by reason of imports of Glycine from China, India, Japan and Thailand.

Schedule setting forth the presentation of this hearing, notices of investigation and transcript order forms are available at the Public Distribution Table. All prepared testimony should be given to the Secretary. Please do not place testimony directly on the Public Distribution Table.

All witnesses must be sworn in by the Secretary before presenting testimony. I understand that parties are aware of the time allocations. Any questions regarding the time allocations should be given directly to the Secretary.

Speakers are reminded not to refer in their remarks or answers to questions to business proprietary

information. Please speak directly and clearly into the microphones and state your name for the record for the benefit of the court reporter.

If you will be submitting documents that contain information you wish classified as business confidential your requests should comply with Commission Rule 201.6. Mr. Secretary, are there any preliminary matters?

MR. BISHOP: Mr. Chairman, I would note that all witnesses for today's hearing have been sworn in. There are no other preliminary matters.

CHAIRMAN JOHANSON: Very well. Let us begin with opening remarks.

MR. BISHOP: Opening remarks on behalf of Petitioner will be given by David Schwartz of Thompson Hine. Mr. Schwartz, you have five minutes.

STATEMENT OF DAVID SCHWARTZ

MR. SCHWARTZ: Good morning Chairman, Commissioners and Staff. I am David Schwartz of Thompson Hine. I represent the Petitioners GEO Specialty Chemicals and Chattem Chemicals. I'm here today with Ken Ghazey, who is President/CEO of GEO Specialty Chemicals, Scot Lang who is Senior Vice President of GEO Specialty Chemicals, Jason Allen who is Vice President and General Manager of Chattem Chemicals and Dan Hughes who is Glycine Business Manager at GEO Specialty Chemicals.

I'm also here with my colleagues from Thompson Hine; Michelle Lee and Bill Matthews and I'm joined by the economic consultants from the U.S. Glycine Industry, Rebecca Woodings and Dan Klett.

We're here today because survival of the U.S. Glycine Industry is at stake. GEO and Chattem represent 100 percent of the Domestic Industry and they really had no choice but Petition the Commission and Commerce for the imposition of trade remedy duties.

Dumped, subsidized and trans-shipped imports from China, India, Japan and Thailand are causing great harm to them. Before these petitions were filed in March 2018, these two companies attempted to combat the onslaught of unfairly traded imports in two vastly different ways.

Chattem sacrificed capacity utilization and its full participation in the technological grade and USP grade segments to focus instead on the pharmaceutical grade Glycine Market. GEO slashed prices for all grades to maintain both high capacity utilization levels and its customer base but suffered significant losses as a result.

In the end, each company determined that its approach to addressing unfairly traded imports was not a viable business model and that the Domestic Industry together had to directly address the problem of unfairly traded imports through these cases.

Now no one disputes that imports are required in the U.S. Market and the Domestic Industry welcomes fairly traded imports. What Chattem and GEO cannot and will not welcome into the U.S. Market however are dumped and subsidized and trans-shipped imports that are driving them out of business.

Ken, Scot, Jason, and Dan will explain the destructive impact of unfairly traded imports on the Domestic Industry. Ken will explain how dumped, subsidized and trans-shipped imports have already adversely impacted the bottom line of GEO's glycine business.

Scot will describe how the U.S. glycine market works and how these imports adversely affect the U.S. Market pricing, taking away sales from GEO and reducing sales revenue. Jason Allen will discuss Chattem's proud history as the oldest U.S. Glycine brand and Chattem's recognition that price is by far the primary factor in U.S. customer purchasing decisions.

Dan Hughes from GEO will provide a first-hand account of glycine sales and negotiations. Rebecca Woodings and Dan Klett will address the economic factors the ITC weighs in determining whether unfairly traded imports from China, India, Japan and Thailand are causing injury or threatening to cause injury to the U.S. glycine industry.

They will show how the data and information on

the record here strongly supported determination that unfairly traded imports from Subject Countries are materially injuring or threatening to materially injure the U.S. glycine industry. The rest of the Thompson Hine Team will be available to answer questions throughout the proceeding. Thank you again.

MR. BISHOP: Thank you, Mr. Schwartz. Opening remarks on behalf of Respondents will be given by Lizbeth R. Levinson of Fox Rothschild and Jonathon T. Stoel of Hogan Lovells. You folks have five minutes.

STATEMENT OF JONATHAN T. STOEL

MR. STOEL: Good morning, Chairman Johanson, Commissioners and Staff. My name is Jonathan Stoel of Hogan Lovells representing Aginomoto, Inc.; Aginomoto Health and Nutrition of North America and Nestle Purina Pet Care Company. It is good to be appearing before you once again.

I'd like to begin by thanking the Commission for its hard work in these investigations. We're all aware that late breaking developments in the Thailand Investigations have caused these proceedings to become far more complex than expected at their outset more than one year ago.

Ms. Levinson will touch upon these complications now and Respondents will address them in greater detail in our direct testimony. In the interim, Respondents respectfully urge the Commission to view Petitioners claims

as a material injury both skeptically and in a historical context.

Put simply, the Domestic Industry seeking relief from the Commission has not been able to satisfy the quantitative or qualitative needs of the many U.S. consumers of glycine. In fact, serious concerns over the reliability of glycine supply have existed for more than a decade as demonstrated in Nestle Purina's posthearing submission to the Commission and the 2007 glycine from India, Japan and Korea investigations. That submission is Exhibit 2 to the company's April 23 prehearing brief.

These same longstanding difficulties remain pervasive in the factual record of the Commission's current investigations. Several major U.S. consumers of glycine are deeply concerned about the potential adverse impacts on U.S. glycine supply as a consequence of the U.S. investigations.

As you listen to the Petitioners' testimony this morning, I urge you to carefully consider the prehearing report's findings, the glycine supply constraints were a major concern in the U.S. Market and that "twenty-six of thirty-nine purchasers reported that a domestic or import supplier had refused, denied or been unable to supply glycine since January 1, 2015.

These findings will be corroborated later today in the testimony presented by representatives of Ajinomoto

Health and Nutrition, Wllchem Corporation and Nestle Purina. And now I'd like to turn the dais over to Ms. Levinson.

STATEMENT OF LIZBETH LEVINSON

MS. LEVINSON: Good morning to the Commissioners and Commission Staff. I am Lizbeth Levinson with the Law Firm of Fox Rothschild. I represent Yuki Gosei and Nagase, both importers of glycine from Japan, together with the attorneys from Hogan Lovells I'm here on behalf of the Japanese Respondents.

The record evidence demonstrates that the U.S. Glycine Industry is not materially injured or threatened with material injury by reason of imports from Japan. The U.S. Glycine Industry is characterized by several unique conditions of competition that vitiate any causal link between material injury and the Subject Imports.

First, as Mr. Stoel mentioned, U.S. supply lags well behind U.S. demand. U.S. consumers therefore have no choice but to turn to imports to fill the shortfall.

Second, there is limited substitutability between Japanese and U.S. Produced glycine. Several witnesses will testify that the Domestic Industry cannot or will not provide the pure quality necessary to supply niche markets like the U.S. Pharmaceutical or electronic industries.

Third, even for those segments of the U.S. Market where domestic suppliers are preferred, U.S. customers

report a litany of supply constraints, delays and delivery problems from the Domestic Producers.

I'd like to point out a very recent development that occurred actually after the prehearing briefs were already filed in these investigations. There is actually a very interesting issue before the Commission, perhaps an issue of first impression.

To date, we do not have a final determination from the Department of Commerce with regard to whether imports from Thailand are being dumped or subsidized, even though the statutory deadline for Commerce's determinations has passed. In a highly unusual move, Commerce has delayed final determinations with respect to Thailand until further notice.

The reason for the delay, customs and border protection which we call CBP, has recently imposed internal measures on all imports of glycine coming from Thailand because of a reasonable suspicion that such merchandise is actually transshipped from China.

Based on CBP's analysis, this merchandise from Thailand is of Chinese origin, not Thai origin and thus it is subject to the longstanding antidumping order that exists on glycine from China and is subject to duties of 155 percent. Given CBP's interim measures and Commerce's delay, the Japanese Respondents believe that the Commission should

exclude imports from Thailand from consideration in this investigation.

If, as CBP found, imports from Thailand are actually dumped imports from China then such imports do not belong within the Commission's analysis as the investigations before you do not include dumped imports from China. It only relates --

CHAIRMAN JOHANSON: Ms. Levinson your time has expired.

MS. LEVINSON: And I conclude my remarks.

CHAIRMAN JOHANSON: Thank you.

MR. BISHOP: Thank you, Mr. Stoel and Ms. Levinson. Would the Panel in support of the imposition of the antidumping and countervailing duty orders please come forward and be seated? Mr. Chairman, this Panel has 60 minutes for their direct testimony.

MR. SCHWARTZ: Good morning again. This is David Schwartz. We'll be starting our presentation with the president and CEO of GEO Specialty Chemicals, Ken Ghazey and he will be followed by Scot Lang, Jason Allen, Dan Hughes and our economic consultants. Mr. Ghazey.

STATEMENT OF KENNETH GHAZEY

MR. GHAZEY: Mr. Chairman, Commissioners and staff, good morning. I am Ken Ghazey, and since 2005 I've been the president and chief executive officer of GEO

Specialty Chemicals. Thank you for providing me this opportunity to speak to you today. I am here because the Commission's determination in these investigations will assist me and the GEO Board of Directors in deciding whether GEO continues in the glycine business, in the face of what we consider to be a moral threat to our survival.

GEO has invested millions of dollars to ensure that it operates a superior quality, efficient and cost-effective glycine manufacturing facility in Deer Park, Texas. GEO competes actively in all segments of the entire U.S. glycine market and sells glycine to a mix of end users and distributors.

Unfortunately, operating a superior quality, efficient and cost-effective glycine production facility and actively marketing glycine will not guarantee a profitable enterprise if Chinese, Indian, Japanese and Thai companies are supplying dumped, subsidized and transshipped glycine to our customers.

For years we have been aggressively telling anybody who would listen, domestic customers, the Commission, Custom and Border Protection, Department of Commerce and the U.S. Trade Representatives of our steadfast belief that certain foreign suppliers of glycine and their importers were intentionally providing Customs and Border Protection false information concerning the glycine's

country of origin, in order to evade anti-dumping and countervailing duties.

In 2012, Commerce found two Indian companies, Salvi Chemical Industries and AICO Laboratories were circumventing the existing glycine from China anti-dumping order by transshipping or further processing Chinese origin glycine for sale in the United States.

In 2017, the U.S. Trade Representative took the unusual step of removing glycine entirely as a reported product receiving duty-free benefits under the U.S. government's Generalized System of Preferences programs. GEO appeared before the Commission and many of you as part of that process.

Within the last year, a U.S. importer of glycine shipped from Cambodia, Ceka Nutrition, and a U.S. importer of glycine shipped from Thailand, Nutrin, have been identified by Customs and Border Protection under the Enforce and Protect Act as transshippers of glycine origin seeking to evade anti-dumping and countervailing duties. The glycine market is very sensitive to price. It is a mature industry, and U.S. glycine and imported glycine are primarily interchangeable.

Glycine is not inexpensive to manufacture. Glycine production is very capital intensive. Turning a profit requires minimizing fixed unit costs, but operating

at close to full capacity as possible and selling glycine at a fair price in order to cover operating cost, capital investments and provide a reasonable return on investment.

In the U.S. glycine market for the past few years, GEO has been facing competition daily from dumped, subsidized and fraudulently imported glycine. This presents GEO with no reasonable options. For example, do we slash our pricing to compete with these unfairly traded imports, or do we lose volume? If we meet or beat the unfair pricing, we lose revenue, spiraling downward to unsustainable levels. But we keep per unit costs in check with more volume.

If we refuse to meet or beat the unfair pricing, we will also lose revenue through lost volume and our per unit cost rise. No matter the choices made, we're competing against unfairly priced glycine, GEO suffers financially. Constantly having to chose between less or no revenue and increased per unit cost does not result in a viable long-term business model.

GEO has been competing with import competition since it took over the business from Dow Chemical in November of 2005. We can compete effectively against fairly priced, non-subsidized and truthfully labeled imports. We do recognize the need for fairly traded imports in the U.S. market. We cannot, however, compete effectively against the

dumped, subsidized and transshipped imports that we see today.

The tipping point for GEO was late 2017. No marketing strategy was working to keep the market share, reverse losses and return to a reasonable profit, and frankly we saw no end in sight to the situation. Again, we perceive this as a mortal threat to our survival.

As such, GEO had to exercise its last options, these trade cases, and hope that Commerce and Commission would one, recognize the dumping, subsidization and dishonesty of these foreign shippers; two, understand how these imports were adversely affecting the entire U.S. glycine industry; and three, provide a remedy that would enable GEO to survive and thrive.

I would like to address briefly Nestle's inclusion of a December 4, 2007 letter in its pre-hearing brief. Yes, I did say December 4th, 2007, almost 12 years ago. After GEO took over Dow's operation in November 2005, we recognized that there were production and reliability issues with the way that the previous owner ran the business, and that a new way of doing things was important if we were to succeed.

In fact, if GEO had not acquired the business, Dow for strategic reasons was in the process of shuttering the entire Deer Park facility. Recognizing that customer

service, on time deliveries and more efficient operations were critical for success, GEO put considerable effort into achieving those goals.

We invested significantly to make Deer Park a superior quality facility and programmed into the newly-acquired glycine business our GEO corporate culture, a mind set that could only succeed by meeting the needs of our customers. After we acquired the business, management was changed, material supply chains were strengthened, production equipment was replaced and maintenance was expanded.

It worked, though not immediately. It took time, hard work and millions of dollars. But after 2007, our reliability was improved and GEO became the go-to source for a quality product. It is hard for me to understand how Nestle's 2007 letter and the conditions it describes are relevant to today's GEO.

Deer Park is today a top notch facility, but we do not want to stop there. We would like to invest more to expand our capacity, to serve more and more of the U.S. glycine market with a quality product. We however cannot justify millions of dollars of investment with potential negative returns without relief from unfairly traded and transshipped imports.

Very few businesses or industries can succeed,

indeed and continue to exist, while competing against an overwhelming tide of unfairly priced, subsidized and fraudulent goods. In the end, the math never works. GEO and I will speak also for Chattem on this point, cannot do it alone.

We ask that the Commission recognize that the volume and pricing of unfairly traded and dishonest imports are negatively impacting the ability of U.S. industry to once again return to financial health and continue to serve its customers. That concludes my testimony. My colleagues and I are happy to answer any questions now at the hearing, or in post-hearing submission. Thank you and good day.

STATEMENT OF SCOT LANG

MR. LANG: Good morning. I am Scot Lang, a Senior Vice President at GEO Specialty Chemicals. I am responsible for GEO's glycine operations, and I've been at GEO for almost 13 years.

Glycine is a commodity chemical product, a non-essential amino acid that is primarily used as an input in a wide range of applications and finished products. In the United States there are three grades of glycine that are primarily sold, but they all have the same chemical composition.

They only differ in terms of purity and testing. The grades are: pharmaceutical-grade, which is used in

certain drug applications and intravenously in certain medical applications; USP-grade, which represents the vast majority of glycine sales in the United States and is used as a sweetener and flavor enhancer in medicines, personal care products and animal feeds, and as a buffering agent in antacids and antiperspirants. It's also used as a nutritional supplement.

And then finally, there is technical-grade, which is used as a chemical intermediate for downstream chemical products like glyphosate--which is how glycine is primarily used in China. It is also used as a metal complexing and finishing agent, and a cleaning and polishing product for microelectronics. Even crude glycine, which doesn't satisfy the specifications of technical-grade glycine, is used as a cleaning agent. GEO sells all grades and faces competition from subject imports for all grades.

In order to be the most cost-effective glycine producer, GEO needs to operate as near to its capacity as possible. Operating at a optimal near-capacity utilization rate also requires as much as possible advance production notice, delivery planning so that we know to produce and deliver glycine throughout the year.

Production and delivery scheduling must be precisely coordinated so that our customers are serviced with a quality, on-time product. This is why annual or

longer-term contracts are the lifeblood of our operation. These contracts are critical to our customers also because they can ensure secure supply over a period of time.

While we can also usually service spot market customers--those customers who do not commit in advance to a guaranteed supply and price but purchase on an as-needed basis--our contract customers must always come first.

Contract volume and delivery certainty with our largest customers are critical to us, but there is a flip side to that. The U.S. glycine market is dominated by a small group of large glycine users that are able to pressure us to lower our pricing because of competing unfairly traded glycine imports.

GEO can. compete effectively against fairly traded imported glycine. We cannot compete effectively against dumped, subsidized, and transshipped imports. The pressure that these large users exert on GEO by leveraging unfairly traded imports from China, India, Japan, and Thailand forces us often into an untenable position of either, one, trying to meet the prices of these unfairly traded imports, even to the point at times of selling glycine at prices below our cost in order to maintain production volume and market share; or, two, refusing to meet the unfairly traded pricing and losing customers, volume, and revenue as a result.

GEO cannot continue operating a glycine operation by consistently fighting unfairly traded glycine imports. We need a remedy to counteract these dumped, subsidized, and transshipped imports of glycine from China, India, Japan, and Thailand. We need your help.

Thank you.

STATEMENT OF JASON ALLEN

MR. ALLEN: Good morning, Commissioners and staff. I am Jason Allen, and I am the Vice President and General Manager of Chattem Chemicals. I have been with Chattem for 20 years. I previously served as Chattem's Manager of Manufacturing and Director of Operations.

I am here today on Chattem's behalf to present a united front with GEO. Together, Chattem and GEO represent the entire U.S. glycine industry. We need the Commission to recognize just how much dumped, subsidized, and transshipped glycine is adversely affecting our industry. We are in serious trouble and have exhausted all other options.

Chattem has a long history of manufacturing in Chattanooga, Tennessee. It has been in the specialty and fine chemicals business for more than 100 years, and we are proud of the reputation we have earned over that time as a reliable and effective manufacturer and supplier of technical-grade, USP-grade, and pharmaceutical-trade glycine. The Chattem Brand is the oldest brand of glycine

in the United States.

It is funny that Nestle contacted me near six weeks back. In the conversation, they claimed that they had no clue that Chattem even produced glycine, let alone in our glycine manufacturing facility that is located in Chattanooga, Tennessee.

If Chattem sounds familiar to you, it's because Chattem has been participating in U.S. Government trade remedy matters dating back to the 1960s. We have sought numerous times to stop unfairly traded glycine imports caused by dumping and subsidization and have worked over the decades with the U.S. Government to address circumvention and duty evasion issues arising from trade remedy orders on glycine imports.

In recent years, Chattem has been forced by unfairly traded imports into lower and lower utilization rates of our available glycine production capacity. Obviously these low utilization rates negatively affect our per-unit costs. Because these imports have an adverse effect on our costs, we are forced to compete primarily in the pharmaceutical-grade market.

While Chattem has established itself well in this market, it's not enough to ensure a viable glycine operation overall. We have plenty of capacity--plenty of capacity--that could and should be used to service technical-grade and

USP-grade customers in the United States at a fair price.

It's clear to us, however, that those customers prefer buying technical-grade and USP-grade glycine at prices well below the cost of production for glycine because they haven't bought from us in years.

According to the ITC Staff Report available to the public, these customers claim that availability and quality are key factors in their purchasing decisions. But I am here to tell you that I have the capacity to produce large volumes of high-quality glycine in all grades. And those customers haven't been contacting us about availability or testing our products for quality.

I can only conclude that they must value price above everything else. If U.S. customers did emphasize availability and quality, as they claim, then I would be running my facility 24/7, 52 weeks a year, and at full capacity. And, trust me, we are not. It's because of these dumped, subsidized, and transshipped imports that Chattem is continuing to experience such low capital utilization rates--capacity utilization rates.

I want Chattem to be a grand that once again sells large volumes of each grade of glycine. We need a fairly priced market to do that. An affirmative determination from the Commission will allow Chattem to compete with these imports on a level playing field in all

glycine segments.

Thank you for your time, and I'm also happy to answer any questions.

STATEMENT OF DANIEL HUGHES

MR. HUGHES: Good morning, Commissioners and staff. I am Dan Hughes, and I have been the Glycine Business Manager for GEO Specialty Chemicals for the past 10 years. I sell and market GEO's glycine products and manage GEO relationships with its glycine customers. It's my full-time job to know the glycine market and its customers. I am here to provide you a first-hand account of glycine sales.

The glycine market has a finite number of U.S. customers, and the market is dominated by a handful of sophisticated and large customers that can leverage their purchasing power over glycine suppliers like GEO.

As my colleagues have explained, GEO's goal is to maximize its production capacity and to achieve certain efficiencies. Obtaining contracts with customers of a year's length or more is the best way to achieve this goal. Sometimes we have to settle for shorter-term contracts or sell on the spot market, but we always prefer a contract over a spot sale.

Even then, however, contract arrangements and negotiations are not perfect. Contracts do not insulate us

from unfair price competition.

The handful of customers that wield significant leverage over us can negotiate meet-or-release clauses to renegotiate terms or shift purchase volumes from one supplier to another when a lower price is offered by a competitor either through a contract or on the spot market. Even without a meet-or-release clause in a contract, the customers with leverage over us can pressure us to change contract terms or beat the pricing of unfairly traded imports from foreign suppliers offering glycine through a contract or on the spot market. Because of the size of these particular customers, the loss of even a single sale can be devastating.

As a result, when a customer comes to us with a low-priced quote from China, India, Japan, or Thailand, we have the unsavory choice between lowering our price--and taking a loss on the sale--on the one hand, or losing the customer on the other. Either way, the price sensitivity of the glycine market forces every supplier to respond immediately to the lowest priced product on the market. This is how the impact of dumped, subsidized, and transshipped imports quickly percolates throughout the entire market, quickly translating into lower U.S. market prices.

The leverage of these large-volume customers is

increased even more when they use a process involving blind bidding by prequalified suppliers in the negotiations, which two of the largest U.S. producers use regularly to apportion their volume among suppliers.

This process requires sellers to submit bids on volume and pricing that must meet or beat the other bids. The purchaser will then tell you whether or not you've obtained the business. At times, the purchaser will follow up informally after the formal bidding process concludes and tell us that we must lower our price even further if we want to obtain the business.

These purchasers will continue to do this informal negotiation after the bidding process is over until they get the pricing they want. This happened to GEO during the Period of Investigation. Because we require these high-volume customers to sustain our business, we must accept this bidding process or lose out completely.

When dumped, subsidized, and transshipped imports are part of the blind bidding process--and they are--this means we are faced with a race to the bottom on pricing. The large-volume power buyers win, while GEO suffers massive losses.

I want to be clear on another point. GEO always meets its contractual obligations to its customers. When a customer requires delivery outside of the delivery schedule

or seeks additional volume above the contract commitment--particularly when the customer tries to associate that volume with a lower contract price when spot market prices are higher--then that customer is attempting to do something beyond our contractual terms and take advantage of us. This has nothing to do with GEO's ability to supply its contract customers.

At GEO, we know that a U.S. glycine industry can succeed if imports are fairly priced, because we have run a profitable glycine business in the past and are ready to do so again. However, we cannot succeed unless imports from these four countries compete on a fairly traded basis.

Again, we welcome fairly traded imports. Right now, dumped, subsidized, and transshipped imports are from these countries are being used as leverage against us, and we can't compete. We need these Orders for the domestic industry to survive, and indeed thrive once again on a level playing field.

I thank you for your attention and welcome your questions.

STATEMENT OF DANIEL KLETT

MR. KLETT: Good morning. I am Dan Klett with Capital Trade, testifying on behalf of the U.S. glycine industry. I will be addressing key conditions of competition and volume effects. Ms. Woodings will address

price, impact, and threat.

In the preliminary phase, the Commission found that subject imports from each of the four subject countries were fungible with both the domestic like product and each other.

Your Staff Report, including data compiled from purchaser questionnaires, confirms that your finding as to fungibility is correct. Your staff reviewed a variety of substitutability issues, and as shown in Slide 1, concluded that there was a moderate to high degree of substitutability between glycine produced in the United States and imported from subject countries.

Any variation in the elasticity of substitution range of 3 to 6 is attributed to the degree of certification required. However, this would limit substitution only if a large share of subject imports did not compete with U.S. producers because they were certified for certain uses and U.S. producers were not certified.

This is not the case here. The Commission collected data for different types of glycine, including technical grade, USP-grade, pharmaceutical-grade, and precursors or other grades. The actual data on U.S. shipments of these grades by country of origin are confidential, but I can say that both U.S. producers and subject imports, individually and collectively, are

overwhelmingly in the technical and USP grades, with only a very small share in pharmaceutical grades.

Your purchaser questionnaires, which cover a very large share of the total glycine market, provide insights on substitutability. Slide 2 shows, in descending order, the price and grade-related purchasing factors identified by purchasers as "very important." Only "purity" is ranked higher than "price." This is to be expected given that glycine is a chemical sold on the basis of grade, so purity--or adherence to grade specifications--is naturally an important purchase criterion.

However, as shown in Slide 3, glycine from U.S. producers and subject imports are generally comparable for purity and grade, and are distinguished to any significant degree only with respect to price. U.S. glycine is most often rated as "inferior" or higher priced than subject imports, consistent with your underselling data.

Japanese Respondents in particular argued that glycine imports from Japan are unique and provide high-quality and ultra-pure glycine not available from U.S. producers for certain demanding pharmaceutical and technological applications.

Slide 4 shows that purchasers disagree with this characterization. Most rated U.S. and Japanese glycine as comparable for grade and purity, and only a few rated

U.S.-origin glycine to be inferior. And U.S. glycine was most often rated as "inferior" or higher priced than imports from Japan.

Other factors supporting a high degree of substitutability between U.S. producers and subject imports are that a large percentage of purchasers reported buying both U.S-origin and subject imported glycine, which can be seen at Table V-8 of the Staff Report, and there's significant regional overlap, as shown in Table II-2 of the Staff Report.

Another condition of competition is that the customer base is highly concentrated, which has particular implications for your price analysis. The large power buyers have a greater ability to leverage the threat of purchasing subject imports to negotiate a lower price from U.S. producers, because the potential sales volume loss can have such a detrimental effect. This effect is magnified when the negotiated lower price is locked in, given the prevalence of annual contracts with fixed price terms. Also, because of meet-and-release clauses in most of these contracts, and because of the enormous leverage these power buyers wield, they can lower prices even further during the life of the contract.

Turning to volume, one data issue relates to how to measure subject imports. The Staff Report uses Census

data for imports, U.S. apparent consumption, and market share.

In the preliminary phase Staff Report, an alternative also was presented which adjusted Census import data for changes in importers' inventories and re-exports. I believe the same approach should be considered here because it better reflects when subject imports compete in the U.S. market with the domestic industry.

Slide 5 shows subject imports on a monthly basis, which shows a surge in late 2015. Much of this went into importers' ending inventory which was sold into the U.S. market after 2015. An adjustment to Census data for year-over-year changes in ending inventory accounts for this.

Exhibit 3 to our prehearing brief has these calculations and shows increases in subject import market share from 2015 to 2017, whether glycine imports from Thailand ultimately are found to be subject or not.

Even if Census data without adjustments are used, subject imports are significant--still showing increasing market share from 2015 to 2017. Moreover, in absolute terms subject imports represent a large share of the U.S. market and a share of U.S. production.

Another data issue relates to how to categorize glycine imports by Nutrin, given the transshipment and

country-of-origin misclassification issues identified by Customs and Border Protection, and the reason for why Commerce has postponed its final AD and CVD findings for glycine imports from Thailand. Slide 6 contains some key quotes from CBP and Commerce on this issue.

If there is an affirmative determination at Commerce on glycine from Thailand, country-of-origin classification should be a minor issue because such imports are "subject" whether classified as "Thai" or "Chinese" origin.

However, if Thailand receives a negative determination at Commerce, this issue is important for the Commission regarding the accuracy of subject import data for causation analysis. It is my understanding that if required there will be supplemental briefing allowed here based on Commerce's postponed final determination for Thailand.

Given the likely misclassification of Chinese-origin glycine as Thai-origin glycine for importation into the United States, were recommend that the Commission ask Nutrin some specific questions regarding data submitted in its foreign producer and importer questionnaires, the specifics of which are in our brief.

The last issue I address relates to Respondents' allegations that the U.S. market requires imports, and that U.S. producers have had problems supplying glycine to

certain customers.

Initially, it does not follow that because the U.S. market must rely on imports to satisfy a portion of U.S. demand, that there can be no adverse effects to the U.S. industry from subject imports.

Slide 7 shows the raking by purchasers of price/cost and availability/supply as identified among the top three purchasing factors. Availability/supply was an important factor, but price/cost was more often listed as the number one purchasing factor.

Slide 8 shows how U.S. and subject imports were rated relative to each other for two supply factors and for price. For availability and reliability of supply. U.S. and subject imports were most often reported to be comparable. A number of purchasers did report U.S.-origin glycine to be inferior to subject imports with respect to availability and reliability of supply.

It is necessary to evaluate the specifics related to each of these responses for context. However, I can make the following general points.

First, the U.S. industry reported excess capacity. Your staff found a supply elasticity in the range of 3 to 6, and that the U.S. industry has the ability to significantly increase or decrease shipments to the U.S. market in response to price changes. I agree with this

assessment.

Second, what was the specific nature of the "supply disruption" alleged? For example, if under a contract with an agreed-to delivery schedule or with agreed-to volumes on a scheduled basis, did the purchase request a delivery outside that schedule? Was the requested volume above the contract terms, with the customer requesting the contract price, even though higher spot market prices should apply?

Finally, an assertion of a systemic short supply situation for U.S. producers does not comport with the significant price declines U.S. producers were forced to accept over the POI.

Thank you.

STATEMENT OF REBECCA WOODINGS

MS. WOODINGS: Good morning, Chairman Johanson, members of the Commission and Commission Staff. It is again a pleasure to appear on behalf of the domestic industry producing glycine. I have been working with members of the industry throughout the instant investigations. But I also worked with the industry during the first and second Sunset Reviews involving the antidumping duty order on imports from China. Chattem Chemicals is well known to me as a petitioner in the China AD cases, and as a committed advocate for fair trade in the U.S. glycine market.

My testimony will address the evidence regarding pricing, impact on the domestic industry and the threat of further injury in the absence of trade remedies.

In its preliminary opinion, the Commission noted that fully 87% of pricing comparisons showed underselling. That includes 91% of price comparisons involving USP grade glycine and 100% of price comparisons involving technical grade glycine.

The Commission collected data for the same pricing products in the final phase, from the same two U.S. producers, and from the same universe of U.S. importers. Unlike in many Commission investigations, pricing product coverage is very high relative to reported shipments by both U.S. producers and subject importers. This is despite the absence of reported prices for imports from China.

Slide 9, with data from the Staff Report, shows that, during the current POI, there continued to be significant underselling by subject imports. This is true with or without the inclusion of glycine imported by Nutrin USA, whatever the source.

Moreover, the underselling led to a significant volume of lost sales by the domestic industry. This is reported in purchaser questionnaires and summarized at Table V-9 of the Staff Report.

Specific pricing data are confidential; however,

in this investigation, import AUVs from Census data are a reliable proxy for subject import price trends. Slide 10 here illustrates the steep decline in subject import prices during the POI. These declines started, as you see, in the fourth quarter of 2015, with prices dropping from about $2.17/lb. to $1.60/lb. by the fourth quarter of 2018. That's fully 26%.

In many Commission cases, AUVs are a poor substitute for actual pricing due to product mix issues; in this case, however, product mix is very stable. Moreover, in our brief, at Exhibit 7, we demonstrate the correlation of the import AUVs and the pricing data.

While we can't go into detail in this setting, U.S. prices for glycine also fell, and this is particularly the case for the high-volume USP grade and technical grade. I would submit to you that pervasive underselling and falling subject import prices are behind the fall in U.S. producers' prices. Key factors establishing the causal nexus are outlined in Mr. Klett's testimony:

Subject imports have a large share of the U.S. market, so widespread underselling and price declines will have a greater effect as compared to a situation where imports have a relatively smaller share of the U.S. market.

The customer base is highly concentrated, and prices are often fixed in annual contracts. Purchasers have

significant leverage to use pricing and available volume of glycine imports from the subject countries to negotiate lower prices from U.S. producers.

And, non-import factors cannot explain the U.S. producers' price declines. Demand has not declined, there are no competing substitute products and unit costs have actually increased. In fact, not only is the case for significant price depression made, but so is the case for significant price depression. This is detailed in our brief based on confidential financial and pricing data.

The effect of the underselling and falling prices is also quite evident in terms of the impact on the domestic industry.

In particular, price trends are reflected in lower unit values for commercial shipments and falling per-unit revenues. I noted that the domestic industry experienced cost increases during the POI. This is specifically in terms of the unit cost of goods sold. The inevitable result of falling selling prices in the face of rising unit costs is the financial deterioration that is abundantly documented in the Staff Report.

When I testified at the preliminary staff conference, I warned that cash flow was still positive, but sharply lower by 2017. I questioned how long the industry could maintain investment given the evident deterioration in

financial indicia. Financial performance generally and cash flow specifically deteriorated further in 2018. Mr. Ghazey has stated in his testimony that the outcome of these investigations will determine the future of glycine production for GEO Specialty Chemicals.

I believe that the necessary indicia on causation and present injury are evident in this case and I urge the Commission to reach a determination of present material injury. Indeed, were the Commission to not act in this regard, we are likely to have a much smaller industry in the very near future. And that will leave U.S. purchasers without yet another source of supply.

Nevertheless, let me move on briefly on to the question of threat.

There is clear evidence of excess capacity in each of the subject countries. In the absence of questionnaire responses from Chinese producers, let me remind you of the case for maintaining the Chinese AD orders, which the Commission has done in a series of Sunset Reviews since the original investigation. Chinese glycine capacity is massive, and while there is an internal market for some of this product, Chinese glycine producers also export to markets around the globe. In fact, in 2011, the only U.S. glycine producer in Europe, Tessenderlo, cited Chinese glycine as the only reason for going out of

business. Findings regarding circumvention of the Chinese AD order through transshipment through India, Cambodia, and now potentially Thailand, further emphasize the willingness of Chinese exporters to sell in the U.S. market.

Recent increases in subject imports, particularly from 2016 to 2017, support a conclusion of likely future import volume and market share increases. And the downward spiral in import pricing that you see here, and the underselling during the POI clearly establish likely future adverse price effects. Inventories in subject countries increase the risk of further adverse volume effects. And the domestic industry is already at the brink.

I'd like to thank the Commission staff for their diligence in this investigation. I appreciate the attention of the Commissioners and our panel is ready for any questions you may have.

MR. SCHWARTZ: That does formally conclude our presentation. We request that any time left over from this presentation be apportioned for rebuttal. Thank you.

CHAIRMAN JOHANSON: Thank you all for appearing here today. We will now begin Commissioner questions, and I will be the first Commissioner to ask questions.

As you all are aware, the petitioners raise several points, the whole issue of supply availability and supply constraints. This is perhaps best noted at Page 49

of the petitioners' brief, the combined petitioners' brief. I was wondering if you all could address this issue further. I know that you all addressed it a moment ago, but this is a major point raised by the respondents. First of all, have your firms been unable to supply any particular customers?

MR. HUGHES: Thank you, Commissioner. This is Dan Hughes from GEO. It's a tough question to answer --

MR. BISHOP: Can you lift your microphone up?

MR. HUGHES: My apologies.

MR. BISHOP: Thank you.

MR. HUGHES: We prefer to work with contracted customers and we then go to the spot market every month to see if we can fill capacity. We do supply all of our contracted customers. If, because the transshipped material is now available in the market, it's creating more demand, which we have seen, and sometimes, yes, we have to tell people that we can't supply them because they don't have a contract with us, and our contracted customers always come first.

MR. GHAZEY: I'd like to add to that, Mr. Chairman. As we said earlier --

MR. BISHOP: Could you identify yourself, please?

MR. GHAZEY: This is Ken Ghazey, CEO. As I said in my remarks, we try to be efficient and, by being efficient, we wanna lower our unit cost through absorption,

and that leads to us trying to run at the highest utilization rates possible. For even planning throughout the year, that usually works best for us to do it on a contract basis, which seemingly, our major customers also prefer in doing a contract basis.

If they have shortages because their second or third supplier is unable to meet requirements that they allocated to them, and they've come to us, and we call this the tide shortfall, we have been unable to respond to that increased demand. We have met and we continue to meet all shipments that we contracted for, and our on-time delivery remains exceptional.

Unfortunately, there is some shortages in the market, not due to our contracts, but due to other suppliers who were transshipping, we believe, are not any longer supplying product to the market and the market is presently, on that basis, unable to meet demand.

MR. ALLEN: This is Jason Allen with Chattem Chemicals. All of our contract customers are serviced without fault. Also, our long-term customers are serviced without fault, even though we do not have contracts with them. So we have no supply issues.

And I also wanna point out again that we have millions of pounds of capacity that is unused. So the ability to supply from Chattem is available.

CHAIRMAN JOHANSON: Given the emphasis placed on supply factors in the Commission's previous investigation of this product in 2007-2008, how if at all has this market changed in the last decade?

MR. GHAZEY: I don't think there's been a tremendous amount of change on the demand side. I think it's been consistently pretty reliable. There's been GNP type of growth. We, on the supply side, continue to do the things that we can to improve the reliability of our product, but I would think the most dramatic change that we have seen has been the new entry of product from Thailand that we have now, or through customs efforts and others and our own setback belief, entered transshipping has driven the price down in the domestic market in response to these lower-priced imports. I would say that's been the most significant change starting in 2015.

MR. SCHWARTZ: I would bring the Commissioners' attention to Mr. Ghazey's testimony where he explained that GEO entered the glycine market in late 2005 and when they brought these cases in 2006 and 2007, they were rapidly trying to make changes and improvements to have the businesses operated by Dow/Hampshire. As Mr. Ghazey said in his testimony, in the last twelve years, GEO's spent millions of dollars and has improved tremendously in all areas of customer service to wildly change what you saw in

the glycine industry back in 2006-2007 and what you see now.

CHAIRMAN JOHANSON: Thank you for your responses. What kind of issues can cause a shipment to be rejected by purchasers?

MR. HUGHES: Hi, this is Dan Hughes from GEO. There's a couple of things. If there's damage to the material in transit, they can reject it outright there. If the material has some sort of out-of-spec, that to their specifications, they can return it, although that is extraordinarily rare.

On a couple of occasions, there have been some charred material that was in the material that's perfectly usable. We just had to explain what it was. Glycine can get a little charred, a little brown. And the customer accepted it and used it. But other than those things, I really can't think of any reason why a customer would not take a shipment in, because we do our own quality control before it leaves the door.

CHAIRMAN JOHANSON: Does Chattem have any examples of reasons that products might be rejected by purchasers?

MR. ALLEN: I would concur with what Dan Hughes stated.

MR. SCHWARTZ: And I would add that that applies not only to the domestic industry, but to all suppliers of

glycine.

CHAIRMAN JOHANSON: Have there been any quality issues or complaints with glycine that your firms have provided to customers during the period of investigation?

MR. HUGHES: Yeah, again, Dan Hughes with GEO. We know of a few instances, a very small amount, representing a very tiny amount of the amount of glycine that we actually manufacture, where there's been clumping of material. Glycine is a very hydroscopic material, it tends to pull moisture out of the atmosphere.

In the reported cases that we've seen with our contracted customers, in all cases, the material just gets a little clumped, maybe the size of a softball--I think that was the term--but it's very easily tapped out and put back in the solution. No one has returned material to my knowledge because of clumping in the period of investigation.

MR. ALLEN: Jason Allen with Chattem Chemicals. We have done an analysis of our complaint files and our director of quality has determined that, out of the thousands of shipments that we would make on an annual basis, less than 0.2% would contain any sort of complaint associated with clumping. Less than 0.2% of all shipments. We, of course, are an FDA-regulated facility. The FDA was last in our facility in 2018. The glycine facility was

specifically investigated for compliance. There were no issues noted.

MR. HUGHES: Hi, Dan Hughes again. Just bouncing off what Jason said, in the post-hearing brief, we will supply you with what percentage of complete material versus the millions upon millions of pounds we make every year. It's a very, very small percentage.

CHAIRMAN JOHANSON: When there are concerns about quality issues, is this a matter of certification sometimes?

MR. ALLEN: This is Jason Allen with Chattem Chemicals. I want to add that quality is not tested into our product. It's born into our product.

We spend millions of dollars on an annual basis, ensuring that we have the GNP compliance necessary to produce a certain quality of product. We set our plant to produce intravenous great glycine on an annual basis. That's what we do. So again, compliance quality is not tested into a product. It's born into it.

MR. HUGHES: Dan Hughes from GEO. It has nothing to do with our certification process.

MR. KLETT: Mr. Chairman, this is Dan Klett with Capital Trade. Among the various factors in your purchaser questionnaires, we asked purchasers to compare U.S. and import, and one of the factors was FDA certification. By and large, U.S. producers and subject imports were

characterized as comparable with respect to FDA certification.

CHAIRMAN JOHANSON: All right. Thank you for your answers. My time's about to expire. Commissioner Williamson.

COMMISSIONER WILLIAMSON: Thank you Mr. Chairman. I also want to express my appreciation for all the witnesses for being here today. I also want to express my appreciation for everyone having their written statements, even the economists. It's very, very helpful, so I know it takes time to do that, but it is -- it's just helpful to be able to follow what you're saying.

I want to choose the questions on the like product question, in view of some of the allegations the Japanese respondents have made. Do you agree with the Japanese respondents that glycine for intravenous injectable applications is not produced in the U.S. market?

MR. ALLEN: So at Chattem Chemicals, again this is Jason Allen with Chattem Chemicals. We do produce glycine that is used primarily in the intravenous grade market. But it is true that Chattem Chemicals currently does not possess an approved CEP, which the reference company is naming, although we have recently filed for the CEP, which would enable us to be able to sell that grade of glycine. Excuse me sir, I don't mean to interrupt.

COMMISSIONER WILLIAMSON: No, go ahead.

MR. ALLEN: We would able to sell that glycine into the European Union.

MR. HUGHES: This is Dan Hughes from GEO. GEO has a Drug Master File. We are FDA --

COMMISSIONER WILLIAMSON: What kind of file?

MR. HUGHES: A DMF, a Drug Master File. We are regulated by the FDA and we do have a CEP, a Certification of European Pharmacopeia, and do sell into the injectable market, both in the United States and European Union.

COMMISSIONER WILLIAMSON: Okay. I guess post-hearing, because I fear some of this proprietary, from both of you some indication of either what quantity you sell and also for Chattem, I guess, how long is this situation been? I mean is this something new?

MR. ALLEN: We would like to handle that in the post-hearing brief, Commissioner Williamson. Thank you.

COMMISSIONER WILLIAMSON: No, that's fine. But I just -- yeah. Because I -- and is there another product that you would argue is most like the intravenous injectable glycine for the period, so we can look at it in consideration, during the time you weren't selling what was not certified? This is all -- it all can be done post-hearing and we can clarify those questions later.

MR. SCHWARTZ: We'll address it all in the

post-hearing brief. Thank you.

COMMISSIONER WILLIAMSON: Great, thank you. Okay. Do you agree with the Japan respondents that glycine for semiconductor production is not produced in the U.S. market?

MR. ALLEN: This is Jason Allen with Chattem Chemicals. No, I do not agree with that statements. In fact, Chattem Chemicals over the last eight years has worked very diligently to attract and to obtain eight, excuse me, three different accounts where we primarily focus on the CMP slurry industry.

So chemical mechanical planarization is something that we're very, very familiar with. We understand the rigors. We understand the specifications that are necessary to be able to participate in that field. In fact, we were contacted six to seven months ago by a company that told us that they had a very large volume of glycine necessary for the CMP industry, and they asked us do you or can you supply into this industry.

We said yes we could. We have least one million pounds that we could supply in this industry. So all of the initial conversations began with price, always with price, and eventually led to quality. So in the process, we asked for samples and of course they accepted samples to be sent to their facility.

They would have analyzed these samples. These are the same samples that we would have sent to our current customers in the CMP industry. Again, we understand the rigors of the specifications. So those samples we were shocked to find did not pass for their specification.

Now again, in the same email that I received that said that the samples did not pass specification, I was also told that our price was way too high compared to the Japanese imports. Now with regard to that, I asked for feedback. I called, asked for feedback. I was looking for something, and I've heard nothing.

MR. HUGHES: Dan Hughes from GEO. I echo Jason's sentiment. We have for the past two years tried in various ways to get into this marketplace, both directly and working through a third party distributor. That distributor made several calls to one particular Japanese-owned company. Many calls were made, visits were made, samples, very selective samples were submitted for testing and they heard absolutely nothing after that. It seems like it's a very protected market.

So I again would like to reiterate that both of us submitted samples. Both of us submitted pricing, and neither of us got any feedback whatsoever. We don't know why we weren't approved. We just have no idea.

MR. ALLEN: And again Commissioner, I would like

to point out, to make sure that I stated clearly, we do have business in the CMP market. So we have --

COMMISSIONER WILLIAMSON: CMP is what?

MR. ALLEN: CMP, chemical mechanical planarization.

COMMISSIONER WILLIAMSON: Fine, thanks. That's all I need to know. No, okay. Go ahead, but finish your statement, I'm sorry.

MR. ALLEN: Yes sir. So again, so we do have business in the CMP slurry industry, in the sector. So we understand again this sector very well, and we do have clients that are very happy with the material. And again, I believe in that CMP industry, all of those consumers are servicing two huge chip manufacturers in the world. So again, we supply product that goes into that industry, that services those end users.

COMMISSIONER WILLIAMSON: Okay, thank you. Why do you think the Respondents made this claim? If you don't know, that's okay. But I just -- because I ask them this afternoon.

GG I can only speculate, and I don't really want to over-speculate. But we have had difficulty accessing the Japanese market and selling glycine into the country there, and I don't think there's much Chinese imports into Japan. We know that they sell at higher prices

in Japan than they do in the U.S. by the evidence of the work that Commerce did.

We just know that they lock out non-Japanese suppliers. They are protecting their home markets and it seems like when they come to the United States, U.S.-based Japanese companies buy from Japanese. They protect their market. We've seen that repeatedly. I'm not the first businessman to run into this.

COMMISSIONER WILLIAMSON: Okay.

MR. HUGHES: This is Dan Hughes from GEO. Just to kind of follow up on both Jason and our point, GEO and Chattem produce glycine by separate routes. One uses hydrogen cyanide as a base; the other uses monochloroacetic acid as a base.

They both have their pluses and their negatives, and both of them have different subsets of we will say not impurities, but things that are not glycine. So there's chlorides, sulfates, those type of things, and this market is very sensitive to some of these impurities.

My argument is is that one customer in particular is buying technical grade from Japan. We were offering them USP grade, which meets higher stringent requirements. It just seems to me that either one of our methods must have to meet their specifications if they're buying tech and we're bringing in from two different pronged

attacks superior materials. We just don't know why we're being shut out.

COMMISSIONER WILLIAMSON: Okay. Are the Japanese using a third method? You don't know.

MR. HUGHES: If it is, it's got to be a new one, because I've never heard of it.

COMMISSIONER WILLIAMSON: Okay, thank you.

MR. ALLEN: This is Jason Allen with Chattem. No, they're not.

COMMISSIONER WILLIAMSON: Okay. Post-hearing, could you maybe give us an indication of how significant is this market for the semiconductor market.

MR. ALLEN: Mr. Williamson, this is Jason with Chattem. Yes, we can.

COMMISSIONER WILLIAMSON: Okay, good. Thank you. Glycine for use as an active pharmaceutical ingredient, API in injectables, and glycine for use in semiconductor manufacturing appear to be very low volume applications in the U.S. market. I've kind of already asked this. Are these applications highly specialized, and I guess the answer is yes, but do you want to comment on that?

MR. SCHWARTZ: Well, you've highlighted for us, Commissioner, that what we're talking about here is a very small tail wagging a very big dog. The Japanese respondents are focusing on niche products, whereas our petition

indicated they were the largest volume shipper of glycine into the United States during the POI. So it is frankly unusual that they're ignoring the largest segments where they do business, and focusing entirely it seems on these niche products.

COMMISSIONER WILLIAMSON: Okay, thank you. What quality standards are required for API injectable glycine?

MR. ALLEN: Mr. Williamson, this is Jason Allen with Chattem Chemicals. The ICH guidelines of course spell all of this out, and of course there's USP specifications and, you know, those are very, very clear to all manufacturers of glycine. Well, any API in the world essentially is aware of all of these specifications. They're made public.

COMMISSIONER WILLIAMSON: Are there any certifications needed to approve glycine for semiconductor use?

MR. ALLEN: Jason Allen with Chattem Chemicals. Not that I'm aware of. Any certifications, no.

COMMISSIONER WILLIAMSON: Okay, thank you. My time is expired. Thank you for those answers.

CHAIRMAN JOHANSON: Commissioner Broadbent.

COMMISSIONER BROADBENT: Thank you Mr. Chairman. I want to welcome the witnesses. It's good to have you with us today. What are the projections on sort of growth and

consumption of this product? Are there any kind of new uses on the horizon? I saw some articles about health benefits and different other things that sounded kind of exciting. What are you projecting in terms of uses of this product by customers in the future?

MR. HUGHES: Thank you, Commissioner. This is Dan Hughes. We see it as kind of a mixed bag. We have seen some people taking product offshore, decreasing the overall usage. But there are some new products and innovations. You talked about health care. Yes, that's actually on the rise in the nutraceutical curative market section, and there's some novel applications.

One of them is a product that helps promote sleep benefits. I do not, don't know how well it works, but it's certainly out there. So there are some new things out there, some new applications and certainly personal care. So they're kind of offsetting. That's the way I see the next couple of years for glycine.

COMMISSIONER BROADBENT: So you're just projecting kind of steady, steady growth for the next --

MR. HUGHES: A little bit of steady growth.

COMMISSIONER BROADBENT: Yeah.

MR. HUGHES: But nothing that's going to really put a blip in the marketplace.

COMMISSIONER BROADBENT: And who's taking what

offshore did you say?

MR. HUGHES: There are companies that are taking some production that used glycine offshore, and making the end product somewhere else.

COMMISSIONER BROADBENT: And what industries are those?

MR. HUGHES: I'm sorry?

COMMISSIONER BROADBENT: Who's using glycine that's taking their production offshore?

MR. HUGHES: We'd like to do that in post-brief, if you don't mind.

COMMISSIONER BROADBENT: Okay, that would be good, if you can let us known.

MR. LANG: This is Scot Lang. I'd like to concur with Dan Hughes' testimony. Dan and I regularly get inquiries on new, novel applications and we actively pursue those. I apologize. Dan and I are regularly getting inquiries on new, novel applications and we will met with those customers and we pursue those opportunities.

I concur with Dan's testimony that there are some new, novel applications. But on the other side of it, other applications are being taken offshore.

GG And I would also add, you know, we do as marketing, do try to develop new applications and new markets for our products. We've worked in collaboration

with universities I know a few years ago. We were trying to introduce as a shelf extender in the United States in the food industry. We did not achieve our success there. But we have been trying to expand uses of glycine to expand the market demand for it, so yes.

COMMISSIONER BROADBENT: Okay, great. Mr. Ghazey, you stated that you would like to expand your capacity and production through additional investments. Mr. Lang stated that GEO attempts to operate at near to full capacity as possible, and that you prioritize sales to contract customers rather than to spot customers.

Does this indicate that GEO's current capacity limits, current capacity limits its ability to supply purchasers throughout the market, and does this lend credibility to the multiple purchasers that identify domestic supply shortages?

GG Commissioner, I think we touch on that. We do recognize that the U.S. purchasers need imports. We have never disputed that. We've just asked for those imports to be fairly traded. We do have from time to time explored plans to expand our capacity so we can provide more of the U.S.-based requirements.

But we've tried to do that through longer-term contracts with our customers, because the pricing of this product has been very volatile, and it doesn't lend itself

to good cash flow analysis. I don't really know what the future price would be if I have to compete against dumping. So I can't really -- I haven't been able to convince my board that we should invest the money to expand, because I've not been able to show any good returns based on these low prices.

But we recognize the demand requirement for imports. We also would like to enter longer-term contracts with our customers. That might stabilize pricing over the long term and we could justify those kind of investments. We wrestle with that all the time.

MR. ALLEN: Ms. Broadbent, this is Jason Allen with Chattem Chemicals. We have millions of pounds of capacity at Chattem.

COMMISSIONER BROADBENT: Right. Mr. Allen, Mr. Ghazey, based on statements that you made today and in your questionnaires, and also in the statements of Respondents, it appears that GEO and Chattem are different types of suppliers to the U.S. market. As one example of this, GEO states that they basically have to fill their capacity with contract sales, whereas Chattem states that customers have not been contacting them and that they have plenty of capacity.

Chattem is an old, well-established producer of glycine. Do Chattem and GEO have different manufacturing

processes?

MR. ALLEN: This is Jason Allen with Chattem Chemicals. Yes, we do.

MR. LANG: This is Scot Lang with GEO Specialty Chemicals. I agree with Jason. We have different manufacturing processes.

COMMISSIONER BROADBENT: Mr. Allen, you consistently refer to customers not contacting Chattem. We've heard from certain customers that they've never heard of Chattem. Do you have evidence that you approached some of these customers that have not purchased from Chattem recently, in an effort to gain sales?

MR. ALLEN: Yes, we do. We've had active negotiations, active inquiries to those customers, and I can supply in post-hearing brief emails.

COMMISSIONER BROADBENT: Okay. That would be helpful. And then in your post-hearing brief, there's this table on VI-3 which is BPI, but if you could look at the financial data and there's pretty stark distinctions between the two producers. I'd like to hear your explanation on that.

COMMISSIONER BROADBENT: For Mr. Lang and Mr. Allen, does the domestic industry produce either of the two products singled out as separate domestic like products by the Japanese respondents?

MR. LANG: Yes, we do.

COMMISSIONER BROADBENT: Okay. If the domestic industry does produce these products, can you respond to the merits of the separate like product arguments made by the Japanese producers? Either here or in your post-hearing brief.

MR. SCHWARTZ: We'll address it in our post-hearing brief.

COMMISSIONER BROADBENT: Okay. Looking at Table 4-6, it appears that the amount of product sold under FDA and EDQM certification varies widely from country to country. Can you explain why this is and how important this is in our consideration of cumulation and substitutability? Mr. Ghazey and Mr. Allen.

MR. KLETT: Commissioner Broadbent, this is Dan Klett. So I'm looking at, so Table 4-6?

COMMISSIONER BROADBENT: Yes.

MR. KLETT: If we could do that in the post-hearing brief, in terms of the actual data here, that might be better. Since it's confidential information.

COMMISSIONER BROADBENT: Okay, fair enough. Mr. Ghazey and Mr. Allen, you argue that the purchasers of glycine are highly concentrated and therefore have substantial bargaining power. Couldn't you also argue that suppliers to this U.S. market are heavily concentrated and

therefore have significant bargaining power and price leadership capability?

MR. GHAZEY: I don't wanna get into confidential information, but some of the larger buyers I would say are analogous to Walmart in terms of their purchasing power. We try to avoid overconcentration of our customers, so we have diversification. But no, my financial results do not give it up as evidence that I have pricing power. There is plenty of alternative options for customers to pursue, some legitimate, some not.

MR. ALLEN: Ms. Broadbent? This is Jason Allen with Chattem Chemicals. It is a known fact that all customers of glycine in the United States have access to subject import data for glycine coming into the United States. It always is a point that is discussed with regard to negotiations, that fact, and no matter if we're talking about intravenous-grade glycine, regular USP glycine, technical-grade glycine, or CMP glycine, that one piece of data set is always used in that negotiation, whether or not it applies.

COMMISSIONER BROADBENT: Okay. Let's see, Mr. Allen and Mr. Ghazey, Japanese respondents argue that nonprice factors such as availability and quality are more important factors than price. Given that glycine constitutes such a small share of purchasers' overall costs,

but could potentially cause serious delays and quality problems in purchasers' own production processes if glycine is either unavailable or not of sufficient quality, wouldn't it make sense that nonprice factors drive this market?

MR. GHAZEY: Not in our experience.

MR. ALLEN: Ms. Broadbent, this is Jason Allen with Chattem Chemicals. On many occasions, we have offered IV-grade glycine as technical-trade glycine just to be able to sell those pounds. Again, from a per-unit basis, pushing those pounds of our plant is very similar to GEO's. So again, we are offering IV-grade glycine as technical-grade glycine to the accounts.

MR. KLETT: Commissioner Broadbent, this is Dan Klett. And your purchaser questionnaires confirm that. In other words, when you look at the quality factors, various quality factors, the various supply factors. I mean, by and large, U.S. producers and subject imports are characterized as comparable. The one factor where you do have a distinction is price, where U.S. producers are most often rated to be higher priced than subject imports.

COMMISSIONER BROADBENT: Okay. My time's expired.

CHAIRMAN JOHANSON: Commissioner Schmidtlein.

COMMISSIONER SCHMIDTLEIN: All right, thank you, Mr. Chairman. I'd like to also thank the witnesses for

being here today. So I'd like to understand a little bit more about the bid process. If I understand correctly, that is how contracts are entered into, is through a bid process? If it's not the spot market. Is that correct?

MR. HUGHES: This is Dan Hughes with GEO. So it's a blind-bid process they put out -- usually it's done through a third party -- where you get a date where you go into a website and they have a list of plants that they have the volumes next to. And then it's up to the individual supplier to enter in the pounds that you want to bid on that plant and a pricing structure plus the terms, how many days you get paid. That then is submitted within a deadline, usually about a week and then you kind of wait in silence to hear whether or not you've been awarded based on your bid.

It's been our -- well, it's happened to us in the past, where even after that formal bid process is done, the customer will come back to us and say, you know, "Your pricing's a little high compared to the other guys, so do you wanna resubmit?" even after the bid date was done. And then, you wanna resubmit again because your price is still a little high. Until they get the price they want, essentially.

The other type of bid that we do is where it just shows volume rates, for X amount to X amount, X amount to X

amount, up to their top value. And you can bid whatever volume you wanna bid at, at a price. Or you can bid all four at various pricings, to how much volume you wanna get.

COMMISSIONER SCHMIDTLEIN: And so you're contacted to bid, to ask if you'd like to bid? Are you -- you are prequalified with the purchaser?

MR. HUGHES: Yes.

COMMISSIONER SCHMIDTLEIN: Okay. And does that generally occur by you reaching out to the purchaser to ask to be considered and evaluated for qualification?

MR. HUGHES: We're pretty much qualified at most places that we sell our products. Well, we're qualified at all the places, but all the major people who do bids, we're qualified at. Typically, sometime in the four quarter, we'll get contacted by the customer saying that the bid process is going to start and then we'll get the e-mail. If it gets a little later in the year and we haven't heard anything, I'll reach out say, "When's the bid going to happen?"

COMMISSIONER SCHMIDTLEIN: And for purchasers that you're new to, how are you -- I'm trying to get a better understanding here of how industry knowledge is sort of disseminated, in terms of who the purchasers are, who the suppliers are, you know, so whether it's through this bid process or otherwise. Right. How do you become aware that

there's somewhat a new in the market that you could become qualified for potentially?

MR. HUGHES: Yeah, there's a lot of -- we go to shows, we attend a lot of conferences. We take a look out in the trade magazines to see if anything new is coming up.

COMMISSIONER SCHMIDTLEIN: So there's a trade magazine for glycine?

MR. HUGHES: There's a trade magazine for all the end places that we sell into. There's --

COMMISSIONER SCHMIDTLEIN: Okay.

MR. HUGHES: -- food magazines, there's, you know, nutritional magazines and --

COMMISSIONER SCHMIDTLEIN: Okay.

MR. HUGHES: And if there's somebody new that's out there, we'll give them a call and see if they have glycine requirements.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. LANG: This is Scot Lang with GEO. To Dan's point, we actually set up booths at trade shows, so we're out there advertising on a regular basis that we manufacture glycine, and we're always looking to supply a new customer if there's a new application.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. GHAZEY: And you can also, you know, do internet searches or find us on our website as a U.S.

domestic source for glycine. So we make ourselves available that way as well.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. ALLEN: Commissioner Schmidtlein, this is Jason Allen with Chattem Chemicals. The bid process that GEO is mentioning, often we're not invited to those.

COMMISSIONER SCHMIDTLEIN: And why is that?

MR. ALLEN: I'm not sure.

COMMISSIONER SCHMIDTLEIN: But are you qualified for these purchasers?

MR. ALLEN: We have not been qualified in the past. Until recently, we've been contacted in the last six weeks by a couple of new purchasers of glycine.

COMMISSIONER SCHMIDTLEIN: And do you attend the same trade shows that GEO is participating in?

MR. ALLEN: We do.

COMMISSIONER SCHMIDTLEIN: You do?

MR. ALLEN: Yes.

COMMISSIONER SCHMIDTLEIN: Okay. So do you reach out to new purchasers to offer that you would like to be considered to be qualified?

MR. ALLEN: We have reached out to them.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. ALLEN: Yes, ma'am.

COMMISSIONER SCHMIDTLEIN: Is this an ongoing

affirmative, you know, proactive strategy that you have? Or given that you have millions of pounds of excess capacity?

MR. ALLEN: Of course we concentrate our efforts or the IV-grade market.

COMMISSIONER SCHMIDTLEIN: I see.

MR. ALLEN: We do concentrate in that area.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. ALLEN: But we do have this capacity and it is available.

COMMISSIONER SCHMIDTLEIN: And would you, or do you produce technical and--is it USP--USP grade?

MR. ALLEN: Yes, ma'am. We do have the ability to produce technical-grade glycine, yes.

COMMISSIONER SCHMIDTLEIN: And what about USP?

MR. ALLEN: We do, yes, ma'am.

COMMISSIONER SCHMIDTLEIN: And do you currently produce that?

MR. ALLEN: Yes, ma'am.

COMMISSIONER SCHMIDTLEIN: Both of them?

MR. ALLEN: So, we currently produce IV-grade glycine, which also meets the rigors of USP-grade glycine. In fact, we produce --

COMMISSIONER SCHMIDTLEIN: I see.

MR. ALLEN: -- USP, EP, JP, all of those grades of glycine. We set our plant to manufacture those grades.

Now, if one of those batches do not meet the rigors of USP or the IV-grade glycine specification, then we do have the ability to downgrade that batch to technical-grade glycine.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. ALLEN: And so, periodically we do produce glycine that is technical-grade.

COMMISSIONER SCHMIDTLEIN: Okay. And I'm not sure if this can be answered now. Maybe post-hearing. But are you participating in the bidding process that GEO is participating in? Do you know, for the same purchasers? Or if your market right now, you know, more of the smaller niche pharmaceutical market that you're not in this --

MR. ALLEN: I'm not certain which ones that they participate in --

COMMISSIONER SCHMIDTLEIN: Okay.

MR. ALLEN: -- but recently, we have been requested to participate in a couple of different bidding processes, which are very new to us.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. ALLEN: The ones that they described a moment ago.

COMMISSIONER SCHMIDTLEIN: Okay. And in your description, Mr. Hughes, when you were talking about you're often asked to come back and resubmit after the final bidding process is closed, are the customers indicating to

you who you're competing against, in terms of country of origin or any other information?

MR. HUGHES: No, they're not telling us, but they're just saying that another source.

COMMISSIONER SCHMIDTLEIN: Just another source? Okay. So how did you become aware that it was these four countries that you felt were driving down the prices?

MR. HUGHES: Well, we know that the good folks at Chattem were focusing in pretty much on the pharmaceutical and we did not ever see them --

COMMISSIONER SCHMIDTLEIN: I see.

MR. HUGHES: -- in the past, you know, in participating in these other applications, so we just assumed that it was these other companies. And plus, we have import stat records showing that a very large customer which we split the business with, when one company, one country gets the business, their imports are pretty steady, showing that they're getting the other side, and then if it switches, you can see another foreign countries' imports going up and the other ones declining.

COMMISSIONER SCHMIDTLEIN: Yeah, I see. I guess, assuming Thailand is in for the moment, all other import sources are pretty small, it looks like. So that's what you're saying. Okay. So this is a question that relates to volume and I think it's probably -- well, let me start with

this question.

I think this is sort of a legal question as well, so maybe Mr. Schwartz -- given that Commerce has delayed the final determination on Thailand, assuming that's not out by the time the vote is scheduled in this case, is Thailand eligible to be cumulated? Should we cumulate Thailand with the -- are we able to cumulate Thailand with the other countries when we vote? Have you looked at that?

MR. SCHWARTZ: We've certainly looked at it, and we can address it for you more fully in the post-hearing brief.

COMMISSIONER SCHMIDTLEIN: I assume your answer is yes.

MR. SCHWARTZ: It is.

COMMISSIONER SCHMIDTLEIN: If it's not, let me know right now, because we can have that conversation about what happens then.

MR. SCHWARTZ: No, it is.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. KLETT: Commissioner Broadbent --

COMMISSIONER SCHMIDTLEIN: And I assume the other side -- I'd invite you to address that question as well. Yes? Did somebody --

MR. KLETT: Yes, Commissioner Broadbent, this is--

COMMISSIONER SCHMIDTLEIN: Schmidtlein, but yeah.

MR. KLETT: This is Dan Klett --

COMMISSIONER SCHMIDTLEIN: We do kinda look alike though.

MR. KLETT: I'd also like to say that even if there's no determination on Thailand by the time you have to vote, there's still the data issue as to the reliability of your import statistics on country of origin, and that is that, you know, right now, what is in the Staff Report is Thai could very well be Chinese or a portion of that be Chinese. So it would be -- so I think there's an issue about following up with Nutrin and making sure you have accurate country of origin data from them so that you have accurate cumulated data, even if there's no determination on Thailand.

COMMISSIONER SCHMIDTLEIN: Okay.

MR. SCHWARTZ: We do -- excuse me. We do indicate in our prehearing brief a list of questions that you should issue --

MR. BISHOP: David, can you pull your mike closer, please? They can't hear you in the back.

MR. SCHWARTZ: In our prehearing brief, we do have a list of questions that we suggest that you provide Nutrin to address how much of what they've shipped is Chinese and how much of what they shipped is Thai. Of

course, we would prefer that you would treat their behavior as adverse facts available because we believe that they have misled the Commission in their questionnaire responses.

Also, I think that, if and when the decision is made by Commerce, you will have these transshipments that would have to be considered both dumped and subsidized Chinese. I think if you look at the period of investigation for customs, you'll see that it overlaps with the preliminary determination that came out regarding the China CVD matter. So the CVD determination would capture not only Chinese glycine transshipped under the dumping order, but also under the subsidy finding at Commerce.

COMMISSIONER SCHMIDTLEIN: Okay. I know my time is up, but let me just ask one -- I mean I have many more questions, but let me just ask one following up on something you said, Mr. Klett. Let's assume that, you know, there's this question about whether or not this stuff is Chinese and it's been misidentified to, I guess avoid the order that's on Chinese product right now.

In your-all's view, has that impacted the pricing information that has been put on the record for the Thai products, specifically with regard to, I guess, the only one they're participating in is Product 2, do you think that pricing information is wrong for Thailand?

MS. WOODINGS: That would infer that the data you

have for Thailand are, in fact, prices for China.

COMMISSIONER SCHMIDTLEIN: Right. But I'm talking about the numbers. Are the numbers wrong? In your view? Not, let's put aside the country of origin for a second, but --

MR. KLETT: Commission Schmidtlein, no, I don't think so. I mean basically these were volume and value data reported by Nutrin for prices into the U.S. market.

COMMISSIONER SCHMIDTLEIN: Right.

MR. KLETT: We don't have any indication that that data it's per se are wrong.

COMMISSIONER SCHMIDTLEIN: Right.

MR. KLETT: It's just the country of origin issue.

COMMISSIONER SCHMIDTLEIN: That's right. Okay. All right. Thank you.

CHAIRMAN JOHANSON: Commissioner Kearns.

COMMISSIONER KEARNS: Thank you, and thank you again to all the witnesses for being here. I guess I'll just continue on the same issue of how we treat Thailand. The Department of Commerce proceeding, Commerce issued a memorandum on April 24th entitled Postponement of the Final Determinations. It states the Commerce is departing from statutory deadlines and does not provide an amended deadline. What is the legal implication of Commerce's

departing from statutory deadlines on the timing of the Commissions' determinations? Guess I'll just start with that one. Mr. Schwartz? Maybe or --

MR. SCHWARTZ: I did have discussions in the past with your staff about the wisdom of the ITC postponing its vote. I was told that you all were going to honor your statutory obligations in further discussions. And we alluded to it in our testimony. This is a rather novel situation, but it's my understanding that you will be proceeding with your vote.

However, when there is a Commerce final determination, that you might entertain or acquire further briefing as to Thailand, regardless of the nature of the determination, in order to determine how you will handle it in a vote or in some other manner.

COMMISSIONER KEARNS: Okay. Does Commerce's action impact the investigations covering glycine from China, India, and Japan?

MR. SCHWARTZ: I will start and I will allow Dan to jump in as well. I mean it's our belief that it should be cumulated and because it's cumulated it doesn't really matter whether it's -- what the country of origin is.

MR. KLETT: Commissioner Kearns this is Dan Klett accepting what Nutrin reported as country of origin and that is in your staff report. If you were to look just

at the data for India, Japan alone, that -- you know the non-tie in subject imports alone even that, I think, there's fairly strong evidence that you have material injury and causation. And Japan is, by far, the largest supplier.

But Commerce's decision could affect the dataset for that -- for the accuracy of the dataset for that in that what's characterized to China in your staff report may be inaccurate as some of the Thai -- what's characterized as Thai is, in fact, China. But even if you accept the country of origin as now reported in your staff report, even excluding China, for the other subject countries there's material injury and causation.

MR. SCHWARTZ: And I would also like to point out that the CBP investigation, the EPA investigation only addresses Thai shipments dating back to late September 2017. So, while there's overlap with this POI, it doesn't cover the entire POI.

COMMISSIONER KEARNS: Okay, right. And about the CBP proceedings, in your briefs at page 20 through 30, you argue that the Commission should consider imports from Thailand as being imports from China and therefore subject to these investigations.

Among other information, you cite a February 2019 determination by CBP that imposes interim measures on imports from Thailand that entered from September 2017

forward and that's what you just mentioned.

The staff report characterized imports that entered from Cambodia as actually -- my understanding is in the case of Cambodia the producer admitted that it was Chinese product.

MR. SCHWARTZ: That was the final result of a CBP EPA investigation that we initiated. At the time of the preliminary phase of this investigation there had been interim measures issued and at the time of the preliminary phase of this investigation your staff did treat those shipments from Cambodia as Chinese in origin.

In July of 2018, during this investigation, the final determination from CBP in it's EPA investigation was issued. And in fact, did endorse their original interim measures and identified that the shipments from Cambodia were, indeed, Chinese. And as a result you all in the final phase of this investigation have continued what you did in the preliminary phase in recognized that the shipments from Cambodia are, indeed, Chinese in origin.

COMMISSIONER KEARNS: Okay, thank you. And this gets to the point, though, I guess the Cambodia situation is very different from the Thailand situation. Here we only have an interim measure and here there appears to be some evidence that the Thai producer does produce, maybe has exported to the United States glycine, right?

MR. SCHWARTZ: I guess I would respectfully disagree with that. I think if you look at the short history of the CBP EPA investigations you'll find that the nature of these interim measure occur after months and months of an investigative process. It's far different than the ITC's preliminary reasonable indication determination. So far, in all the EPA investigations that have been concluded every single one has endorsed the interim measures. There has not been one that has not been endorsed. They've all resulted in final determinations identical to the interim measures that issue.

If you look at the evidence, and we put it on the record as an exhibit, but if you look at that interim measures -- the public version even of the interim measures decision you'll find that the evidence is already rather compelling. We believe that Nutra's Thailand facility is no more than a Potemkin village, a facade that has equipment set up, but if you look at that interim measures decision you'll find that the stoichiometry does not work. That what they have set up does not in any way support the volumes that come out of there.

And the evidence that's in the public version of the interim measures decision bears that out. They point out there's simply not raw material production to support that facility and what they're shipping out. There's not

the employee head count. They found that there was bags of what's called crude glycine laying about. And you can ask either one of these producers and they'll tell you that unless you're engaging in some sort of duty evasion process there's no reason why you would stop in the middle of the MCAA or HCM process at early stage and bag crude glycine. It's just not something that you would want to bag and sell, unless, of course, it was being shipped into your facility in order to further process into a higher grade of glycine, which is a common duty evasion or circumvention process that we have seen. And we saw it in the 2012 Anti-Circumvention inquiry that was mentioned earlier against the Indian companies, Salvi and Aiko. Aiko is the predecessor company to Kumar Industries.

We saw it with -- and we're seeing it now with Nutrin. They shop very crude glycine and then they further process it to technical grade, but more than likely to USP grade and then ship it over to the United States. And very often they don't even bother with the further processing. They just ship into the country USP grade glycine and then repackage it and send it over to the United States.

So, even though there was a finding in that interim measures decision by CBP that they found this bag of what they called crude glycine laying about, we believe it's probably USP grade glycine that was just repackaged and

reshipped as Thai.

COMMISSIONER KEARNS: Okay, thank you. And that's very helpful; particularly, understanding that interim measures have always resulted in the same final measures. But if you could -- and maybe post-petition you might want to think about this a little bit more. What I hear you saying is -- I don't think I hear you saying that we should -- any time we seen an interim measure we should assume there has been transshipment.

Instead, I think I hear you saying, given the facts of this particular case and you know and the detail that we see in the CPB decision, the interim decision, that we should, in this case, go that route. Because I mean the standard does seem relatively low, right? It's reasonable suspicion, I think, is the right word. That doesn't sound like something I just go forward with.

MR. SCHWARTZ: I'm sorry. I may have mislead you. I was trying to get across the point that reasonable suspicion is actually a very high standard. And that based on the record so far of these EPA investigations where an interim measures has never been overturned in the final determination that there's a very high degree of certainty that when CBP does issue an EPA interim measures it's almost lead pipe cinch that there is transshipping. In fact, having participated first hand in the one involving

Cambodia, I can tell you that they'll keep coming back at you requesting more and more information. It could take months. Okay, they're not under any statutory requirement.

COMMISSIONER KEARNS: So, categorically, any time we see that CBP has a reasonable suspicion that we should then assume transshipment.

MR. SCHWARTZ: Based on the short history so far, the EPA investigations, that appears to be the case. Yes.

COMMISSIONER KEARNS: Okay, thank you. My time's up.

CHAIRMAN JOHANSON: On page of its brief, Nestle states that Nestle Purina does not contract for glycine on the basis of price and they state the supply reliability and quality are far more important to the company and that Nestle Purina will not put the reputation of its pet food brands at risk in order to save a few cents on glycine supply. Could you all please comment on this statement?

MR. GHAZEY: As the largest buyer of glycine in the U.S. has significant purchasing power and we, as I mentioned earlier, wanting to run at full capacity and have utilization to reduce our unit cost have in every one of our experience found that Nestle is willing to use whatever purchasing leverage they have to drive price down. That is just our experience.

MR. ALLEN: Like I'd stated in my testimony to begin, we were contacted by Nestle some six weeks ago and I was directly contacted by them. And again, the first statement from them was we didn't realize that Chattem produced glycine in Chattanooga, Tennessee, the United States. Again, which was very shocking to me. I had several conversations with them on the phone. I've had several email exchanges with them on the phone. I offered one million pounds of support because they described that they had a need -- an immediate need.

I gave them a certain price, told them that we could supply the material to them. They told me that there were several qualification hurdles. I told them that we would open our audit schedule immediately and be able to service them. I even gave them 48 hours notice that if they -- they said that they would like to travel to our facility. The only thing that we needed was 48 hours. It could be any time so that we could shorten the pace by which is necessary to qualify Chattem Chemicals.

We submitted drums of glycine to them for qualification. We've received nothing back. We've received nothing back with regard to the qualification investigation or the audit that would take place. We've received nothing back in that regard. So, I'm not certain where it is, but it seems to be, just like all of the other opportunities in

the past, going nowhere.

MR. LANG: To talk earlier, Nestle utilizes the blind bidding process with pre-qualified suppliers. And we can supply more detail on the post-hearing brief, but we submitted pricing and there were several iterations of discussions after our initial pricing was submitted on where we ultimately ended up on the agreement, but we can supply details on those iterations in the post-hearing brief.

MR. GHAZEY: I would only add -- I know that Nestle and I do respect their brand and I think it's a very fine company and they do, from time to time, come audit our facility in Deer Park, Texas. I'm just a little confused that they had such a quality program to how they were buying and we believe they were buying -- I don't know if it's in the public record -- from Thailand. How they were buying from that source and didn't come to realize what Commerce has come to realize, that they're not manufacturing at that site. So, that would lead me to question some of the credibility behind their statements.

CHAIRMAN JOHANSON: Okay, thanks for your responses.

For Product 1, which is pharmaceutical grade glycine, there is, in a general sense, overselling of the imported product relative to the domestic product. What might this explain? Is there a quality premium with this

product?

MR. KLETT: First of all, I'd just like to say that for Product 1 that the volume and values associated with that product is a share of your total pricing products in the total market is so small that I'm not sure it plays much of a role in your causation analysis in terms of material injury. But specific to your question, I'm not sure why there's overseeing and I can look into that more closely for the post-hearing to see if we can discern an explanation for why there's overselling. Thank you.

MR. SCHWARTZ: I would only add that I think as everyone's aware from the staff reports from both the preliminary phase and final phase that the overwhelming majority of glycine that's sold in the U.S. market is USP grade. That can't be emphasized enough.

As Dan pointed out, you're dealing -- as Dan Klett pointed out, when you're talking about pharmaceutical grade, you're talking about a very small percentage of the overall market. And when you talk about that pharmaceutical grade market, it does involve a lot of product that may be very specific or customized to a particular customer that may require certain qualifications or certifications and that's why it's hard to make an apples-to-apples analysis, necessarily, with that Parma grade.

CHAIRMAN JOHANSON: Thanks for your responses.

Japanese Respondents observed that imports of glycine from Japan are not alleged to be counter availably subsidized nor are they alleged to be engage in circumvention and this is mentioned at their pre-hearing brief at page 31. Should the Commission reach the issue of threat of material injury how should the Commission consider these distinctions?

MR. SCHWARTZ: Well, I think, to start, we have to acknowledge that of the final determinations from the Department of Commerce the largest dumping margins were, indeed, from Japan and that they do represent during the POI the largest volume of shipments of any of the four countries involved in this investigation.

CHAIRMAN JOHANSON: Should we in any way take into account that they're not alleged to be engaged in circumvention?

MR. SCHWARTZ: If you're asking if you should take their word for it or there hasn't been an investigation finding yet, I mean there's always a time for I guess things to be found out, but I don't think it's a -- if it is a factor, it certainly shouldn't be a decisive factor under threat.

CHAIRMAN JOHANSON: Okay.

MR. SCHWARTZ: Given the other more overwhelming factors, including the finding of dumping and the size of

the dumping margin and given the fact that they are the largest shipper during the POI of all grades of glycine.

CHAIRMAN JOHANSON: Ms. Li?

MS. LI: I just want to emphasize that Ms. Schmidlein also mentioned this is that without any legal standing about accumulation that this case meets the statutory threshold and at today's hearing I want to emphasize that none of the statutory exceptions is applicable and we can brief more in terms of the accumulation standard in our post-hearing brief. But in assessing whether subject imports compete with each other and with the domestic-like product, the Commission generally consider four factors -- four additional factors. One, fungibility between the subject imports from different countries and between imports and domestic-like products. Second, regional overlap; third, the existence of common or similar channels of distribution; and fourth, the simultaneous presence of the subject imports.

While none of these factors is necessarily determinative and the list of the factors is not exclusive, Respondents failed to address each of these factors, except the channels for distribution and exaggerated the market prices on the niche products as a basis for the de-cumulation. To the extent that Respondents address any of these factors, the Commission has repeatedly found that a

perfect overlap of competition is not required, only a reasonable overlap of competition is required and this record has abundantly established a reasonable overlap of competition.

The fact that Respondents painstaking discussed the non-traditional factors that Commissioner Johanson just mentioned actually demonstrates the weakness of their arguments.

CHAIRMAN JOHANSON: Okay, thanks, Ms. Li and others.

My time's about to expire. Commissioner Williamson.

COMMISSIONER WILLIAMSON: There was discussion earlier about the bidding process and I was curious how significant or what share of the demand is covered by these two bidding processes and do all of the major purchasers sort of do it at the same time of year or is it something each one does differently?

MR. HUGHES: As I understand it, they bid out for their entire requirements. So, a larger customer that's making pet food, for example, might have hundreds of items that they're going to put out for bid for different categories, different people overseeing them.

Generally, the two that we deal with on the blind bid process they do it roughly around the same time,

the fourth quarter for the calendar year -- of the next calendar year.

MR. LANG: And that volume is significant to our business. And we can give more information in the post-hearing brief, but it is a significant volume.

COMMISSIONER WILLIAMSON: Okay. And is this process of bidding has that been steady throughout the period of investigation or is it something that happens?

MR. LANG: It's been steady and consistent for the period of investigation. Yes.

COMMISSIONER WILLIAMSON: Okay. Okay, good. Also, Mr. Allen, particularly for you, you talked about having the capacity. But the question is how long does it take to gear up to do that?

MR. ALLEN: Of course, we're geared down.

COMMISSIONER WILLIAMSON: Understood. But to go the other way.

MR. ALLEN: So, that would require -- of course, that would require us to add new associates in the hiring process. We have the tanks. We have the reactors. We have that portion of our supply chain handled, but we would be able to hire individuals and bring them into our facility. Providing you with a date is very, very difficult today. I can provide more perspective in the post-hearing brief.

COMMISSIONER WILLIAMSON: Okay. So, just sort

of realistically, but in the post-hearing would be helpful.

MR. ALLEN: I will. Could I add one more thing?

COMMISSIONER WILLIAMSON: Sure.

MR. ALLEN: With regard to that one million pounds that we would have offered, we could produce that today. Not all in one day, but we could produce that with our current kit, plus our current arrangement of employees.

COMMISSIONER WILLIAMSON: Okay. And GO, you do want to comment on that?

MR. LANG: At GO, we currently are operating near capacity. We have our contracted customers that we supply first, then we operate on the spot market. And as Ken Ghazey, CEO, mentioned earlier, we are looking at opportunity to de-bottleneck the process. But in order for us to run this business, we've got to run it near capacity.

MR. GHAZEY: Commissioner, a general rule of thumb is it's 18 to 24 months to add significant capacity in a chemical facility. You would first need to do a feed study of front-end engineering, evaluation, design, and then you would have from that you'd have your detailed drawings and you could then put out for bid the equipment you would need.

We have a multi-phased process. We can de-bottleneck at certain sections or we could completely add a whole new line. But it's our experience it's 18 to 24

months. So, that's what I mentioned earlier. There's been such unpredictability and volatility and lately extremely downward pressure on pricing that it hasn't been able for us to rationalize that investment.

We also have approached some of the larger customers to remove that volatility to have longer-term contracts, minimum five years, maybe as far as ten years where we could install that capacity and we could base it on a certain return and we could both share into those gains. So, we're not opposed to these kind of initiatives. We just haven't found a customer willing to take us up on that.

COMMISSIONER WILLIAMSON: That was going to be my next question, but you answered it. Thank you.

The Petitioners suggests the AUVs for imports in a particular HTS category are reliable processes for changes in import prices. Is this the primary basis for your primary assertion that prices in the market are well known and transparent throughout the market relatively quickly? And if so, have you had experience of purchasers citing these imported AUVs to you?

MR. KLETT: I don't think the availability of AUVs from census data is the major basis for our assertion that prices are transparent. I mean at least for purposes of our clients that's not the case. I mean it's possible that importers may use that information and I don't know,

but I think they can talk to you know how they know what prices are in the market and I'll let them discuss that.

COMMISSIONER WILLIAMSON: Okay, thank you.

MR. GHAZEY: I think the purchasers have a better view of the marketplace than the suppliers do because they are the ones receiving these bids, both from domestic and for offshore. And many of them do it in the form of a multinational bid because they have requirements outside the U.S., so I think they have a better knowledge of the market than we do on a pricing basis.

MR. ALLEN: I do agree that the purchasers have more vision of what market pricing is, of course, than the domestic manufacturers. There's other ways that they can obtain pricing. There's distribution, distributors contacting your company and asking for pricing support because they have a special relationship with Customer A or Customer B. Often that distribution process never works.

There's other ways that they can obtain that pricing and I can provide that in post-hearing brief also.

COMMISSIONER WILLIAMSON: Okay, thank you.

And also, how significant is this of the multinational purchaser wanting to worldwide sourcing. I think in particular one other case where that did affect the pricing and the justification of why the prices were the way they were. In other words, how do we take that in account.

We're looking at the U.S. pricing and pricing in the U.S. market and yet you've got purchasers who are looking worldwide?

MR. GHAZEY: I'm not sure I quite understand the question. I think I was saying that the purchasers have more view of the market and particularly very large ones that operate multinationally have more of a view of a global market. We only have eyes for the local, U.S. market; although, we do sell some small quantities into Europe and we've attempted to penetrate Japan, but we've had no success. So, I'm not sure if I answered your question.

COMMISSIONER WILLIAMSON: I think we've had foreign suppliers argue that the reason the prices are so low is because they're dealing with -- they're a multinational purchaser, is doing worldwide pricing and that's the justification for their low prices. So, I'm asking is there any evidence here that that's distorting the Respondent's pricing or enabling them to sell lower because they're doing worldwide deals. It may not be true, but I'm just saying this one particular case I'm thinking about where it was argued.

MR. LANG: We believe that the lower prices are a result of transshipped or subsidized pricing, not necessarily --

COMMISSIONER WILLIAMSON: Into the microphone a

little bit more. I'm sorry.

MR. LANG: I apologize. We believe that it's not necessarily a result of worldwide pricing power. It's more a result of the transshipped or subsidized pricing that they're seeing.

MR. KLETT: I mean this is not like a product like oil or other commodities where there's essentially a transparent, worldwide price that could be driving the U.S. price. I mean I think the U.S. -- from what I've seen, the U.S. market is a discrete, you know separate market that's influenced by supply and demand factors in the U.S. market, at least from what I observe.

COMMISSIONER WILLIAMSON: Okay. I've been around for 12 years, so things keep popping up.

MR. ALLEN: I do want to add this. I know that I said that we would provide additional data in the post-hearing brief, but I do not know our competitor's process for producing glycine intimately. I do understand that they produce the glycine via the HCN method of manufacturing. We produce glycine using the monochloroacetic acid method of manufacturing. But we have a team of engineers and scientists that could dig into their process from a theoretical perspective and we could determine essentially what their cost to manufacture is within plus or minus a few percentage points. The could do

the same on our behalf, understanding the raw materials input, understanding the affluent stream that are necessary, the solvent streams -- all of the different energy factors, all of those different perspective pieces you could understand this. So, it's really not a mystery.

So, that's another tool that a purchasing person would have at their availability. It could be, again, the bidding process. It could be distribution asking questions for pricing. It could be directly someone calling you and saying, look, we need immediate support. Would you please provide us with a price. You provide the price. Again, your price is matched against a subject import price. And again, my example of using the theoretical approach of analyzing the chemical process to understand exactly what that price is within a few percentage points.

COMMISSIONER WILLIAMSON: Okay, thank you for those answers.

CHAIRMAN JOHANSON: Commissioner Broadbent?

COMMISSIONER BROADBENT: Mr. Allen, how important are raw material prices in price negotiations with purchasers? Do purchasers expect prices for glycine to fall when HCN ammonia or MCA prices are declining?

MR. ALLEN: Great question. Without leverage, without having volume to be able to support our raw material inputs, we're essentially at the mercy of whomever we

purchase those raw material inputs from. Also, our suppliers, of course, are large, global suppliers of those raw materials and they understand exactly what's going on in their markets and they understand exactly what's happening today at this hearing. So, they supply us with raw materials, but they understand what's happening in the glycine market.

So, have actively had conversations with our procurement staff and our global staff to a certain what type of pricing support that we could obtain if we had an additional million pounds of volume of glycine or two million or three million pounds of glycine. So, looking at this and not having hard quotes, we understand that the theoretical values for the raw material support look better than our current values. Again, that has to be backed by additional volume, guarantees, so it is significant, Commissioner.

COMMISSIONER BROADBENT: Okay.

MR. KLETT: Commissioner Broadbent, this is Dan Klett. If you look at imports just from India, Japan and China, and exclude Nutrin, which is -- I mean your Thai data is essentially Nutrin, you still have strong evidence of import or material injury by subject imports. I mean Japan alone is the largest single supplier from Census data into the U.S. market.

So I don't think that, you know, I don't think that injury is due just to Nutrins/what was reported as Thailand. I mean I think even for the other three countries combined, there's sufficient evidence to find material injury and causation.

MR. SCHWARTZ: Mr. Ghazey was correct, in that the most significant change in the market in recent years was this new entrant. However, we could have very well brought a case without Thailand, and still it would have been a very potent and effective one, and a needed one.

MS. WOODINGS: Commissioner Broadbent, I'd also just like for you to refer to the pricing evidence that we provided yesterday. You have ample evidence of massive underselling. You have ample evidence of price declines, and because some of those data -- we do not have pricing for China. When you take out Thailand, that data represents the imports from India and Japan.

COMMISSIONER BROADBENT: Okay, all right. Let's see. Mr. Schwartz, you assert that Nutrin has systematically transshipped Chinese origin glycine into the United States, and therefore the Commission should reclassify subject imports from Thailand as subject imports from China. Has the Commission done this before in instances when CBP has not made a final ruling on transshipment?

MR. SCHWARTZ: Given the short history of the EPA process, that's something we would have to research for you and report in the post-hearing brief.

COMMISSIONER BROADBENT: Yeah. Yeah, that would be helpful.

MR. SCHWARTZ: But I would like to correct the record, in that all I can say about this particular CBP EPA determination, this interim measures determination and that's all they say is that they just indicate that Thai shipments from late September 2017 appear -- are Chinese, transshipped Chinese glycine.

I can't speak, based on the CBP EPA determination, that shipments from Thailand before that period that are included in our POI are Chinese, based on the CBP EPA investigation findings.

COMMISSIONER BROADBENT: Okay. Mr. Allen and Mr. Ghazey, why did domestic producers' shipments increase only modestly in interim 2018, despite the substantial decline in subject imports from China, India and Japan in that period?

MS. WOODINGS: Commissioner Broadbent, I think on behalf of the domestic industry as a whole, appropriately we'd address that in confidence in the post-hearing brief.

COMMISSIONER BROADBENT: Okay. Figure IV-5 in

the prehearing report shows relatively steady levels of subject imports from China, India and Japan. However, imports from Thailand spiked considerably higher than normal levels in late 2015-early 2016, and again in mid-2018. Can you explain why these spikes occurred in imports from Thailand?

MR. SCHWARTZ: The first spike occurred because that's when the Thai facility formally, officially came online, and they started shipping and warehousing the glycine in the United States, whether they had customers or not.

The second spike, I think, was as a result of the trade cases, where they had contracts to fill and they were rushing to get in glycine before the prelim, and then when they got a favorable preliminary determination, they continued shipping.

COMMISSIONER BROADBENT: Okay, that's helpful. I mean it looks to me like -- I think we have our vote on May 29th, and the record classes May 22nd or something. But if Commerce does make a final determination, I don't think we can cumulate. Do you agree with that, with Thailand?

MR. SCHWARTZ: Well that's something that we would like to further brief in the post-hearing brief. But it's our contention that you should go facts available

against Thailand based on the decision of the CBP, and you would cumulate them.

COMMISSIONER BROADBENT: But Commerce would have to act first before we could cumulate.

MR. SCHWARTZ: I guess as a statutory and technical measure, you would have to have a final determination.

COMMISSIONER BROADBENT: Yeah. That's what I was thinking, okay.

MR. SCHWARTZ: So yes. I think just as a matter of course, it would be difficult for you to take action without a final determination. That might again -- you might want to entertain again a possible postponement of that vote, because of the -- again, it's a novel situation that may require a novel approach by you all.

COMMISSIONER BROADBENT: Okay, thank you.

CHAIRMAN JOHANSON: Commissioner Schmidtlein.

COMMISSIONER SCHMIDTLEIN: Okay. Just to follow up on that, I guess I was thinking, you know, we have a lot of cases now where they're split, because Commerce comes back in some investigations before others, and in fact I think we just voted on one, large diameter welded pipe of different varieties.

So I mean for cumulation purposes we've

cumulated countries where the final determination hasn't come in, because the investigations have been split. But here, they're going beyond the statutory deadline, right. So in my mind the question is what is the impact on our investigation from the fact that Commerce is going beyond the statutory deadline?

Maybe I'm wrong, but I mean that's the sort of analysis I'd like to see in the post-hearing is, you know, how does this differ from other cases where the investigations have been split and for cumulation purposes we've included those other countries? For negligibility we don't, right? We don't cumulate for negligibility purposes in determining whether or not those countries are going to exceed those thresholds.

MR. SCHWARTZ: And thank you for pointing that out. That was how your staff explained to me. In fact, I think they even referenced that case, that that would be your approach.

COMMISSIONER SCHMIDTLEIN: Okay, yeah. Anyway, just so -- but here I think they are going -- in those cases where they're splitting and they're coming back, Commerce is coming back early in some investigations for some countries where there's multi-country cases, they're not going beyond the statutory deadline, right? Like there's -- they're coming back early on some and later on others, but all

within the statutory period. So anyway, that's what caught my eye.

Okay. I had a few questions on price, and specifically when we were talking about if Thailand, you know, let's put aside the circumvention and country of origin issue, and whether or not those imports from Thailand end up being counted as Chinese and, you know, I guess if Commerce ultimately goes negative on Thailand, then that may make a big difference to the outcome of the case.

But just in terms of that information in the pricing products, right, and I guess from market share as well in terms of how we're looking at it right now, so you know, I'm going to get down in the weeds here a little bit. It's confidential, so we can't talk about the specific numbers but I can talk about the trends and so forth.

If you look at, let's just start with market share, right, and if you're not including Thailand and you're looking only at -- and so let's say Thailand is non-subject, right. When you look at the overall from '15 to '17 to what happens to U.S. producers' market share they gained a little tiny bit, right.

So what's happening here is, you know '15 to '16 they gained; '16 to '17 they lose. Not quite as much as they gained, so overall it's a small gain, right. So when

you look at the year and then okay, that's okay. So in '16 to '17 they lose market share. Market goes up in '17, right? Market's going down in '16 overall.

If you take out Thailand, you don't have subject gaining when the U.S. is losing, if you look at the table. Have you looked at that, right? So if Thailand becomes non-subject, again putting aside whether or not that circumvention investigation is successful and all of those imports then become Chinese imports and they become subject, that could be a different story.

But if Thailand is non-subject, if you're looking at when the U.S. loses in '17, that's when Thailand gains. Well, if they're non-subject then how do get to an affirmative based on lost market share due to underselling? So that's my question, and then we'll get to price effects, price depression in a minute. But does anyone want to take a stab at that now?

MR. KLETT: Commissioner, Commissioner Schmidtlein, this is Dan Klett. I'll take a, make a few points and I think Rebecca wants to say some too. The first of all with respect to the data, we're recommending that you look at the import data somewhat differently, and I think a lot of what's going on with Thailand, and I think I had a chart in one of my slides where you saw a big increase in

imports from Thailand in late 2015, and so in your staff report, that's basically showing up as imports, import market share from Thailand in 2015.

A lot of that went into inventory at the end of 2015, and actually was sold into the market in 2016. So that we think -- and this is an approach that the staff actually included in the preliminary staff report as an alternative market share, and that is that you -- you take the Census imports so that you have full coverage, but you make an adjustment from your questionnaire data for changes in inventory so that you -- some of that, the surge in imports in late '15 that actually competed in the market in 2016 is taken into account.

Now so I'll have to go back and look at that table, to see if that answers your question in terms of the --

COMMISSIONER SCHMIDTLEIN: Well can you -- so for share purposes, that's based on shipments, right?

MR. KLETT: That's based on -- well no. What I'm saying for purposes of market share, we think a better, a better proxy for imports in terms of shipments into the U.S. market, because Census is not shipments into the U.S. market, is to adjust the Census for inventory changes, so that you have a better measure of shipments into the U.S.

market of subject imports.

COMMISSIONER SCHMIDTLEIN: Right, and so I guess my question -- I don't know any of this stuff, but in looking at the quantity data, right, that's clearly based on Census imports?

MR. KLETT: That's correct.

COMMISSIONER SCHMIDTLEIN: And the calculation of the consumption quantity and various shares?

MR. KLETT: That's also --

COMMISSIONER SCHMIDTLEIN: That's based on Census data?

MR. KLETT: That's based on Census data as well. It's not based on import shipments into --

COMMISSIONER SCHMIDTLEIN: It's not based on shipments, okay.

MR. KLETT: That's correct.

COMMISSIONER SCHMIDTLEIN: Okay, all right. So that might be part of --

MR. KLETT: So but I'll have to look at the data to see how that comports with kind of the -- this fact pattern you're describing. But I also would like to say that notwithstanding kind of those market share patterns, the subject imports are a large share of the U.S. market in absolute terms.

So then you get to pricing in terms of, you know, what does that tell you about what's going on with your pricing and causation. I think there, you have the import trends. You have the underselling. I think Table V-8 of your staff report has fairly detailed information on what purchasers said about buying U.S. versus subject, and whether it was due to lower priced or not.

But I think to your specific question, I'll have to look more closely at that alternative, and how that fits with your fact pattern.

COMMISSIONER SCHMIDTLEIN: Okay. So here's my question with regard to the pricing products, right. So let's look at Pricing Product 2, which is, you know, as you said really where all the action is for the most part, or most of the action. And so here's my question again about that.

When you look at what's going on through the POI for prices for the U.S. product, and you see that in Pricing Product 2 the U.S. product is, you know, maintains its price and it starts to go down sort of a little bit in the third quarter of '16, but you know, through most of '16, even though demand was softening, the U.S. is maintaining its price. You've got Japan and India both in the market, and this is -- you know, I know the witnesses can't see this,

but the economics experts and the lawyers can see when you look at page V-12, Roman numeral V-12, where we have the little chart that shows how U.S. price is fairly stable through '15 and '16, right.

And then you see India and Japan, which are underselling and they're kind of going like this, right? The U.S. doesn't seem to be reacting to that. And then suddenly Thailand, when you look at their quantity, shoots up in the beginning of 2017 substantially, right, and all of a sudden U.S. price substantially falls in the beginning of 2017.

Again, demand is starting to increase, but you see U.S. price take a big hit in 2017, and then continue to go down for the most part. It does tick back up there for the last quarter and then drops again. So to me, you know, that looks like the Thai product is having a big impact on price, if you just look at what else is going on.

MS. WOODINGS: Commissioner Schmidtlein, a couple of things to think about in response to your question. First of all, I remind you that the testimony has been that annual contracts tend to be negotiated at a particular time of year, and that's common for many customers. So what you're going to find is that price declines, prices may be lumpy and falling. In other words,

a negotiated price in November in a particular year should be in effect for supplying that customer for most of the following --

COMMISSIONER SCHMIDTLEIN: The following year.

MS. WOODINGS: The subsequent year, exactly.

COMMISSIONER SCHMIDTLEIN: Right.

MS. WOODINGS: So one wouldn't expect that the aggregate prices, and this affects a lot of the U.S. peak rate, which we're talking about, they're subject to these long-term contracts for the U.S. producers. You wouldn't expect that you normally find that the U.S. price trended exactly as the import price might be.

That's one thing to think about, and but again, I point to the fact that there's -- there's massive underselling by these products throughout the period, and when it comes down to including by suppliers other than Thailand. So when it comes down to that annual period where the companies are negotiating the price with their customers, their customers are coming back from this well, the price over here is there. The price over there is imports supplies.

Invariably, they're citing import supplies and so there's that effect of forcing them down each year annually in price.

COMMISSIONER SCHMIDTLEIN: Okay. I think that -- and you could again, you can address it in post-hearing, because it seems that the question still is, you know. The U.S. price was pretty consistent through -- starting in '15. Of course, we're not comparing it to '14, and then in '16, right. So what you see, it's not -- despite the underselling that's going on with these other three countries, at least in '16 it didn't -- it didn't really affect the price of U.S. product in the USP.

MR. SCHWARTZ: Well that would be because the contract customer negotiations would have occurred in late 2015.

COMMISSIONER SCHMIDTLEIN: Right. But you've got, you've got underselling by India and Japan in 2015 and 2016. You see what I'm saying? I'm trying to understand like if we take Thailand out, where do you -- where do you -- where do you see the impact of Japan and India? Is it in '15-'16 or is it really in '17?

MR. KLETT: Commissioner Schmidtlein, this is Dan Klett. I mean you're right. When you look at the quarterly data and when you also look at your trade data and your financial data, I mean the impact in terms of declining prices and the effect of those declining prices on revenue and profitability is going to be evident in '17 and '18.

I think your data will, you know, show that, that essentially the underselling that occurred resulted in U.S. producers having to lower their price to meet the imports, and that is manifest in significant declines in revenue and profitability in 2017 and 2018. I mean you're right. You really don't see that in terms of 2015 to 2016 to that same degree.

COMMISSIONER SCHMIDTLEIN: Okay. I mean I know this is consistent with Mr. Ghazey's testimony, that the tipping point came in 2017. Okay. Well my time is long expired. Thank you.

CHAIRMAN JOHANSON: Commissioner Kearns.

COMMISSIONER KEARNS: I'm just continuing up on that question about pricing. India and I think Japan prices fell, right? What were they doing during that same period of time in 2017 and 2018?

(Simultaneous speaking.)

MS. WOODINGS: Pricing data for the individual -- excuse me, Rebecca Woodings. Pricing data for the individual countries is confidential. I can only discuss it in the aggregate, and by saying that overall, the subject import prices declined throughout the POI, and that's true even if you take out Thailand, and overall there was substantial underselling by the subject imports and that's true even if you take out Thailand.

COMMISSIONER KEARNS: Yeah, okay. Let's see. Let me just clean up from my earlier round. The CBP final determination, do you know when you all expect that? I think the statute says 300 days and that would be mid-August. Is that sort of your expectation?

MR. SCHWARTZ: We have the same information you do based on the statute. You're right, it's 300 days and I think if you calculate it you end up in August.

COMMISSIONER KEARNS: Okay, and by the way, was that CBP investigation affected by the government shutdown do you know?

MR. SCHWARTZ: Excellent question. I don't believe it was.

COMMISSIONER KEARNS: Okay. Imports from India. The volume of imports from India was substantially lower in interim 2018 than earlier in the POI. Do you know the reasons for this? For example, did the 2017 removal of GSP treatment for glycine play a role?

MR. KLETT: Commissioner Kearns, this is Dan Klett. I think one logical explanation for that is this particular, this particular case being filed probably had some effect on what you observed on imports coming in from India.

MR. SCHWARTZ: I would simply add as a fact

point, a data point, the removal of the GSP benefit, the 4.2 percent duty free benefit and the addition of it kicked in on July 1st, 2017.

COMMISSIONER KEARNS: Okay, thank you. Let's see. So I want to make sure I understand the semiconductor segment of the market. I mean that is -- even though what we think about it as needing a very pure form of glycine, it is just technical grade glycine that satisfies that segment of the market?

AA So again Jason Allen with Chattem Chemicals. The CMP market, as far as I know, does not fall under one of the three categories of technical grade, USP grade or intravenous grade glycine. Again, there's very specific customer certifications. So they have a certificate of compliance, a C of A, and on that C of A all of those different metals are listed.

We're talking about qualifications or excuse me parameters that are very low, and when I mean "very low," instead of being a PPM, which is a part per million, which is a milligram per kilogram, we're talking about parts per billion and it takes very, very specific processes to be able to produce that glycine, and it takes very, very sophisticated instrumentation to be able to even analyze that glycine. So this material is a bit specific and bit

peculiar to the other three.

COMMISSIONER KEARNS: Okay.

AA Currently, I wanted to add, we do have three customers that participate in this industry.

COMMISSIONER KEARNS: Okay, and do you know, our data, are we -- how do we classify it in our data? I mean is it not technical grade?

MR. HUGHES: Dan Hughes. Commissioner, I can't speak to the rest of the market, but I can say that the imports stats that come to us show one in particular customer who we believe is doing this particular type of processing, as bringing in technical grade. What that means or what that specification is, I do not know. But just based on what's on the record, it does say "technical grade."

COMMISSIONER KEARNS: Okay. So it's technical grade, which makes me think it's the least pure, but in fact it is by far the most pure?

MR. HUGHES: For this particular application?

COMMISSIONER KEARNS: Right.

MR. HUGHES: For this particular application, I would argue that that product could be more pure than even IV grade.

COMMISSIONER KEARNS: Right.

MR. HUGHES: Yes.

MR. SCHWARTZ: Well, when Mr. Hughes is referring to the important information, he's referring to commercial trade data that he obtains from Data Mine, where if you look at the shipping records, he knows that it's being -- that it's coming in as tech grade glycine. That's how it's being listed on the shipping documentation, and he knows based on the end user or who's bringing it in, what that it's being used for the CMP slurry application.

COMMISSIONER KEARNS: Okay. So not just by the AU, the average unit values, but actually you know who the customer is from that data?

MR. HUGHES: Yeah, Dan Hughes. Yes, we do know. It's listed on the import record.

COMMISSIONER KEARNS: Okay.

MR. HUGHES: But I would like to add again, I don't know what they mean by "technical grade." It might be completely different from what we mean as technical grade.

COMMISSIONER KEARNS: Right. Sounds like that's probably right I would say. Okay, okay. I think we've already covered this but, you know, in talking about IV grade glycine and you can do this post-petition. I know you've already agreed to answer some questions on this post-petition. But I think we're all kind of just want to

understand how important it is for suppliers to be certified by the FDA and by the comparable EU authority.

So in other words, are there a lot of U.S. producers of downstream products that use glycine, that insist on glycine that meets EU requirements because their end product is going to be shipped to the EU?

AA So I -- again, Jason Allen with Chattem Chemicals. I only know of one active customer that insists that. But with regard to the pedigree, that's what I call it, the pedigree for that glycine. Again, quality is not tested into glycine. It's manufactured in the process of glycine or manufacturing glycine.

FDA requirements are absolutely the most prime example of quality certification that you could place on any product that is an API product. Of course, the FDA visits facilities annually, could be biannually depending upon the process or the active pharmaceutical, or even the finished dosage application. But that -- having that certification is absolutely the most important for the IV grade market.

COMMISSIONER KEARNS: Okay, okay, and then I think the last question I have, we have some bullet points on page Roman numeral II-8 that describes various end uses, and I'm wondering if you all can help us understanding post-petition, post-hearing brief how you would estimate,

you know, how much, you know, what share of the market each of these various segments holds? I'm guessing that's a little bit difficult for you to do, but you're in a better position to do it than I am. So if you can help us figure that out.

MR. SCHWARTZ: We'll take care of it post-hearing.

COMMISSIONER KEARNS: Okay, great. I asked the same thing of the Respondents as well. Thank you. I have no further questions.

CHAIRMAN JOHANSON: Commissioner Williamson.

COMMISSIONER WILLIAMSON: I was wondering, what accounts for the change in the domestic production between 2016 and 2017?

MS. WOODINGS: Commissioner Williamson, again because we're talking about two companies, if you don't mind --

COMMISSIONER WILLIAMSON: Okay. Post-hearing would be fine.

MS. WOODINGS: Post-hearing.

COMMISSIONER WILLIAMSON: And I guess also the same for what accounts for the change in market share in 2016, and you can also do that post-hearing too.

MS. WOODINGS: Yes, yes sir.

COMMISSIONER WILLIAMSON: Good, thank you. Let's see. This is a question about multi-sourcing. Would you agree that multi-sourcing is common AVS? How long has it been a common thing?

MR. SCHWARTZ: I guess I would ask for a point of clarification. When you mean by multi-sourcing, you mean --

(Simultaneous speaking.)

COMMISSIONER WILLIAMSON: Yeah, using more than one supplier.

MR. HUGHES: Dan Hughes from GEO. I think in larger companies that they have a lot of material, it's in their best interest to have more than one source in case something happens to the primary source. We do see that quite often in the larger companies. A lot of the smaller companies will buy on price or specifically hone in one particular supplier.

COMMISSIONER WILLIAMSON: Okay.

AA Commissioner Williamson?

COMMISSIONER WILLIAMSON: Sure.

AA I don't mean to interrupt, sir.

COMMISSIONER WILLIAMSON: No, sure.

AA So again Jason Allen, Chattem Chemicals. With regard to continuity of supply, that is key and

critical to all of the dosage end users, as well as other USP users, whether or not they use the material for pharmaceutical applications or not.

So it would be in their best interest, and I've had many conversations with our accounts and potential accounts, that they have multiple sources because supply disruption, of course, is something that they are not willing to accept. Things that could disrupt the market could be an FDA warning letter; it could be something as tragic as a facility just going down because of some sort of unplanned event. We've seen many of those unplanned events again tragically in the United States in the last few months with regard to chemical facilities.

But again continuity of supply, having multiple sources I believe is key to many of the dosage accounts.

COMMISSIONER WILLIAMSON: Okay. Would you say more and more people are -- where's the trend, or has it always been that way, that people want to multi-source, if there's any change over the period?

MR. GHAZEY: In my experiences, most purchasers do like to have security of supply, and one way they achieve that is by having some diversification in their supply base. They may, for purposes of scale or economics, may buy all or most of their product from one vendor. But it's only if

they choose to do that and they have a superior strategic relationship.

But I think if you're sole sourced and it's not your choice, then that's not usually a place you want to be as a buyer.

COMMISSIONER WILLIAMSON: Okay, thank you. How do you respond to the Respondents' contention that no causal nexus exists between the domestic industry's financial condition and the cumulated subject imports? I don't know to what extent you can do that now, as opposed to post-hearing.

MS. WOODINGS: Pardon me, Commissioner Williamson. I didn't hear the question. Would you --

COMMISSIONER WILLIAMSON: The Respondents contend that there's no causal nexus between the domestics' financial condition and the imports.

MS. WOODINGS: The causal connection is proven through the price effects, what you see, and it's combined with the volume. But certainly the large volume of imports that are being undersold, that goes straight through to the bottom line, into the cost of goods sold. You can see it trickle down through the financial data for the industry as a whole.

They're facing declining per unit revenues,

they're facing rising unit COGS. There's only one outcome to that, and that's the margins are being squeezed, and you see that as you go through the data. So that there's just we categorically disagree with Respondents on that point. It's very evident in the pricing evidence on your record.

COMMISSIONER WILLIAMSON: Okay, and that's over time as the -- if the imports are not going up as much. You can address it post-hearing if you want. In other words, the time side of it, what happening over time.

MS. WOODINGS: What's happening over time. We'll do that year to year, again based on the confidential data and the different measures of financial performance.

COMMISSIONER WILLIAMSON: Thank you. Just one other question, and this is to the extent it's not proprietary, because we have two very different companies and I think Chattem has been around for a long time. How would you say the companies' sort of business model has evolved over time?

AA With regards specifically to glycine or with regard --

COMMISSIONER WILLIAMSON: Specifically to glycine, yes, uh-huh.

AA So of course we would have been the market leader in the 60's to 70's to 80's, and I'm not sure exactly

when Dow Chemical would have entered into the glycine market, actually Hampshire Chemical and then Hampshire was purchased by Dow. But we would have been the market leader for a number of years.

But as there were more pressure placed upon the subject imports, or actually more and more imports into the United States, our volume would have went down over time as a result of just not able to compete with the certain economics of those subject imports. So in 2007-2008, somewhere in that time period, we lost approximately one million pounds, 1.5 million pounds of technical grade glycine business.

And in fact today, we probably have less than 100,000 pounds of technical grade glycine business at our facility.

COMMISSIONER WILLIAMSON: Okay, thank you. That's helpful, and for GEO, why did Dow get out of the business and what was GEO before it acquired the glycine business?

MR. GHAZEY: Yeah. I can't give you, other than what Dow explained to me when they offered the facility for sale, was it just didn't fit strategically with what Dow wanted to achieve as a company. It was a small business for them; it's a material business for us. There were some other adjacent operations that we were acquiring that was

important to us as well in the naphthalene sulfonate business which we're also a major producer in.

But it just seemed like it was a corporate decision that they wanted to exit that business, and we became the buyer.

COMMISSIONER WILLIAMSON: Okay. But you already were in the chemical business?

MR. GHAZEY: Yes, yes, yeah. That was -- yeah. We've been established since the mid-90's. But yeah, and we had, as mentioned, as naphthalene sulfonate business, which is a core business of ours. So we were expanding our horizontal acquisition for us, as well as acquiring the glycine business as well. But as I said, it was not strategic to Dow and more important to us.

COMMISSIONER WILLIAMSON: Okay, okay. Thank you for those answers. Context is always helpful. Thank you.

CHAIRMAN JOHANSON: Commissioner Broadbent. Commissioner Schmidtlein.

COMMISSIONER SCHMIDTLEIN: Okay, I just have two more questions. The one question, I think this is probably best for GEO, since you're selling both of these grades, the USP and the technical, when you look at the -- and I know you don't have access to the specific pricing data that we do, but in our pricing products, in Product 2 and Product 3,

the USP U.S. prices are lower than the technical-grade prices. And so that struck me as a little bit odd, because I thought USP would be the more expensive product, so doesn't it take more processing? So why are USP prices--and I assume you know what your prices are--you know, did you fill this? Do you know this?

MR. SCHWARTZ: Well, as a general matter, Commissioner, I would refer you to the earlier discussion about how the CMP slurry is considered part of the technical-grade category.

COMMISSIONER SCHMIDTLEIN: Okay. So that increases the price of it, makes it a higher price, because it's a more expensive product.

MS. WOODINGS: An additional point would be, as we've referred to in our testimony here, there are extremely large buyers of the USP-grade that bring a great deal of pressure to bear on the pricing for that particular product.

COMMISSIONER SCHMIDTLEIN: I see.

MS. WOODINGS: And, because I observed the same thing that you did when I was looking at this at the prelim and I thought, how is that the case?

COMMISSIONER SCHMIDTLEIN: Mm-hmm.

MS. WOODINGS: And then, understanding the dynamics that are going on in some of those negotiations and some of the customers involved and the companies, the detail

-- we'll put together that.

COMMISSIONER SCHMIDTLEIN: Okay, I'd invite you to address it in the post-hearing more comprehensively. Or Mr. Hughes, do you wanna say something now?

MR. HUGHES: Dan Hughes from GEO. There also exists the possibility that we contract the vast majority of our USP-grade and have had to do it at lower pricing over the last couple of years. Tech-grade, we sell primarily on spot market, could be higher.

COMMISSIONER SCHMIDTLEIN: Okay, interesting. Okay.

MR. ALLEN: Commissioner Schmidtlein, Jason Allen with Chattem Chemicals again. Although we produce and sell a small amount of glycine, we do produce and sell both USP and technical-grade glycine from Chattem.

COMMISSIONER SCHMIDTLEIN: Okay. All right. Thank you very much. Again, like I invite you to address that in the post-hearing. Okay, so my last question is, again, we get in our information, they put together what's called apparent consumption, right, which is a proxy for demand, overall purchases, total purchases in the U.S. market, right? Although it's based on imports, not shipments, is now my understanding.

So when you look at that data, again, the specific numbers are confidential, but the consumption data

shows that consumption went down in '16 and then came back up in '17. And so my question is, I guess, twofold. One is, is that consistent with your perception of what was happening in the market? And does that impact the price? And then specifically for USP, right?

So did you experience a softening in demand in '16 and then it picking up again in '17? And if you did, does that have any impact on demand? Because I understand, you know, the use of this product is, it's inelastic when it comes to its price, right? That it's, the price doesn't drive demand for this product. Which I may have said that backwards. But price doesn't drive demand for this product?

MR. KLETT: Commissioner Schmidtlein, this is Dan Klett. I'm looking at your apparent consumption table and I mean, first of all, if you look at U.S. producers' shipments, I think I can say, generally, it doesn't really show that same pattern. So your apparent consumption downturn, then upturn really are driven by the imports, not U.S. producer shipments.

And then when you look at Thailand, and this is public, because it's based on census data, a big chunk of the decline in imports is due to the decline in imports from Thailand from 2015 to 2016. And so, when you adjust for the inventory buildup in the end of 2015 and translate that to shipments, I'm not sure you're still gonna have that same

downturn --

COMMISSIONER SCHMIDTLEIN: In '16.

MR. KLETT: -- in demand and upturn, but for purposes of what the industry people are observing, from their own data, I don't think they're seeing that same pattern, because it's being driven by the imports.

COMMISSIONER SCHMIDTLEIN: Well, we're lucky they're here, so they could tell me. Did you experience that? Or no? Is Mr. Klett correct in that, from your perspective, you didn't feel any sort of softening in '16 and then uptick in '17? That it was fairly consistent? Because even though their shipments remained constant, it's big purchasers are slowing down purchases for whatever reason, you know, that could translate into the market.

MR. HUGHES: Dan Hughes from GEO. To my recollection, I don't recall any softening or any lowering of demand in that time period, but I can check when I get a chance to get to my computer.

COMMISSIONER SCHMIDTLEIN: Okay. I mean and you're in charge of glycine for GEO, right? So I assumed you would know, yeah. Okay. Okay, all right. Thank you very much.

CHAIRMAN JOHANSON: Commissioner Kearns.

COMMISSIONER KEARNS: No further questions, thank you.

CHAIRMAN JOHANSON: Do any other Commissioner have questions? No other Commissioners have questions. Do staff have any questions for the panel?

MR. CORKRAN: Douglas Corkran, Office of Investigations. Mr. Chairman, staff has no additional questions.

CHAIRMAN JOHANSON: Do respondents have any questions for this panel?

MR. STOEL: No, Chairman Johanson, we do not. Thank you.

CHAIRMAN JOHANSON: All right. Then we will now recess for lunch until 1:15, and I would like to remind parties that the room is not secure, so if you have any business confidential information, please be sure to take it with you. So we'll see you again here at 1:15. And thank you to this panel. You all are dismissed.

MR. GHAZEY: Thank you, Mr. Chairman, as well.

(Whereupon, at 12:26 p.m., a luncheon recess was had to reconvene at 1:18 p.m.)

AFTERNOON SESSION

MR. BISHOP: Will the room please come to order.

CHAIRMAN JOHANSON: Mr. Secretary, are there any preliminary matters?

MR. BISHOP: Mr. Chairman, I would note that the panel in opposition to imposition of the antidumping and countervailing duty Orders have been seated. This panel has 60 minutes for their direct testimony. You may begin when you're ready.

MS. LEVINSON: Thank you, Mr. Bishop. This is Liz Levinson with Fox Rothschild. I'm here on behalf of the Japanese Respondents, along with my colleagues from Hogan Lovell. We have an esteem panel today and I think it bears mentioning that many of these people have traveled from as far away as Japan, but also bears mentioning that some of these people do not speak English as a native language or even as a good second language, so they're going to give it their best effort, but I ask for your indulgence and patience.

Let me introduce the members of the panel. To my left is Mr. Matsui. He is the president of the Yuki Gosei, YGK, the largest exporter from Japan. To my right, is Paul Kreiter, who will be speaking after Mr. Matsui. He's the Fujimi Purchasing Manager. Fujimi is a purchaser of glycine from YGK, among other suppliers.

Next speaking will be Michael Lish from Ajinomoto Nutrition, an importer of glycine from Japan. After Mr. Lish, Jonathan Stoel, attorney from Hogan Lovells, will be addressing issues related to cumulation. And after him, his colleague, Warren Maruyama, also from Hogan Lovells, will be discussing like product issues.

Our last two witnesses are John Bedell from Balchem, which is a purchaser of glycine. And Mr. Stoel will speak with his hat on of Nestle Purina, his other client.

I'd like to mention we have three gentlemen on the panel who are not making direct testimony here today. They're here in order to respond to questions and because in some cases they have English ability. We have Mr. Matsukawa from YGK. We have Mr. Ariga, from Nagase, and Mr. Scott Mason, who's also here from Balchem. And with that, I will turn the mike over to Mr. Matsui.

STATEMENT OF MASARU MATSUI

MR. MATSUI: Good afternoon to the Honorable Commissioners and to the Commission staff. I am Masaru Mastui. I'm the President of Yuki Gosei Kogyo Co., Ltd., known as "YGK", the largest exporter of glycine to the United States from Japan during the period of investigation. I have served as the President of YGK for the past two years. I was previously the General Manager of General

Affairs & Human Resources Division and Specialty Chemicals Division at YGK. I have a degree in Chemistry.

YGK has been manufacturing high-quality glycine since 1952. We produce both USP grade and technical grade glycine and we sell our product to pharmaceutical, food, and industrial chemical markets throughout the world. Our largest market, by far, is Japan. Our products not only meet the requirements of the Japanese Pharmaceutical Affairs Law, but also pass audits by the U.S. Food and Drug Administration, which are among the most difficult in the world.

Based on YGK's market intelligence, we estimate that the U.S. annual demand for glycine is approximately 10,00 metric tones. However, we estimate the capacity of the two U.S. producers to be less than 5,000 metric tons annually. Obviously, imports are necessary, including imports from Japan, to bridge this gap. YGK's exports are not taking sales away from domestic producers, but are merely supplementing their production shortfall.

As a domestic source, GEO has always been the preferred supplier in the Untied States for food-grade glycine. In 2015, GEO had production problems, and at least one U.S. customer turned to YGK for much needed supply. YGK's price was higher than GEOs. Once GEO was able to resume normal production this U.S. customer returned to

sourcing its food-grade glycine from GEO.

In the rapidly advancing field of industrial products, we manufacture and supply ingredients for semiconductors and silicon wafers to support various industries in the United States. To the best of my knowledge, YGK and one other Japanese supplier are the only companies that have been qualified to supply these industrial sectors. The glycine that YGK produces is unique and highly pure, and it is able to meet the stringent specifications of the U.S. purchasers in the semiconductor industries.

Neither GEO nor Chattem nor any other foreign suppliers can produce the purity level necessary for use in the manufacture of semiconductors and silicon wafers. Consequently, YGK does not compete with either domestic industry nor with imports from Thailand, India, or China for business in this industrial sector.

As I will discuss shortly, glycine made by other manufacturers, including the two U.S. producers, have higher impurity levels and large gaps may exists between production lots. Such gaps result in inconsistencies in the final semiconductor product, which prevent semiconductor manufacturers from achieving stable production and thus pressures their bottom lines.

YGK has two major customers in the United States

that produce chemical mechanical polishing, CMP, slurries for the semiconductor industry. You will hear from one of these customers, Fujimi, after my testimony. CMP is a wet polishing technique employed to smooth the surface of various materials to achieve finer and longer lines on semiconductor devices. YGK's customers, like Fujimi, sell the polishing slurries to some of the largest manufacturers of computer chips in the United States.

Our customers report to us that computer chip manufacturers impose strict change control requirements and demand specific quality requirements for the glycine. The semiconductor manufacturing process is mostly automated and cannot be easily modified. Modifications are very expensive. They require long-term reliability testing and interrupt the operation of mass production manufacturing equipment. This results in lost opportunity costs.

Moreover, changes in glycine sources are not made by end user customers without exhaustive data based upon multi-year qualification efforts. It therefore makes business sense for customers to purchase more of the same qualified material rather than spend the resources to screen new suppliers and/or new material in the absence of a particular problem. Stated simply, there is a high barrier to entry for new suppliers and new materials in this industry.

I believe that YGK's glycine is the purest and highest quality available in the market because YGK employs strict quality control measures. Of course, I am biased. To obtain a more objective measure of quality, YGK has conducted a series of tests of glycine from different sources, including a domestic producer, a Chinese producer, a Thai producer, and an Indian producer. The results of these tests were submitted to the Commission as confidential Exhibit 5 to the joint pre-hearing brief of the Japanese Respondents. The data showed that YGK's glycine was superior to glycine sourced from other suppliers because it has no coloration, it has an extremely low degree of or no foreign matter, it has an extremely high white balance, and it has a very low presence of ammonium ion impurities that affect glycine quality.

Glycine is added to chemical solutions in semiconductor manufacturing, but the presence of ionic impurities and metals will impact the quality of the semiconductors to be polished. Foreign substances directly affect the quality of the final product. Our customer, Fujimi, will explain the important quality-related reasons why it buys YGK's product for its CMP slurries. Customers like Fujimi buy YGK products not because of YGK's prices, but because YGK's product is consistently stable and superior in quality. Our products contribute to our

customers' ability to make high quality CMP slurry and maintain the confidence of the U.S. chip makers.

Although YGK is the largest exporter of glycine from Japan, its sales to the United States represent a relatively small portion of its total production, as Japan is overwhelmingly YGK's largest market. YGK's capacity utilization is also very high and we do not anticipate increasing sales to the United States.

YGK, together with other Japanese Respondents, are not causing harm to the U.S. industry. Rather we are supplementing domestic production where the U.S. producers lack either the know-how or the consistency to supply certain markets. U.S. customers are not sourcing highly-pure glycine from YGK because it is cheaper, but rather because YGK is able to meet the stringent specifications required by the semiconductor industry.

I thank you again for the opportunity to speak here today and I will be pleased to answer any questions.

STATEMENT OF PAUL KREITER

MR. KREITER: I'm Paul Krieter, the Purchasing Manager for Fujimi Corporation. I joined in 2010. Thank you for this afternoon.

Fujimi was established 30 years ago in 1988 in Oregon and now we employ 115 employees in two Oregon sites. Our Ph.D. chemists develop formulations for high tech

polishing slurries. At our company, we have all functions, including manufacturing, R&D, quality, sales, finance, et cetera. We serve the semiconductor, silicon wafer, and other polishing industries and we were established to serve U.S. customers and to source from U.S. suppliers to build our business in the U.S. Currently, 70 percent of suppliers on our Fujimi-approved vendor list are U.S. based.

Fujimi purchases glycine for use in the production of Chemical Mechanical Planarization or CMP. 100 percent of glycine we import is used for internal consumption in Oregon for the production of CMP slurries for the makers of semiconductor devices or computer chips. Fujimi's primary customer is the largest U.S. based maker of computer chips and is Oregon's largest employer. You can find their processors inside of most PCs probably in this room and in the market. Computer chips are used in computers, automotive, aviation, medical devices, defense, and other extremely critical applications.

Regarding the principles of supplying the electronics industry, two key principles are change management, change control, and controlled variation. So Fujimi is contractually required by customers to notify and receive pre-approval or any changes in our product that may affect the form, fit, and function of our product, including a change in the raw material.

Our customers are very change adverse. They manage thousands of variables in their process as well as the variables associated with all of the hundreds of materials that they buy, so their request to us is don't change anything if you don't have to. And in those cases where there's an absolute need to qualify a material, such as a sub-supplier closing down their plant or a natural disaster affecting the supply chain, then raw material changes can take two to three years to qualify if that time can be secured.

If suppliers commit to controlled variation, which they express as a plus or minus three sigma level variation from the mean and strict change management, then our customers can greatly hedge the risk to device quality. We and our customers need consistency because unexpected increases or decreases in perimeters can adversely affect device performance. For example, increases in sodium levels can impair transistor performance. Any shift, trend, or outlier in perimeter data must be analyzed and understood.

Regarding the critical attributes of glycine for the electronics industry, first and foremost, are trace metal cations and what is required is not only low absolute levels, but lot-to-lot consistency. And for YGK glycine they have excellent lot-to-lot consistency. Another key attribute is particulate matter measured on a submicron

level and we also need lot-to-lot consistency in low absolute levels. And YGK glycine has excellent lot-to-lot consistency at a level with no impact to Fujimi's product.

We also need free-flowing and no caking of glycine and so we do not want any kind of anti-caking agent present in the material and there is none present in GYK glycine.

So, regarding alternatives to GYK glycine, this product was designed over 15 years ago and originally a European glycine was Spectin. The name came up earlier. We used that until 2008/2009 timeframe. We had a quality excursion which took a lot of investigation and it was found -- our customer complained of scratches on devices and we isolated the source to the glycine. And it turns out it was cross-contamination of an anti-caking agent present in the glycine that we were buying that was causing the scratching.

At that time, we went to a new supplier selection effort, looking at all the things we look at for new suppliers, such as quality, purity, experience in the electronic industry, supply chain risks, costs, and other factors. And at that time, YGK was chosen and we conducted a qualification with our customer to convert to YGK.

In 2018, when this investigation started, I reached out to Chattem for their data and samples and

unfortunately, they declined to respond positively. Our president, John Cheney, was the first employee at Fujimi Corporation, and he sent this message. Fujimi Corporation was established in 1988, primarily, to serve U.S. customers with locally-made products made from domestically-sourced materials. However, in order to meet stringent quality requirements of our semiconductor customers, we purchase some high-quality materials that are not produced in the United States.

In conclusion, YGK purity and lot-to-lot consistency enables Fujimi to meet our internal quality requirements and more importantly our commitment to our customer. Our customer has extremely strict change control requirements and has very strong incentive to not change key variables, such as raw material source. Our customer needs to focus on their production process and cannot spare resources for lengthy and costly sub-supplier changes.

Thank you for your time.

STATEMENT OF MICHAEL LISH

MR. LISH: Mr. Chairman, members of the Commission, my name is Michael Lish and I'm the Senior Vice President of Ajinomoto Nutrition North America. I manage our Amino Science Division in Raleigh, North Carolina and I've worked in Ajinomoto's amino acid business for 28 years. Of the 3,000 jobs Ajinomoto supports in the United States,

400 are associated with manufacturing facilities that depend on glycine as a key input. Put simply, Ajinomoto's U.S. manufacturing facilities require ultra pure certified glycine that the U.S. industry does not provide.

We're happy to partner with U.S. producers and we have a longstanding relationship with Chattem, but for certain amino acid applications we require imported material because Petitioners, GO and Chattem, thus far, cannot support our needs. Ajinomoto's Health and Nutrition uses glycine in amino acid mixtures meant for intravenous solutions. At our facilities in Illinois and North Carolina, we mix glycine with other amino acids to produce a complex engineered product that downstream pharmaceutical and healthcare companies use in manufacturing life-saving IV solutions in the United States for sale worldwide.

IV solutions have a broad range of medical and therapeutic applications, from delivering hydration or antibiotics or to replace a solid diet for patients with weakened digestive systems. We are committed to U.S. manufacturing and recently consolidated the production of our amino acid mixture that's at issue in the United States after we closed our European facility. Because IV solutions are delivered directly to the blood stream of human patients, purity and quality control are of extreme importance.

We, and our U.S. healthcare customers, are not in a position to compromise safety or quality in IV solutions for human patients in ways that would put patients at risk. The companies that manufacture IV solutions in the United States, our customers, are subject to the rigorous regulatory standards in the U.S. and EU that require glycine that is approved for use as an active pharmaceutical ingredient in IV solutions. Our products are principally regulated by the U.S. Food and Drug Administration and by the European Directorate for Quality in Medicines and Healthcare, as our customers operate both in the United States and the EU. Many other governments around the world mirror U.S. or EU standards.

Certain of our customers also maintain their own level of quality and qualification requirements, which are often more demanding than regulatory standards or they track the regulatory standards of a different jurisdiction so as to permit sales in global markets. For instance, a customer in the EU might require that a product meet a certain FDA specification in order to ensure that the product satisfies the customer's own high standards and commitment to patient care and to permit the sale in the United States or in countries that track FDA standards.

Obtaining a certification from the FDA or EDQM can take three to four years at either agency and it can be

costly for producers to maintain certifications once they've acquired them. The FDA, for example, is diligent in inspecting the facilities of producers of active pharmaceutical ingredients and it requires that producers maintain extensive records demonstrating the integrity of their product. There's a lot at stake, including the health and safety of tens of thousands of patients.

Unfortunately, no U.S. producer offers glycine that is approved for use as an active pharmaceutical ingredient in IV solutions by the U.S. FDA, EUQM, and our IV customers. Consistent with Fujimi's commitment to its U.S. manufacturing facilities, we would like to produce amino acid solutions domestically that can be used to care for patients in the United States and other parts of the world, including the EU.

Having multiple qualified suppliers for our key ingredient, including one located in the United States would make our lives a lot easier. But because no U.S. producers provides dual certified glycine for IV use it is difficult for us to produce a mixture in the U.S. using only U.S. glycine that we can provide to our customers with global operations.

We have a longstanding relationship with Chattem and have approached them about pursuing EDQM certification. Thus far, Chattem has not done so, which means our only

solution is to use imported glycine from Japan. For this reason, the imposition of antidumping duties on imports of dual certified glycine would accomplish nothing, except driving up our costs as well as those of our U.S. healthcare customers who make IV solutions for the global market.

No matter what dumping duties are imposed we and our customers are not in a position to use uncertified glycine in IV solutions that would be administered to our human patients around the world. Instead, such duties would threaten our ability to expand our U.S. manufacturing to amino acid solutions for pharmaceutical use and the ability of our customers to support a skilled American workforce to manufacture an important healthcare product.

Japanese producers, in contrast, can and do offer ultra pure product that carries active FDA, EDQM, and IV customer certifications. As a result, Japanese glycine is unique in that we can sell an amino acid mixture for IV use containing Japanese glycine in the U.S., EU, and other markets. An amino acid mixture containing U.S. glycine, on the other hand, even if it is pharmaceutical grade, could not be sold for IV use in both the U.S. and the EU period. This is because of GO's and Chattem's lack of dual certification.

GO and Chattem say that glycine is glycine is glycine. This may be the case for mouthwash and deodorant,

but the glycine we use is ultimately going to hospitals for injection directly into patients. Even trace amounts of impurities like aluminum can accumulate to toxic levels when they enter intravenously. From our perspective, calling all glycine interchangeable and implying that we could put uncertified glycine with higher levels of impurities into healthcare products for sale in the EU and other overseas markets would be irresponsible.

We, and our U.S. healthcare customers, are committed to health, safety, and well being of patients around the world and we hope the Petitioners would join in this commitment. To put in perspective how pure we need our glycine to be, FDA regulations require that IV solutions have a maximum 25 micrograms per liter or 25 ppb of aluminum. This is an extraordinarily small amount of trace aluminum. For instance, if you pour two 12-ounce cans of soda into a reservoir of water the size of the Lincoln Memorial Reflecting Pool it would then have too many trace impurities to meet the specification, and this is just aluminum.

Fujimi alone tests for dozens of additional requirements in any glycine that it sources for IV use, this includes iron, arsenic, ammonia, mold, and many other impurities. Again, because this glycine is destined for medical care, quality and certifications are more important

purchasing factors than anything else, including saving a few cents by switching suppliers.

We are grateful for the Commission's examination of this important industry and for its commitment for supporting U.S. trade, manufacturing, and jobs. We wish, however, that the U.S. industry could demonstrate similar commitment to our country's VI pharmaceutical needs and export competitiveness. While we would welcome the opportunity to source glycine domestically, the U.S. industry's inability to serve these needs forces us to secure alternative sources of supply for this crucial ingredient. As such, imposing punitive duties on dual certified glycine would threaten the U.S. manufacturing and jobs and put U.S. manufacturing and exports of IV solutions at risk.

Thank you for your time and attention. I'd be happy to answer any questions.

MR. STOEL: Good afternoon. My name again for the record is Jonathan Stoel. You've heard from my colleagues that glycine from Japan is unique and serves distinct roles in the U.S. market. It thus would be inappropriate for the Commission to cumulate imports from Japan with imports from other countries under investigation.

Five facts answer the Commission's key statutory

question on cumulation: Whether subject imports compete with each other and with the domestic like product in the U.S. market. These facts demonstrate why imports from Japan should not be cumulated with other subject imports.

First, unlike all other subject imports, Japanese origin imports are not subject to allegations of unfair subsidization. In like circumstances in the Commission's Section 129 determination regarding Hot-Rolled Steel Products from India, the Commission found it appropriate to cumulate only those imports originating from "CBD countries."

Here too, the Commission should find that subsidized subject imports from the other countries compete differently than non-subsidized imports from Japan.

Second, unlike all other subject imports, Japanese-origin glycine has not been the subject of any circumvention or evasion allegations. The AD order on Glycine from China has been subject of multiple circumvention investigations, and the current evasion claims with regard to Thailand. The Commerce Department has also found that two Indian companies engaged in circumvention of the AD order on Glycine from China. Evidence of possible circumvention is relevant not only to the integrity of the Commission's record; it is also a preview of how subject imports participate and compete in the U.S.

Third, alone amongst sources of glycine, Japanese-origin imports satisfy the heightened specifications imposed by purchasers in the semiconductor and IV pharmaceutical industries. Japanese-origin imports thus play a unique role in the U.S. market, as you inferred from our other witnesses.

Fourth, Japanese-origin imports are the only source of supply to participate almost exclusively in the end user channel of distribution. I note that Commissioners Pinkert and Broadbent decided to decumulate on this basis in Xanthan Gum from Austria and China.

Fifth, Japanese-origin imports have been a stable presence in the U.S. market and are responsibly priced. Japanese imports accounted for a declining share of U.S. consumption over the POI, and were among the highest priced imports throughout the POI. In sum, Japanese glycine participates in the U.S. market in a fundamentally different manner than other subject imports.

These facts demonstrate that the Commission should not cumulate imports from Japan with imports from other countries under investigation. Thank you.

STATEMENT OF WARREN H. MARUYAMA

MR. MARUYAMA: Mr. Chairman, members of the Commission and staff, my name is Warren Maruyama. As Mr. Kreiter and Mr. Lish explained, Japanese glycine serves

separate and distinct segments of the glycine market that have been neglected by the U.S. industry. In particular, U.S. manufacturing requiring high purity glycine for intravenous, pharmaceutical and semiconductor applications have no choice but to rely on imports from Japan, as these markets are not served by Petitioners GEO and Chattem.

While the Commission traditionally has been reluctant to break out separate like products, this is a unique case in which ultra-pure glycine tailored for intravenous solutions and semiconductor manufacturing, should be treated as separate like products under the Commission's criteria.

In evaluating like product, the Commission traditionally has considered seven factors: physical characteristics, uses, interchangeability, channels of distribution, common manufacturing facilities, customer or producer perceptions and price. Here, each of these factors weighs in favor of breaking out glycine for IV pharmaceutical or semiconductor applications as separate like products.

Dual certified glycine for IV solutions for human patients is a specialized product that must satisfy the stringent medical standards of the U.S. FDA, the European Directorate for the Quality of Medicines and Health Care, and our own health care customers. Similarly, glycine

for use in semiconductor applications must demonstrate exceptionally high purity in order to be employed by U.S. semiconductor manufacturers and chemical mechanical planarization slurries, without causing device failure.

No U.S. producer, not GEO, not Chattem provides dual certified glycine for manufacturing IV solutions. Likewise, U.S. producers have been unable or unwilling to provide consistently high purity product required by semiconductor manufacturers in the United States.

The ultra purity of these products demonstrates that they have physical characteristics from glycine that differ from glycine that is used in applications such as soft drinks and cosmetics. While trace amounts of impurities such as aluminum find their way into glycine for IV solutions, these impurities can result in toxic outcomes.

Likewise, in CMP semiconductor slurries, even tiny impurities can cause a device containing semiconductors, which today means just about every electronic, automotive or technology product to fail. Japanese glycine is uniquely high purity, a distinct physical characteristic that allows it to service these applications.

In terms of uses, dual certified glycine for IV solutions and glycine for CMP slurries serve niche uses distinct from the industries pursued by GEO and Chattem.

While Petitioners have argued that high purity glycine could be substituted for applications requiring a lower grade of glycine, the Commission's pricing data show this would be economically irrational, since making glycine of the requisite purity roughly doubles the price.

On the flip side, substituting lower grades of glycine can have catastrophic outcomes, semiconductor shutdown or toxic intravenous exposure for human patients. As a result, high purity glycine is marketed in specialized health care channels separate from glycine used in soft drinks or deodorants.

For semiconductors, the presence of even tiny amounts of impurities can disrupt electronic circuitry functions that are fractions of a human hair. Not surprisingly, ultra high purity glycine commands a substantial price premium, roughly double lower grades of glycine, and demonstrates lower price elasticity.

Customers using glycine for IV pharmaceutical or CMP slurry applications must always consider the purity of the glycine above all else. Given that GEO and Chattem have chosen not to pursue these two niche applications, imposing anti-dumping duties would not boost U.S. production, prices or jobs. U.S. consumers would still have to rely on specialized imports, but these imports would now come with needlessly inflated prices.

U.S. glycine purchasers like Ajinomoto and Fujimi and their pharmaceutical, and semiconductor customers have invested billions in U.S. manufacturing, with Ajinomoto bringing a major new expansion online in North Carolina this year. These investments support good-paying U.S. manufacturing and research jobs and critical innovative Industries like biotechnology, pharmaceuticals and materials engineering.

Downstream users would suffer too. American hospitals and patients, for instance, have already experienced serious shortages of IV solutions in recent years. For these reasons, we urge the Commission to treat dual certified glycine for use in IV therapy solutions, and high purity glycine for CMP slurries as separate like products.

Since the Petitioners thus far have been unable or unwilling to make these products, imports aren't injuring or threatening U.S. industry. Instead, they are sustaining it. Thank you and we'd be happy to answer any questions.

STATEMENT OF JOHN L. BEDELL

MR. BEDELL: Hello, my name is John Bedell. I'm here representing Balchem Corporation. I've worked for Balchem for 19 years, and I'm currently Balchem's Senior Director of Supply Chain. Balchem develops, manufacturers and markets specialty performance ingredients.

Those ingredients are used in food, nutritional, animal feed, agricultural and industrial markets. We have 18 manufacturing sites and employ over 1,000 people. Our stock is traded on NASDAQ under the symbol BCPC, and our company vision is to make the world a healthier place.

Balchem uses glycine to produce chelated minerals, products that are core to three of our four business segments. Our chelated minerals are sold into human, animal and plant's nutrition applications world-wide.

Today we produce all of our glycine-based chelated minerals in the United States and they represent a strategic and growing part of our overall business portfolio. I think it's important to explain how glycine is used in our process. It's the binding amino acid that makes our mineral products bioavailable.

In our most common formulations, glycine is up to 70% of the active formula by mass, so glycine is not a minor component in our formulations. In fact, it's the key cost driver of nearly all of our chelated minerals. Some small changes in glycine pricing can have huge impacts on our margins and our price competitiveness as well as our customer's margins and price competitiveness.

Any lack or limitation to access of glycine would mean curtailment of ours and our customer's growth and could even lead to the end of these product lines. Our business,

and therefore our demand for glycine have been growing. We've also been investing in our business.

We recently completed a multi-million-dollar expansion of our human choline production facility in Ogden, Utah and our purchases of glycine have grown from just under 2 million pounds in 2017 to over 2.5 million pounds in 2018, and our forecast for 2019 is for over 3 million pounds.

We're continuing to invest in our business, and we expect that our demand for these products will continue to grow at a similar rate in the future. We buy both USP and technical grade glycine. The USP glycine is used in our human nutrition product line and the technical grid is used in our plant's nutrition product line.

Most of our volume is USP and its use is tightly controlled through our quality system and through our adherence to FDA requirements. For example, prior to qualifying new sources, we must complete a thorough risk assessment to insure product safety and production standards as well as adhere to product specifications.

Qualification of new sources can take six months to a year or longer. Once approved, suppliers must be periodically re-approved. Also, our customer base will audit our quality systems and raw materials, especially from international sources or subject to additional scrutiny. As a result, we've traditionally purchased USP glycine from

domestic sources, and because of limited supply based in the U.S., from reputable international sources.

In practice though, we've typically found either modest or no price difference between U.S. and technical grade material. We often use USP glycine when technical glycine would have suited the need.

Now, I'd like to acknowledge that Balchem is a customer of GEO Specialty Chemicals. We currently have a contract with GEO, and GEO's met their business obligations as a supplier to Balchem. Overall, they're an important and a valued part of our supply chain.

Notwithstanding our satisfaction with GEO supply, our business requires competitive glycine from multiple sources. There's not enough domestic production to support U.S. demand, and we're often constrained by lack of adequate or timely supply.

As I already mentioned, any interruption would significantly impact our business. So, over the past few years our strategy has been to supplement domestic supply with material from Japan, or from Thailand, from suppliers that meet our quality requirements.

Most of the U.S. material we use -- most of the non-U.S. material we use for technical applications, our plant nutrition product line, although we feel that we need the ability to have back-up sources for either grade of

material. Since the preliminary determination was released last fall, we've seen both increased prices for glycine and limited availability.

Companies that have supplied us in the past are now not willing to supply and prices have jumped to levels that are economically unsustainable for our business. Although a significant portion of our business is under contract for the domestic supplier, we're concerned about our ability to economically source enough material to meet our current demand and our growth projections.

I think it's important to mention our competition. We face in the nutrition business, competition from foreign suppliers. Those suppliers produce chelated minerals in various geographies outside the United States, but they purchase glycine at world market prices -- prices that are roughly 50% of what we pay here in the United States.

Based strictly on price then, we find it very difficult to compete in foreign markets, or even against our competitors that import their material in the United States. We've investigated, and we will continue to investigate ways to address the glycine cost disadvantage that we see, including pursuing alternative technologies or international production of some of our chelated minerals.

There's an enormous disparity between the world

glycine price and the U.S. glycine price, and this, combined with a threat of cost disadvantage -- of cost advantage competition from outside the United States, is a significant incentive for us to seek alternative sourcing solutions.

We recognize and we support the need for a healthy domestic glycine industry. We've historically kept most of our volume with that industry, however, our business also needs access to affordable, imported material, thank you.

MR. STOEL: Good afternoon Chairman Johanson, Commissioners and staff. My name once again is Jonathan Stoel, I'm a partner with Hogan Lovells. I'm here this afternoon to deliver a statement on behalf of Nestle Purina PetCare Company, the leading pet food company in the United States.

Nestle Purina is headquartered in St. Louis, Missouri. Nestle Purina employs more than 8,000 Americans, including more than 5,000 employees who support the company's U.S. manufacturing operations.

Many of these American jobs are tethered to products made with glycine. Nestle Purina is a major consumer of glycine, which the company incorporates into its food, excuse me, into its pet food products.

Nestle Purina has a unique vantage point to present to the Commission because the company has

significant glycine marketplace experience and deep industry knowledge. In fact, the company purchases glycine from both domestic producer GEO Specialty Chemicals, and also from high-quality foreign suppliers. I have been asked by Nestle Purina to appear before the Commission today, because the company is deeply concerned about the shortage of available high-quality glycine in the U.S. market.

Nestle Purina is especially troubled that additional trade restraints on U.S. imports of glycine will exacerbate this shortage, making it difficult for the company to secure the continuous supply of glycine required by its U.S. manufacturing operations and workers.

U.S. domestic producers of glycine by themselves, are unable to meet Nestle Purina's commercial glycine needs. The reality is simple -- current U.S. production capacity cannot meet the requirements of the company's U.S. manufacturing operations.

As a result, Nestle Purina must also procure glycine from sources outside the United States. Both Nestle Purina's domestic and foreign glycine suppliers are subject to the company's same stringent supplier qualification and quality control requirements designed to ensure the quality and safety of the glycine employed by the company in its substantial U.S. manufacturing operations.

Nestle Purina's highest priority in procuring

glycine is that the product is able to meet the company's high-quality standards for its pet foods. It does not contract for glycine solely on the basis of price. Supply reliability and quality are far more important to Nestle Purina as steady access to high-quality glycine is essential to the company's U.S. manufacturing operations.

The diverse portfolio of glycine suppliers in which Nestle Purina depends, and to which the company can turn in the event of supply difficulties is necessary to ensure the company's continuous ability to manufacture safe, high-quality pet food products in the United States.

In sum, the chronic glycine supply shortage in the U.S. marketplace threatens to adversely impact Nestle Purina, its U.S. manufacturing operations, and its customers. Nestle Purina respectfully requests that the Commission take these concerns into account. We'd be pleased to answer any questions and provide additional information to support the Commission's investigations. Thank you, and I think that concludes the Respondent's panel this afternoon.

CHAIRMAN JOHANSON: Thank you all for appearing here today. We will now begin Commissioner questions with Commissioner Williamson.

COMMISSIONER WILLIAMSON: Okay, thank you. I want to thank all of the witnesses for coming today and

presenting your testimony. Particularly, I want to thank those who gave written statements, because that's very helpful to follow.

I want to start with some questions about this like product issue, and I guess with the Japanese Respondents. You made arguments, dual-certified glycine and glycine for use in semi-conductors, and I was wondering, did you raise these like product arguments in your comments on the Commission's draft, first final phase questionnaires, and if not, why not?

MR. STOEL: Commissioner Williamson, this is Jonathan Stoel for the record. I think we reviewed the questionnaires and thought actually they gave us the information we needed. At that time, obviously we were not sure if we wanted to raise domestic like product issues. I think as your record and your staff, as always, have done a terrific job of taking all the information that is necessary for your determinations.

I think we saw facts that made us think that we should bring the domestic like product issues to your attention and so we did in our pre-hearing brief.

COMMISSIONER WILLIAMSON: Yeah, but what's the data? We don't have questionnaire data on the like product on these products, do we?

MR. STOEL: We don't Commissioner, but I think

you have -- because the universe of companies, you now, involved in this particular product is relatively small, I think within the questionnaires that you do have, and also what we provided, at least for Japan, I think you do have sufficient information to make a finding.

COMMISSIONER WILLIAMSON: Okay.

MS. LEVINSON: Commissioner Williamson?

COMMISSIONER WILLIAMSON: Yes.

MS. LEVINSON: This is Liz Levinson. I just want to add that while you don't have the hard data that you may have for other sectors.

MR. BURCH: Miss Levinson, can you please speak into the mic?

MS. LEVINSON: I'm sorry. While you might not have the hard data that you may have gotten if you had included these like products in your questionnaire, you do know that based on the testimony from the witnesses, that the domestic suppliers are not involved in these sectors, or minimally involved in these sectors.

And as a result, the imports from Japan could not --

COMMISSIONER WILLIAMSON: Not involved, or minimally involved, which? I think they were making an argument this morning that they could be.

MS. LEVINSON: My witnesses today have testified

that they have not -- either they do not want to, or they have not been involved. Mr. Kreiter, to my right, testified that he approached Chattem about getting glycine for semi-conductor use, and he was declined.

And I think we had a few pieces of testimony along that line.

COMMISSIONER WILLIAMSON: Okay, Are these two products included within the scope of the investigations in Commerce's final determinations?

MS. LEVINSON: Yes, they clearly are, Liz Levinson.

COMMISSIONER WILLIAMSON: Okay. Okay, and you're saying there's no, you recommend there's no U.S. production of these products?

MS. LEVINSON: From Chattem's point of view they may feel that they have U.S. production, however, the proof is in the pudding. If customers are not buying their product, and they're not buying their product because they don't feel it has reached the levels of pureness that is required for particular uses, then they are in fact not a player in the market.

MR. LISH: Commissioner?

COMMISSIONER WILLIAMSON: Yes?

MR. LISH: Mike Lish. On your question, we have had a long-standing relationship with Chattem. They are

qualified on one of these hands-free U.S. manufacturing. Our comment is that it takes four, maybe pillars, before we can use the glycine globally.

FDA, EDQM, the customer themselves have to qualify and the trace metals need to be extremely low, specifically in my testimony, aluminum. So, neither GEO, or Chattem satisfy all four of those Commissioner.

COMMISSIONER WILLIAMSON: Okay. How long would it take a company to satisfy those requirements? And what are the barriers in doing that?

MR. LISH: Yeah, so on those four, Commissioner, for FDA, sorry the U.S. is a little bit different than Europe. What the FDA does is when you file a drug Masterfile as was mentioned this morning, a customer has to then reference that in a new drug application or an amended new drug application.

From start to finish, without getting into all the different steps, it's about a three to five-year process. On the European Union side, EDQM, it's a little bit reverse, once you submit a CP, they will review it.

If there's only one issue or minor issues, they will be approved, but it would not be able to be used in IV solutions until the -- our customer would take that product, do stability, do data, and then resubmit that to all the EU countries and the rest of the world. That

process also takes three to five years.

COMMISSIONER WILLIAMSON: Okay, but so for the FDA qualifications, your company can't make it until someone's agreed -- some domestic producer or some company, domestic company, has agreed to use their product, is that what you're saying?

MS. LISH: That is correct.

COMMISSIONER WILLIAMSON: Okay.

MR. LISH: Commissioner, to add to that statement, Chattem has been and is qualified in the U.S. only for our customer and has been so since I've been out at Ajinomoto for 28 years. The main role with Chattem does not have -- meet those four standards for us to sell that globally, although they do meet the low aluminum content.

COMMISSIONER WILLIAMSON: Okay, thank you. Okay, if the products aren't produced -- the rest of you, what is the domestic product most like the intravenous, the C&P if there's no domestic production?

COMMISSIONER WILLIAMSON: What is the like domestic product we should be looking at? Or if you want --

MR. MARUYAMA: Probably the most, on the IV pharmaceuticals --

COMMISSIONER WILLIAMSON: Mr. Maruyama?

MR. MARUYAMA: Sorry, Warren Maruyama. On the IV solution side, the most similar product would probably be

FDA-certified glycine. But you can't use it in Europe. If you did, you'd be exposed to a product recall. If it was intentional, the penalties would get a lot worse.

COMMISSIONER WILLIAMSON: Okay. What about on the CMP?

MS. LEVINSON: Commissioner Williamson, I think we're gonna have to answer that in the post-hearing brief, if you don't mind.

COMMISSIONER WILLIAMSON: Okay, thank you. Mr. Bedell and Balchem, how long has the U.S. prices for glycine been higher than the world price?

MR. BEDELL: Hello, this is John Bedell. Balchem has been involved in manufacturing chelated minerals using glycine since 2016. In 2016, we bought a company called Albion Laboratories. Albion had been producing for many years prior to that. So my direct experience only goes back to 2016. As far as I know, it has been for many years prior to 2016. And we could get more information for you in a post-hearing brief.

COMMISSIONER WILLIAMSON: Okay. That would be helpful. Thank you. Let's see, just one second, please. Okay. Would you consider these glycine produced as an API injector and the Glycine for semi-conductors CMP to be very low volume applications in the U.S. market? And are these applications, would you call them highly specialized?

MR. KREITER: This is Paul Kreiter of Fujimi. For the glycine that we import for the CMP sector, I've reported those volumes to the staff so they have those.

COMMISSIONER WILLIAMSON: Okay.

MR. KRIETER: From the IV side. We purchase about -- it is a highly specialized market that currently it's only about half a million pounds.

COMMISSIONER WILLIAMSON: Okay, thank you. Does the production process for ultra-high purity glycine, for these applications differ from that used to produce technical USP grade glycine?

MR. LISH: This is Mike Lish again. As maybe was explained this morning, Chattem's process is very rigorous as they've, and they've only stayed in the high-end pharmaceutical side. And they only make IV-grade. And in North Carolina, we make another ten different amino acids. And that process is very different than us producing a USP grade.

COMMISSIONER WILLIAMSON: I'm sorry, could you raise your hand? Okay, good.

MR. LISH: Oh, sorry.

COMMISSIONER WILLIAMSON: I hear the voice, but sometimes I can't figure out --

MR. LISH: So the production process to make IV-grade amino acids does differ significantly than making

USP amino acids in general. And glycine is no exception. Because I believe GEO mentioned that their process is different than Chattem's.

COMMISSIONER WILLIAMSON: Yeah. Okay. Okay, good. Thank you. Does anyone else wanna address that? Otherwise, my time is expired. Thank you for those answers.

CHAIRMAN JOHANSON: Commissioner Schmidtlein.

COMMISSIONER SCHMIDTLEIN: All right. I'd like to thank the witnesses for being here today, especially those of you who've traveled a long way. We really do appreciate it. It's very helpful for us in understanding the case. So, let me start with one question though, because I was a little bit surprised to see, you know, along those lines, that there was no witness here from Nestle.

So, they submitted a brief and Mr. Stoel, you testified that -- or you stated that they are especially troubled by this. So I'm just wondering, can you speak to why, after retaining counsel, paying for a brief that they, and they are especially troubled that they didn't come to the hearing so that we could talk to them about why they purchased subject imports?

MR. STOEL: Commissioner Schmidtlein, I can give you -- Jonathan Stoel -- I can't give you anything on their particular motivation. I think they want to participate. They submitted a detailed questionnaire. They submitted a

brief, and they asked us to participate here for them today. I'd also point out, as I did in my oral statement that they -- it's actually very similar to what they did in the 2007 case where they delivered a statement at the post-hearing where they explained some of the supply constraints and other issues that you all have been asking about today.

COMMISSIONER SCHMIDTLEIN: Okay. Well, you could relay that it's actually really helpful to have the live witness here so that we can have a conversation with them. All right.

So let me follow up on this like product question. And this, I think, is gonna be a legal question because you've taken the position that there isn't domestic production. You can't get either of these two particular specialty products, if I understand it correctly, one is where glycine is the active ingredient for IV solutions, and the other is a CMP slurry that's a technical grade. But it's a special kind, right? That's correct.

Okay. So how, if that's true, if there's no U.S. production of it, how would we be able to find that there's a separate domestic like product? Doesn't that, as a legal matter, prevent us from saying these are separate domestic like products if there is no domestic production?

MS. LEVINSON: Commissioner Schmidtlein, this is Liz Levinson. I think the statute directs you that when

there's no domestic production, to look at the product that is most like the imported product. And I think that relates back to Commissioner Williamson's question of what is the most like the intravenous glycine and the semi-conductor glycine. And that's something that we would like to address in the post-hearing brief.

COMMISSIONER SCHMIDTLEIN: Okay, all right. Thank you. Okay. Can you respond to -- let me switch gears. The afternoon is always a little bit more, you know, based on what we hear in the morning, and then we're interested to hear what you all have to say in response to that.

This morning the petitioners made the argument -- this has to do with volume -- they made the argument that the consumption numbers aren't really accurately reflecting what's going on in the market because of the inventory numbers. And if you look at, at least on the C Table, and you can see ending inventory numbers in 2015, especially for Thailand, and then what happens to those numbers in 2016, they do go down. You know, inventory is much higher in 2015 than it is in '16, so from that, it looks like there could be something there about, that the import numbers aren't really reflecting the competition that's in the market, at least from that.

I don't know if you wanna respond now, but if

you'd like to, go ahead, or else you can do it in the post-hearing. You know, what is your response to that argument that we ought to be taking that into account and looking at the shifts in market share?

MS. LEVINSON: Commissioner, it's definitely an argument that I wanna respond to, but I would prefer to do it in the post-hearing brief, because I need to study those figures, have them in front of me.

COMMISSIONER SCHMIDTLEIN: Okay. All right. Let's move on then to the pricing data. And, in cases where the argument is presented that the U.S. industry can't supply the entire market which here is true, although they do have excess capacity during each year of the POI, the question that always seems to come up, especially when you see underselling on the record, is why are the subject imports underselling the U.S. prices, if they're being pulled into the market?

So, in a normal market dynamic, if there is a demand -- because they can't get the product anywhere else because it's not being supplied in enough quantity by other producers, you wouldn't--at least I wouldn't think you would see them underselling, they could charge more. So do you have an answer for that? Like, why do we see so much underselling, given your argument that subject imports are being pulled into the market due to the supply problem with

U.S. producers? Or the alleged supply problem.

MS. LEVINSON: Well, I don't have an answer to your question, but I think it's a fair observation and I would like to add that, when you look at the pricing data for pharmaceutical-grade products and for some of the technical-grade products, you see that the Japanese actually had -- I think it was eight out of eight orders of overselling rather than underselling. So there is evidence in the record of overselling, as well as underselling.

COMMISSIONER SCHMIDTLEIN: Mm-hmm. And do you think that that's because the pharmaceutical-grade product, in terms of its price, isn't really affected by USB product? Or technical --

MS. LEVINSON: Well I think it's because the IV glycine and the semi-conductor glycine really are separate like products and that's why one of the criteria of separate like product is pricing.

COMMISSIONER SCHMIDTLEIN: So, okay. So then, and in that pharmaceutical-grade product, you know, you see prices maintaining -- they're fairly stable over the POI. In fact, you know, they go up a little bit, but that's not what we see with the other two products. So can you speak to why are prices going down? And especially in 2017 with regard to these two products? 2 and 3.

MS. LEVINSON: You know, my clients have

complained to me in a great deal about 2017 and pricing in 2017, and the explanation that I've received is, in 2017 is when Nutrin from Thailand really entered into the market in large volumes. And Nutrin brought those prices down, the presence of Nutrin. And that's why you didn't see prices decreasing in '15 and '16, but you did in '17, which is the point you made this morning.

COMMISSIONER SCHMIDTLEIN: Okay. So, I guess, if then the Commission were, you know, putting aside the delay in the Commerce Department's final determination and the impact of that, then would you concede that if we ended up cumulating all four countries, that you've got price depression here?

MS. LEVINSON: It is my hope that you will not cumulate all countries. And in that regard, I'd like to address one of your questions from this morning --

COMMISSIONER SCHMIDTLEIN: Okay.

MS. LEVINSON: -- and that specifically with respect to Thailand, it's my belief that if you do a statutory analysis, the statute does not contemplate the ITC making a final injury determination because the Department of Commerce has made a final determination. I think it is inherent in the entire scheme that you have to have evidence of dumping before you look to final injury determination.

Now this morning, I thought you asked a very good

question and that was, "Well, what about cases in which the Department of Commerce schedule is somewhat straddled, so that some countries go first, and there's a determination by Commerce," and in those instances, and I believe you were able to cite some, the ITC does actually cumulate.

Those are very different because I need to remind the entire Commission that the Department of Commerce has not found any evidence with respect to dumping from Thailand whatsoever. Because in the preliminary determination, the results were de minimus. And that distinguishes this case from any other cases in which there is at least a preliminary determination of dumping.

COMMISSIONER SCHMIDTLEIN: Yeah, and you're right about that. The general counsel's office, I talked to them about that at lunch or right at the break, so yeah, you are correct about that. That is a distinguishing factor from large-diameter welded pipe, which is the case I mentioned earlier. Okay.

My last question has to do with the confirmed lost sales that we have on the record. And basically, you know, there's a, I'd say there's a fair amount--I think it was 15 purchasers, this isn't confidential--15 purchasers with 5.2 million pounds confirmed as lost sales. Does this support an affirmative?

And if I read the table correctly at Page V-22,

it looks like that does not include quantity of subject purchased from Thailand, that that is just China, India, Japan, the 5.2 million. I was a little bit confused by this Table V-10 versus Table V-9.

MR. STOEL: Commissioner Schmidtlein. Jonathan Stoel for the record. Obviously, we'll deal with the specific lost sales in the post-hearing, but I would say that we were confused this morning by petitioners' argument. On the one hand, they seemed to be saying they had capacity available and that they needed to sell at high volumes. But then, they also were saying that customers were coming to them and asking to purchase and they were unable to meet those purchases.

And then you've heard from my client, Nestle Purina, you heard from the gentleman in the back, you've heard from others throughout this proceeding, that customers have been coming to them and wanting to buy and they can't get supply. So you can't have both. You can't be saying, "We need volume, that's the key to our business," and then you're saying, but actually, when our suppliers come to us and say we want to buy from you, you can't do it. Those two things cannot be corroborated.

So I'm not -- we'll look at the specific lost sales, but if anything, it's lost sales from the perspective of the purchasers. We've been saying throughout the

testimonies, throughout our briefs, and it's on your record repeatedly, both in 2007 and today, that customers are coming to them wanting to buy, and they're not giving them what they want. That seems to be the reverse of a lost sale to me.

COMMISSIONER SCHMIDTLEIN: Okay, all right. My time is up for this round.

CHAIRMAN JOHANSON: Commissioner Kearns.

COMMISSIONER KEARNS: Thank you. Thank you to all the witnesses for appearing here today, especially those who traveled all the way from Japan. Appreciate your testimony.

So I guess I'll start -- I'm really struggling with what I see as sort of your theory of the case here. I mean what I'm hearing you all say is that Japan produces this niche, these high-end products for sale in the United States. And they're either not made at all by U.S. producers or there's just not much competition there.

But what I'm seeing is a number of things. First, if you look at our C table, Japan is the largest source of imports of any country. That doesn't sound niche to me. And if you look at our pricing data, first, the Pricing 2, you sell plenty of USP-grade, so that's neither the semi-conductor stuff, nor, as I understand it, the IV stuff. Like, a lot of that.

3, if you look at the pharmaceutical-grade pricing data, it's not showing a lot of imports of that from Japan. I'm putting it pretty mildly, I'd say. 4, if you look at the technical-grade, so that's Product 3, I believe, the prices don't look to me like this is just the high-end semi-conductor glycine and that it's a totally different product. That's not at all what I'm seeing there.

And then also you say that there is no U.S.-produced dual-certified product, but if you look on Page IV-16, which is Table IV-6, that's not what our data show. Our data shows quite a bit of dual-certified. And then finally, if you look at our Table IV-5 on Page IV-14, you see, I think, plenty of U.S. production in all the categories and even relative to Japanese, you see plenty of product across the board there. So can you help me understand what I'm missing here?

MR. STOEL: Commissioner Kearns, Jonathan Stoel for the record. I'll start, and I'm sure my other colleagues would like to weigh in. I think I'd like to start off with actually where you are, which is, we firmly believe that Japanese imports need to be treated separately. And I would take from your question that you seem to be also looking at Japan by itself.

And we very much agree with that for the reasons I presented in my testimony. We believe that Japanese

imports are competing differently in the market and ought to be decumulated. That's for a number of reasons ranging from a WTO case that you implemented to the fact that China had an AD order which caused it to be different, to a number of things.

In terms of the specific issue that you're raising now, which I think is the quality of Japanese product, I would actually commend you to the presentation this morning to the Slide 4 that Dan Klett presented. And the reason why it struck me was, if you look at purity, which is one of the most important things, especially to my colleague to my right, Mr. Lish and to Mr. Kreiter, you'll see that Japan has always been considered to be comparable with the United States or to be superior. And so the point is that Japanese product, when you look at all the other products in the market, is considered to be a superior product on the whole.

Now, it's true that these two products for the reasons I explained to Commissioner Williamson and you've asked us the good questions about the questionnaires, clearly, those two products are fairly niche. In terms of our broader case, I would commend you, as I think Commissioner Schmidtlein was walking through this morning, to the C-table, and obviously we can't get into the confidential information, but I do think the trends for

Japan are pretty telling. Japan starts off at a high, 6,000, right. And then, what does it do? It actually goes down over the POI.

So it's not taking market share, it's not going up, compared to where it started off at the beginning. It's true that its pricing does decline moderately. But actually goes up in 2016 and I think, as my colleague, Ms. Levinson, has said, I think, without getting into confidential information, we all believe that another subject country was the one who was primarily leading the pricing throughout this period.

So in terms of our theory of the case, we think Japanese products are competing uniquely in the domestic market and that, therefore, they should be decumulated, and we think that Japan product by itself is not causing injury to the domestic industry.

COMMISSIONER KEARNS: Okay. And don't get your hopes up too much on the way I'm looking at cumulation. I'm just trying to understand how you all are approaching this. And so I'm teeing off of that. Does someone else wanna comment?

MR. LISH: Commissioner Kearns, your comment about dual-certified product, it is easy to research and see that multiple, both Chattem and GEO, both have a USDMF. Only one of them is actually used by the U.S. manufacturer

for IV solutions. And I know that was stated today that GEO has a CEP. But a CEP means it can be used as a API, but it does not mean it can be used in an IV-grade product. So neither one, GEO or Chattem, can supply U.S. and EU with those certifications only.

COMMISSIONER KEARNS: Can you just, I'm sorry, can you just -- Because I'm seeing here FDA and EDQM-certified, and there appears to be plenty that's both. But you're saying there's a different certification for the IV-grade?

MR. LISH: Yeah, so the process is, once you have either a CEP that's been approved by EDQM, or you have a U.S. Drug Master file that's approved by the FDA, it still has to be submitted by the end-user, the IV manufacturer to both EDQM and to USDMF as a new drug or an amended new drug application. Neither GEO or Chattem are used both in U.S. or EU.

COMMISSIONER KEARNS: So is that just because they haven't found customers that will purchase their product and go through the regulatory process on their behalf; is that sort of the gist?

MR. LISH: That is part of it. And we can do it in a post-hearing brief, but one of them has an impurity issue that would not be able to be used by Europe.

COMMISSIONER KEARNS: Even though they were

certified directly themselves?

MR. LISH: Yeah, so CEP, the IV group, as I mentioned before, has limits on the amount of metal catalysts such as aluminum and the FDA implemented that close to the year 2000. EU did not follow suit until a couple of years ago, but EU has now adopted and added additional elementals that are very difficult for the U.S. manufacturers to meet. So CEP doesn't look at that specification. CEP is just a grade less than use in IV, if that makes sense.

COMMISSIONER KEARNS: But they're still certified through the EU? Even though the EU now has taken on this new specification.

MR. LISH: Yeah, so to get a CEP approved through a dossier in EU, you don't have to show the elemental impurity levels. It is only about the process and kind of like a USP spec. So CEP means that you can meet the EP spec, the European Pharmacopoeia, very similar to the U.S. Pharmacopoeia, USP. But when you're an IV manufacturer, you need a USP-plus, a high ultra-purity, and you need the same for EU. So CEP doesn't automatically make you qualified to be IV-grade.

COMMISSIONER KEARNS: Okay. I'm gonna chew on that for a while. Thank you. Okay. So switching subjects here. I guess, going to the issue -- I know you all

represent, mostly the Japanese respondents, although I guess we also have Purina here, but can somebody speak to the issue of imports from Thailand, the CVP proceedings. Do any respondents have a view of petitioners' request that the Commission consider its high imports as imports from China based in large part on CVP's interim measures finding in February?

MS. LEVINSON: This is Liz Levinson. Our view is that the -- I don't agree with David Schwartz in a lot of things, but I'd agreed with him on this, is that the ITC's final vote should be postponed. But short of that, I think that the imports from Thailand, if they're in fact Chinese imports, stem from a previous anti-dumping duty order, which goes back to, I think 2008 or even longer than that.

And it's not before the Commission now. The case that's before the Commission now for China is a countervailing duty case only. It's not an antidumping duty case. I would say that the imports from Thailand, if they're not Thai, they should be disregarded.

COMMISSIONER KEARNS: Okay. But does that mean you believe that they aren't being subsidized? I mean there is an active CVD investigation going on on imports from China. Which presumably, if, as you said, if we assume that these imports from Thailand are actually Chinese, wouldn't they be subject to that same investigation?

MS. LEVINSON: This is Liz Levinson. I think we don't know. We just don't know. Because there's too much uncertainty surrounds this issue. We don't know if these are products of China or products of Thailand, and I don't think the Commission should be in a position of assuming one way or the other. I think that the Department of Commerce hasn't made its decision yet, and so the International Trade Commission should refrain from making any decision in the absence of a determination from Commerce, which is what is contemplated by the statute.

COMMISSIONER KEARNS: Okay, thank you. And so, just to finish my thought here, given that my time's expired, so your view is we should postpone our decision with respect just to Thailand or all countries?

MS. LEVINSON: With respect to Thailand.

COMMISSIONER KEARNS: Okay. And I don't think I heard Mr. Schwartz say that, but maybe either post-hearing or later today, you can clarify whether or not that's his view.

MS. LEVINSON: I may have gotten that wrong. I apologize if I --

COMMISSIONER KEARNS: Wishful thinking. Maybe I don't know. Let's see. Okay, thank you. My time's up.

CHAIRMAN JOHANSON: I would like to thank all of you for appearing here, especially those of you who came all

the way from Japan. We appreciate your appearing at the hearing. On Pages 5 to 10 of Japanese respondents' brief, it is asserted several times that because the specialized products in question are not produced in the United States, that this should compel the Commission not to include some part of the scope in the domestic like product.

To help me when I have to decide this question, I'd ask counsel for post-hearing and today, if possible, to frame these arguments in light of the Commission's discussion of similar arguments that were made in the aluminum extrusions' review of 2017. I will note that Pages 12 to 14 of the Commissions' views in that review might be helpful to you all. And this is in Publication, USITC Publication 4677.

MR. STOEL: Mr. Chairman, I think we'll defer and study that particular decision very carefully.

CHAIRMAN JOHANSON: I understand. I didn't expect you all to have that off top of your heads, but if --

MS. LEVINSON: But Commissioner, I'd like to thank you for the specificity with which you gave us.

CHAIRMAN JOHANSON: I figured I'd make it a bit easier for you, right? That is an investigation where we spent quite a bit of time looking at a similar type of issue, I believe. Okay, on Page 43 of Japanese respondents' brief, it is argued that the "domestic industry's

deteriorating financial condition is self-inflicted." And that is a quote. Could you please go over a list of causes that you provide in this paragraph, such as raw material costs and factory overhead, and further explain how these are self-inflicted by the domestic industry. I couldn't quite make the connection very strongly there.

MS. LEVINSON: Commissioner, this is Liz Levinson. I probably could benefit from having the brief in front of me, but as I recall, there were some real issues about SG&A costs that had inflated out of proportion to what would've been expected. Some of this information is most likely business-proprietary, so I would prefer to address the details in a post-conference brief if that's okay?

CHAIRMAN JOHANSON: That would be fine. I look forward to seeing that, Ms. Levinson.

You all spent quite a bit of time talking about the importance of purity levels, but I was wondering, what factors other than purity levels affect quality?

MR. KREITER: This is Paul Kreiter from Fujimi. So we care about the absolute levels of, in our case, for semi-conductor use of metal cations and particulate matter. Any other foreign substances. Probably more important is that every lot has a consistent level. Mainly, businesses set a specification at a certain level, but then all processes when run continuously have a mean value of any

given parameter.

And then all processes have a standard variation, a known variation. It's expressed by the term of a Sigma. If you go back to a GE Six Sigma methodology. So the way we look at product is, we wanna know what the process produces and then we wanna calculate a control chart based on a mean and then plus or minus Six Sigma. And the Three Sigma limit will often be our de facto specification, but no manufacturer's gonna agree to that typically. They might understand it if they worked in electronics, maybe some other industries.

But what we really want is variation that's tightly controlled around the mean. And we want that over a statistically significant number of lots. So when we want to assess a new glycine, we would like to look at, for example, the past twelve months of lots or 100 lots, look at their mean and look at their variation from it, because what we wanna know is, when we get that next lot in, will it be within the standard variation that the process has proven capable of.

CHAIRMAN JOHANSON: Yes, Ms. Levinson, did you wanna speak?

MS. LEVINSON: I'm sorry, I don't wanna put anybody on the spot, but I know that some of my Japanese witnesses would be very articulate in responding to your

question. But I'm afraid that we do have the English issues here and I think they're a little hesitant. So we will elaborate in our post-conference brief.

CHAIRMAN JOHANSON: Okay, thanks, Ms. Levinson. And for Mr. Kreiter or anybody else, so we talked about quality issues, including purity levels. How much does supplier certification address this type of issue? If something is certified, how confident are you that it is going to meet those quality levels?

MR. KREITER: This is Paul Kreiter from Fujimi. Could you clarify whose certification you're talking about?

CHAIRMAN JOHANSON: It says supplier certification.

MR. KREITER: So, the supplier certifies. Well, that could be helpful. It was mentioned earlier that all lots should receive a certificate analysis using appropriate metrology from a sample that representative of the lot that we're going to receive, so that's useful information.

We actually receive pre-shipment samples from product that we buy, and we analyze it in-house on our metrology, on our baseline and that's an important part of our incoming quality system that we use to validate the suitability of the glycine for our use.

CHAIRMAN JOHANSON: Okay, thanks for your response. And getting back, your response is very

technical, something I can visualize better is clumping, right? It just sounds like something I could actually see visually. How often does that occur, and how big a problem is that? I guess it depends upon the product. This is more of a layman's view of how glycine can go bad.

MR. LISH: So, this is Mike Lish, from an IV standpoint, when we receive the glycine and we mix it with all other items, clumping for us is more of a minor issue because we remove those clumps and we pulverize that material, and I won't go into why we pulverize it, but we have minimal issue from a clumping side.

MR. KREITER: This is Paul Kreiter from Fujimi. We haven't had a clumping issue with YGK glycine. If we got some material that clumped, you know, probably more important than you know, why is it clumping is well what is different about this lot that caused it to clump? Did it see some kind of -- have some kind of atmospheric exposure that you know, that allowed water to get it?

What is the purity of that water? Could that bring with it some trace cadine impurities? What we don't like is unusual circumstances that come into contact with the production or the shipping of the product because that's a signal that there could be something in there that could hurt our process, because most of the things that could harm us we can't see, and to be honest we probably don't measure

for them.

That's why we have this edict, "Keep things the same, keep things controlled, keep things consistent, and we'll be able to keep our promise to our customers."

CHAIRMAN JOHANSON: Thanks Mr. Kreiter. And this is a question for Nestle, to the extent you can answer it, I would appreciate it Mr. Stoel. Can you describe the importance of approved vendors in the supply chain, at least for Nestle?

MR. STOEL: Yes, Chairman -- Chairman Johanson. I think as indicated in our brief, and also as a declaration dependent to our brief from one of the company officials. You know, the company does have very rigorous qualification procedures, they apply to both GEO, which as we said earlier, is a supplier to the company as well as to foreign suppliers.

And I won't get into the length of time, but it is a fairly specifically, it is a fairly lengthy process and I think your staff report laid out some time periods as well. I think it's consistent with the fact that it was a very rigorous process. You're talking about putting a product into foods that can be eaten by American's pets, so it's something that's very thorough and the company takes very seriously.

And I think, as we said in the declaration, the

company has decided not to approve certain vendors in the past as a result of this process. So, the company does take it very seriously.

CHAIRMAN JOHANSON: Thanks, Mr. Stoel. Do you know if the Nutrient Group is an approved vendor for Nestle or is that proprietary?

MR. STOEL: That's something I'll address in the post-conference brief, Chairman.

CHAIRMAN JOHANSON: Okay, alright my time is about to expire, Commissioner Williamson?

COMMISSIONER WILLIAMSON: Some of you have, you know, said that the domestic companies were not, you know, you ask them for product, and they couldn't meet it. I was wondering if you could document the nature of those requests of denial because it makes a difference whether or not you're asking -- I wanted, if -- most people are normally doing a normal year contract, and you're saying I want you -- I want it next week, or I want it at this price.

And that's a low price as opposed to someone you're saying will you please bid for our next year's contract and you got, you know, time to do it. So, I was wondering if you could document some of these refusals to supply and circumstances under which they're made. Petitioners can also either comment on those or also provide their own circumstances where they said no.

MR. STOEL: We'll do that Commissioner Williamson and I would like to point you or your staff to Exhibits 3 to 5 of the Nestle Purina brief where some of this is already, we've --

COMMISSIONER WILLIAMSON: Okay.

MR. STOEL: Had a feeling you might ask this kind of question Commissioner, and so we --

COMMISSIONER WILLIAMSON: So, you've already done it.

MR. STROEL: Provide some of that.

COMMISSIONER WILLIAMSON: Just put a reference to it.

MR. STOEL: And we like to make sure we answer your question fully, so we'll take another look, thank you.

COMMISSIONER WILLIAMSON: Okay, thank you.

SPEAKER: Not mic'd (inaudible).

COMMISSIONER WILLIAMSON: Okay, thank you. What explains the fluctuations in apparently U.S. consumption during the POI, as you see on the C table? For example, what happened between 2015 and '16, and then '16 and '17?

MR. STOEL: We're all looking at the table to answer your question Commissioner Williamson. I think it's something we'll probably have to answer post-hearing. I mean I think there are a number of factors, but we'll take a look at it and give you an answer in the post-hearing.

COMMISSIONER WILLIAMSON: Okay, that would be helpful. And I wonder if somebody has already asked this question about you don't have any purchasers for planned interruptions during the POI's, is it your experience that purchasers are carrying larger inventories than in the past to protect against by constraint? And, are importers carrying larger inventories for this reason? I'm not sure if that was asked already, but if it was just tell me, otherwise does anyone have an answer?

MR. LISH: Commissioner, Mike Lish. From our standpoint in Ajinomoto, we have not changed our purchasing throughout this POI, so for us the answer would be no.

COMMISSIONER WILLIAMSON: Okay.

MR. KREITER: This is Paul Kreiter from Fujimi. We also have not changed our purchasing patterns and they should be the same as submitted in the data to your staff. We use and purchase consistently the same amount.

COMMISSIONER WILLIAMSON: Okay.

MR. BEDELL: This is John Bedell from Balchem. I can comment that only from Balchem's perspective, that we hold an unusually high amount of glycine in inventory relative to our other raw materials because we're concerned about supply stability.

I can also comment that, you know, if we had not done that, at least over the last year, we feel that we

would have had production impacts because of it.

COMMISSIONER WILLIAMSON: Okay, thank you, it was helpful. Yes?

MR. ARIGA: This is Masahiro Ariga, from Nagase. I can speak, I can talk about my customers. I cannot disclose a specific name, but their consumption has increased during this POI and also requested us to take inventory in the United States.

Yes, so and again, --

MR. BURCH: Can you pull the microphone up?

MR. ARIGA: I can, as you asked more detailed information in post-briefing.

COMMISSIONER WILLIAMSON: Okay, thank you. But you said that one of your customers has --

MR. ARIGA: Asked us to -- yeah.

COMMISSIONER WILLOIAMSON: To hold a larger supply of glycine?

MR. ARIGA: Yes.

COMMISSIONER WILLIAMSON: Okay, thank you. Do they give an explanation or something that you would be able here or else post-hearing would be fine.

MR. ARGIA: Yeah, actually I need to discuss with my customer that will give me permission to submit.

COMMISSIONER WILLIAMSON: Okay, thank you. Mr. Bedell, you were, you're selling your product sort of

globally, aren't you?

MR. BEDELL: Yes, our end markets are maybe 50% in the U.S. and 50% international and in our post-hearing brief we can give you the details on it.

COMMISSIONER WILLIAMSON: Okay, and you said that your concern has been that because of the high price in glycine, you compared to the rest of the world, that puts you at a competitive disadvantage?

MR. BEDELL: Yeah so, to pay on the market segment that we're selling into, particularly in our plant nutrition product, we have competitors that produce in South America or in Europe, and they're able to sell at prices which are significantly below ours, and we believe it is mostly because of glycine and the higher cost of glycine in the U.S. relative to the rest of the world.

COMMISSIONER WILLIAMSON: I had raised a question this morning, is any of this difference in -- well, do we need a multi-national customer to sort of purchase globally or have contracts that provide their customers, you know, service several markets or?

MR. BEDELL: I can't speak to other producers or other consumers of glycine. We only today purchase glycine domestically. We do have operations that are international, and we've looked at perhaps producing our glycine-containing chelates internationally, so we've looked at international

pricing.

As of today, we do not though. Today we're only purchasing domestically, and we only have domestic contracts.

COMMISSIONER WILLIAMSON: Okay, okay, thank you. That's all the questions I have for now, thank you.

CHAIRMAN JOHANSON: Commissioner Schmidtlein?

COMMISSIONER SCHMIDTLEIN: Okay, I just wanted to go back to -- well this is really a question about what was going on in the market, so I don't know if Mr. Bedell from Balchem, maybe you want to answer this, because you're a purchaser in the market.

Or, I guess the witness from Fujimi is also purchasing in the market I believe. So, again and I know you don't have access to this information but we see pricing products and there is for USP and technical, and we have very high coverage for shipments from the U.S. and from Japan, and from Thailand as well as India, you know, very high coverage.

And so, I want to get your perspective. You know we see that prices are going down in 2015 and 2016, and then more so in 2017, but they are going down somewhat in the prior years, and so I guess my question is -- is that consistent with your experience, your recollection of what was going on in those years?

And if it is, can you speak to what you think was driving price behavior during that time?

MR. BEDELL: Yeah, so, I can only speak on -- this is John Bedell, by the way. I can only speak on behalf of our company and what our experience has been.

COMMISSIONER SCHMIDTLEIN: Um-hmm.

MR. BEDELL: And I would say that during the years that you referenced, we did have negotiations and saw prices come down. A lot of the discussion was related to raw material inputs and the fact that our volume was growing.

And so, yes, absolutely, I would say that we would agree that during those years we saw costs come down.

COMMISSIONER SCHMIDTLEIN: And in your experience that was because raw material prices were dropping, and you were getting the volume?

MR. BEDELL: So, yes, so yes, I can say that our negotiations at that time was absolutely related to raw materials cost impacts and our willingness to make volume commitments.

COMMISSIONER SCHMIDTLEIN: Okay, witness from Fujimi is Mr. Kreiter, okay.

MR. KREITER: I gave the data to the staff, but over that period we had a slight price increase. So, I believe it was 2018, maybe from '17 to '18 the price went

up, I could confirm, it's in the data.

COMMISSIONER SCHMITLEIN: Okay.

MR. KREITER: But we had a slight increase.

COMMISSIONER SCHMITLEIN: And do you remember during the time, 2015, 2016, what's your recollection in your experience, were prices going down at that time?

MR. KREITER: No, my recollection is stead pricing.

COMMISSIONER SCHMIDTLEIN: Is steady pricing. Even from Japan?

MR. KREITER: Yes.

COMMISSIONER SCHMIDTLEIN: Okay, so this maybe for the post-hearing but for the people who do have access to the pricing data. So, when I look at the pricing data, especially for '15 and '16, right, and we do have underselling for India and Japan. We don't have pricing data for China, although China -- the amounts from at least that were reported again, put aside the circumventions issue were pretty small.

So, for these two countries right, we have in product 2 and of course we only have Japan in product 3, but we have consistent underselling, right? And then for Thailand we have consistent underselling in product 2. Either now, I mean I'd appreciate it if you want to answer now, but if you can do it in post-hearing as well, you know,

what is the impact on the price in the market of the fact that India and Japan are also underselling in '15 and '16?

And that the volume coming in from Japan is quite a bit more than the other two countries, at least in price in product 2 where we have all three countries.

COMMISSIONER SCHMIDTLEIN: Is it your position that those, you know, India and Japan have no impact on the price in the market and that it's all Thailand? And, if that's the case, how do we -- how do you know that? How do we untangle that? Where do you see that?

MS. LEVINSON: Commissioner, I'd like the opportunity to discuss with my client and then we'll respond in the post-conference brief.

COMMISSIONER SCHMIDTLEIN: Okay.

MS. LEVINSON: I understand the question.

COMMISSIONER SCHMIDTLEIN: Okay, alright, thank you very much. I think that was my only question, so.

CHAIRMAN JOHANSON: Commissioner Kearns?

COMMISSIONER KEARNS: Okay, great yeah, I don't have too many either. But one, just one general question that came up just a little bit this morning. How should we view legal costs incurred with the filing of a petition, in terms of causation and so forth, and then it's fine if you want to address this post-hearing, but especially with, you know, some references to past cases, you know, to what

extent.

I think I've heard it suggested that that's evidence of injury caused by imports because the petition is obviously related to imports. But I'm guessing you all may have a different view on that and I'd like to hear what you have to say on that.

Next, on domestic like product. I guess I would push you all a little bit to give us a better indicator, especially in terms of the semi-conductor grade glycine, what the domestic like product would be. I mean I don't think we can wait to the post-hearing brief.

I mean this is kind of a -- well, first of all it's a threshold issue that we kind of need to address and I don't think we can accept that you think we should find a separate domestic like product, but you're not going to tell us what it is until later.

So, if you all have any thoughts on that, I think Mr. Maruyama, I think you had suggested for EU certified IV products, the closet thing would be FDA certified IV, is that right for IV?

MR. MARUYAMA: Yeah, it would be the most similar, but since it can't be sold for anyone that's making products for worldwide sale, particularly in Europe or countries that track in the standard, really there can't be any injury because you'd go to jail if you actually tried

it.

COMMISSIONER KEARNS: Okay, but we need some answer on what the U.S. product should be. Would we go with the FDA approved IV or --

MR. MARUYAMA: I would think that it would be the most similar in terms of characteristics and uses.

COMMISSIONER KEARNS: Okay, okay and I'm happy to hear more post-hearing, but just to give us a start, and then on semi-conductors?

MS. LEVINSON: Yes, and I certainly understand that you need this information. I apologize for not having given it sooner, I wanted to confer with my client. You know, I think the answer is that Chattem says that it does sell product for semi-conductor use, and we don't believe, or at least the customers here don't believe that it is of the sufficient quality to purchase, but it certainly would be the next best indicator of product for semi-conductor use.

COMMISSIONER KEARNS: Okay, that's helpful, thank you. Oh, yeah, just a couple last questions here. This is for Nestle and Balchem. With the New Trend Group an approved vendor and for each of your companies, and if so, does this approval cover glycine produced in China as well as glycine produced in Thailand, or how does that work?

MR. STOEL: Commissioner Kearns, for Nestle

Purina, I think Chairman Johanson had asked a similar question, we'll gladly address that in the post-hearing brief.

COMMISSIONER KEARNS: Okay, sorry.

MR. BEDELL: We'll address in the post-hearing also.

COMMISSIONER KEARNS: Okay, thank you. Sorry, if I had missed that before. And then for Nestle, either now or post-hearing submission, can you indicate whether you currently have a contract with any domestic producer for glycine?

MR. STOEL: Commissioner Kearns, I can say as I said in my testimony, and my client has said in their brief, and also in the declaration appended to the brief. They do buy from GEO. And actually, if you look at the declaration, I would -- and also in our brief at page 6, we've put forward how much we're consuming and we can walk you through that a little bit more post-hearing, but we do purchase from GEO, and as I was saying over lunch I understood from the gentleman from Chattem this morning, that he and my client have connected, and I'd like to think that's a positive outcome of this proceeding.

I will reiterate from my client's perspective, that they were not, you know, had not been engaged by Chattem and I did not hear from the gentleman this morning,

however, that he had reached out to them, which was a little surprising because the Chairman of GEO had said this morning that he thought Nestle Purina was the biggest consumer of glycine in the United States.

So, but I'm very glad that they were able to make the connection and hopefully they'll be able to do some business together.

COMMISSIONER KEARNS: Okay great, thank you I have no further questions.

CHAIRMAN JOHANSON: I have a few little questions and I apologize if these have come up before, but it's been a long day. So, it's -- if they are repetitive my apologies. More than a dozen producers reported that price was the primary reason for purchasing imports from China, India, Japan and Thailand and this can be seen in the pre-hearing report at Table 5-9.

What does this suggest with respect to the relatively frequent underselling by subject imports?

MR. STOEL: Chairman Johanson, I think that Table is BPI, so we'll certainly address that post-hearing. I actually thought maybe you were going to ask about Table 2-6 which asks purchasers to rank their preferences, and I did note that quality was clearly number one.

And then your staff very helpfully went through a number of factors, and I would note availability, product

consistency, reliability of supply and purity were all viewed as being in various ways much more important to purchasers, including several of them before you today than price.

And I think, you know, we all know that price is relevant to any purchase. Of course, it's a contract, you have to deal with price, but I think in this industry, whether it's semi-conductors or my client's pharmaceutical IV's or the food for America's pets, quality is going to be the most important thing.

We're not talking about a product where the quality is not going to be very, very important to the customers, and I think your record compiled both here and also in past investigations, as I said this morning, shows very clearly that non-price factors are really what's most important to customers.

CHAIRMAN JOHANSON: Okay, thanks Mr. Stoel. Raw material prices haven't come up much today. I was wondering if you all could discuss how raw material prices affect the price of glycine? Usually we spend a lot of time on this subject and didn't hear any tonight, I'm just not used to it not coming up.

MR. ARIGA: This is Masahiro Ariga from Nagase. I speak on behalf of Nagase. This raw material is currently raising up and it affects the pricing, but we would like to

submit more detailed information in a post-brief hearing, post-brief hearing.

CHAIRMAN JOHANSON: Alright, that's fine Mr. Ariga. Alright, that concludes my questions. I appreciate you all being here today. I learned about yet another subject I knew nothing about, which is in like everything in my house, including my toothpaste and mouthwash and everything else.

So, anyway it was very interesting. I appreciate you being here. Do any other Commissioners have questions? Oh, I'm sorry, I apologize, Commissioner Broadbent? Take as long as you want.

COMMISSIONER BROADBENT: Just a couple here. Let's see, this is sort of for the most witnesses, I guess. Prices for product 2 USP grade glycine, which makes up the bulk of the U.S. market, have declined since 2015 and some quarters to levels below technical grade glycine, which is product 3.

What explains the noticeable decline in USP grade glycine price?

MS. LEVINSON: Commissioner Broadbent, my client's English is somewhat limited, but his belief is the prices have come down because New Trend entered the market in 2017. New Trend being the Thai supplier and they supply very heavily into the USP market.

COMMISSIONER BROADBENT: But didn't the prices start coming down in 2015?

MS. LEVINSON: No, I think -- I have to ask him, but I believe that they entered the market in greatest volumes in 2017.

COMMISSIONER BROADBENT: Right, and that was my question was since the price started falling in 2015, what was causing it?

MS. LEVINSON: I apologize.

COMMISSIONER BROADBENT: If you could get that for the record, that would be great.

MS. LEVINSON: Of course.

COMMISSIONER BROADBENT: And then following on Commissioner Johanson's question about raw materials, Mr. Ariga, do purchasers -- and you can answer this for the record if you want, do purchasers expect prices for glycine to fall when HCN ammonia or MCA prices are declining? Do purchasers accept price increases when raw material costs are increasing? And you can answer that for the record. And then --

MS. LEVINSON: Commissioner Broadbent, if it's alright?

COMMISSIONER BROADBENT: Sure, yeah, that's fine. And then for Japanese Respondents, you said that subject imports have a necessary place in the market due to domestic

supply shortages. If this were true, why would we have so many confirmed lost sales reported by purchasers referring to price as a primary factor in their decisions to purchase subject imports as seen on page 5-22?

MR. STOEL: Commissioner Schmidtlein had asked a similar question and we'll address that post-hearing.

COMMISSIONER BROADBENT: Okay, so I missed that, yeah.

MR. STOEL: Not at all, no problem.

COMMISSIONER BROADBENT: And then I just had one more for maybe you Mr. Stoel, the Japanese Respondents. Table 2-11 indicates that 29 Respondent purchasers, or 69% reported that the U.S. producers always met minimum quality specifications.

For imports from Japan, 10 of 16 purchasers, or 63% stated that Japanese product always met minimum quality specifications. Similarly, in Table 2-9 purchasers reported that for all factors other than price, the subject imports from Japan were comparable to the domestic like product.

How do we consider this data in addition to your statements regarding the quality of the U.S. product compared to the Japanese product?

MR. STOEL: Commissioner, Jonathan Stoel for the record. Actually, I had commented on this a little bit earlier. I actually commented on Mr. Klett's presentation

this morning where he was talking particularly about quality between the United States and Japan, and I had pointed out that for Japan it was either comparable or superior, meaning the Japanese product was superior to the U.S. product.

I think what I would say is that in the time that I have been appearing before the Commission, it is very, very rare that you see a foreign or a subject import being a better quality than the U.S. but I think this case is that time in terms of the Japanese product, whether it's semi-conductors as Mr. Kreiter has testified, or injectable IV solutions as Mr. Lish has testified, the Japanese product is very high purity, and it's able to meet very technical demanding specs.

So, I will certainly take a look at that and expound on that in the post-hearing brief.

COMMISSIONER BROADBENT: Okay, thank you, and I want to thank all the witnesses. I appreciate everybody being here today.

CHAIRMAN JOHANSON: Do any of the other Commissioners have questions for this panel? No Commissioners do. Does staff have any questions for this panel?

MR. CORKRAN: Douglas Corkran, Office of Investigations. Thank you, Mr. Chairman, staff has a very few brief questions. This would be for counsel and for the

YGC representative. Can you describe a little bit the role of trading companies in the Japanese market? How do they interact with producers?

MR. ARIGA: This is Masahiro Ariga, of Nagase. Are you specifically want to know about the glycine business or the general glycine business? Okay, so for the glycine business, so we are distributing, so Nagase is a trading company, they've been in chemicals for over 100 years, and we have access to worldwide customers, but 50% of our customer is in Japan locally, but some customers go overseas and build their plants.

And sometimes they used to source material in Japan, but we need the material overseas and we have a distribution channel worldwide so sometimes our customer asks us to support that distribution.

And YGC's material is one example of this case and so, they used to have an office in United States, but they shut down I think ten years ago, and at the time they were contacting our customer directly, and so they decided to shut down their office in United States.

But our customer wanted the product, so they asked us to support the distribution.

MR. CORKRAN: Thank you very much, that's very helpful. I appreciate that. One very quick follow-up, for YGC, when you were talking about, when you're discussing

your major customers that produce chemical, mechanically polishing slurries, are you referring to sales by YTC or are you referring to transactions through trading companies?

MR. ARIGA: So, for this glycine business, first we didn't exactly understand the application of this material, but our customers is dedicated in electronic business, so we thought it was used for electronics and sorry, can I explain more in detail about your question.

MR. CORKRAN: I was just asking for a follow-up, YGC presented testimony that it had two major customers that were producing CMP slurries, and my question was are we talking about YGC's customer base or those companies, or are those customers of trading companies?

MS. LEVINSON: Mr. Corkran, this is Liz Levinson. At least in one case it is a customer of a trading company. I'm not certain in the other one, but certainly YGK does rely on trading companies such as Nagase to make its sales to the CMP industry. Mr. Kreiter might be able to -- do you buy from a trading company?

MR. KREITER: I buy -- this is Paul Kreiter from Fujimi, I buy YGK glycine from a trading company, a different trading company than Nagase.

MR. CORKRAN: Excellent, thank you very much. I appreciate the responses and staff has no additional questions.

CHAIRMAN JOHANSON: Thank you Mr. Corkran, do Petitioners have any questions for this panel?

MR. SCHWARTZ: No questions from petitioners.

CHAIRMAN JOHANSON: Alright, thank you, Mr. Schwartz. Alright, I'm now going to note the amount of time remaining. Petitioners have 22 minutes of direct and 5 minutes of closing for a total of 27 minutes. Petitioners have 12 minutes of direct, 5 minutes of closing for a total of 17 minutes. This panel is dismissed, and we can prepare for closing statements.

MR. BURCH: Rebuttal and closing remarks on behalf of Petitioner will be given by David Schwartz and William Matthews, of Thomas Hine. Mr. Schwartz, Mr. Matthews, you have 27 minutes.

CLOSING REMARKS OF WILLIAM MATTHEWS

MR. MATTHEWS: Commissioners, I don't think we're going to need 27 minutes to provide our rebuttal and closing remarks, but we would like to make a couple of points to try to set the record straight.

First, the counsel has indicated that he was confused by the statement about the domestic industry requiring volume, but in the end recusing himself. That's not the case. The domestic industry has millions of pounds of glycine that it can sell into the market now. It needs that volume.

Now, regarding the testimony from Nestle and Balchem, both of those companies are valued customers of the U.S. domestic industry, but either through the Nestle bidding process mechanism and its continual beatdown of pricing because import pricing and Balchem's statement which when it's actually analyzed, revolves solely around price.

Worldwide price is low. Import prices are low. We need those low prices. But that's what this case is about, pricing of glycine. I wasn't sure what -- I guess it was Mr. Bedell's point was regarding unit cost to make glycine.

The unit cost to make glycine, and we'll answer it a little bit more in our post-hearing brief, has risen throughout the POI, so we are getting that classic price squeeze as the costs to make glycine are rising at the same time the prices are falling.

I'd like to address just a couple of points that were made by Mr. Matsui. In his testimony, Mr. Matsui stated that our products not only meet the requirements of the Japanese Pharmaceutical Affairs Law, but also pass audits by the U.S. Food and Drug Administration which are among the most difficult in the world.

It is true that the U.S. Food and Drug Administration tests audits are some of the most difficult in the world. We know that you could go site Kogyo,

actually received a warning letter from the Food and Drug Administration in July of 2018, which we will address further in our post-hearing brief.

Mr. Matsui also contends that in 2015, GEO had productions problems. That would be difficult because GEO was operating in 2015 at near capacity, it didn't have production problems in 2015.

Mr. Matsui also states that YK customers like Fujimi, sell polishing slurries to some of the largest manufacturers of computer chips in the United States. Chattem sells to three companies that also sell to those companies, so arguments regarding the quality of Chattem's slurry versus YGK's slurry seem to be somewhat immaterial.

They're all selling to customers that are selling to the big chip manufacturers. As far as Mr. Lish's comments regarding the EDQM, this is one of those situations about Chattem trying to get some kind of commitment out of that company before it would incur the considerable expenses and time that are required to get this type of certification at the EDQM.

There's no reason for a corporation to go after some kind of certification if a customer won't give them at least an inkling that they are going to be provided with a portion of the business that requires that certification.

Now, recently Chattem, on its own, did start the

process with EDQM so that it could be qualified to sell into the European market. One other point -- regarding aluminum, and I think maybe Mr. Lish actually eventually indicated that Chattem met this aluminum standard.

Chattem is actually considered to have the lowest quantity of aluminum in its product in the world. And I think that's all we want to do to correct the record.

CLOSING REMARKS OF DAVID SCHWARTZ

MR. SCHWARTZ: With your permission I will begin our closing remarks. On behalf of the Petitioners, I want to thank the Commissioners and the staff for their time, interest and efforts in this proceeding, it's greatly appreciated.

Today you've heard from the Petitioners, but you haven't heard from those foreign Respondents responsible for the vast majority of the dumped, subsidized glycine driving prices down to levels unsustainable for the domestic industry.

If you look around, the Respondents from China, India and Thailand did not show up at all, while the Japanese Respondents, who are responsible as explained in our petition, for the largest percentage share of U.S. import volume during the POI of all four countries in this investigation by a significant amount, have appeared in disguise, presenting themselves as niche product producers

and ignoring their huge import volumes that drive this case and led Commerce to assess the largest dumping margins in this case.

As Commissioner Kearns put it, they sell plenty of USP glycine. The Japanese Respondent's attempt to have these niche products designated as separate like products, and to use them as the primary basis for decumulation is an exaggerated attempt at having a very small tail wag a very large dog.

With such small minor variations between the niche products and the other glycine products, the Japanese Respondents cannot come close to satisfying the Commission's no clear dividing line standard, and in fact would create duty evasion problems if the Commission treated them as separate like products and excluded them from the determination.

If an order were to issue against Japanese glycine, it would be extremely easy to ship Japanese technical grade and USP grade glycine subject to the order disguised as these niche products to avoid anti-dumping duties, because their physical characteristics are identical, and CBT would have no way of distinguishing them.

We've been working with CBP on this issue for years and we know CBP can't do it. As we explained in the preliminary phase here, and again today, glycine is glycine

is glycine, especially when it comes to these physical characteristics.

To decumulate all of Japan from the investigation, based on these niche products when the vast majority of its shipments remain the common technical grade and USP grade products, would make no sense either and runs counter to ITC precedent.

In short, the Commission should take note of the importers of glycine from Japan that did not testify here today. The volume of their imports, what grades they sell, and their pricing into the United States market.

The panel here today is not representative of glycine imports from Japan. As for the purchasers that are not part of the Japanese Respondent group, Nestle and Balchem, Nestle attempts to rely on the facts of an investigation 12 years ago, instead of the facts presented in this investigation staff report, which would trace significant differences in the domestic industry's behavior then and its behavior now.

Despite Nestle's admission in its brief of deep industry knowledge and significant glycine marketplace experience, it someone didn't know that the oldest glycine brand in the United States, Chattem Chemicals even existed until six weeks ago. That raises questions to me about their credibility.

While Balchem prizes its relationship with GEO and values GEO's product and top-notch service, Balchem raised concerns about the availability of alternative sources of supply to GEO.

It shouldn't, this is not an import ban, this action will insure that imports are fairly traded with trade remedy margins based on the final determination from Commerce, ranging from 7% to 144%. And these trade remedies will insure most of all that a viable U.S. glycine industry will remain that can compete with these imports as long as trade remedies are in place.

It is also telling that Nestle didn't show up to address these issues directly, and as their counsel mentioned, indirectly, they didn't show up either in the prior investigation. And I think it's important that if they are going to raise these issues, that they be here to address them directly as the Commissioner pointed out herself.

Another area that I want to address are these so-called short-supply allegations from the Respondents. I believe they are very misleading and are tied to a discussion that we've had throughout the day between the differences between contract customers and spot market customers.

When contract customers seek more than their

contracted amounts, they then become spot market customers. When spot market customers come to us, and ask for volume, and we tell them we must serve our contract customers first, because of that contractual commitment, that's not a short supply issue, but a business issue.

If those customers want guaranteed supply, they should enter a contract. It is clear from the information collected in this investigation, summarized in the staff report that subject imports have caused material injury to the domestic industry producing glycine.

Glycine is a commodity chemical product and there's a high degree of substitution on the basis of price between glycine produced in the United States and subject imports. The various arguments you heard earlier today and attempt to distinguish U.S. origin glycine from subject imports on the basis of various non-price factors are not supported by the record.

Underselling from subject imports is pervasive, there's a large volume of confirmed lost sales to subject imports on the basis of price. Subject imports have a large share of the U.S. market and their prices have declined significantly during the period of investigation.

The U.S. glycine customer base includes a handful of large customers with significant purchasing power and they, as well as smaller customers, have used access to

subject imports as leverage to negotiate down glycine prices paid to U.S. producers.

Under these conditions, the U.S. industry has suffered significant reductions in its sales volume, revenue and profitability. There are no other non-import factors that can explain this downturn.

We ask for an affirmative final determination. We thank you again for your time and effort today and throughout this investigation.

CHAIRMAN JOHANSON: Thank you. You are dismissed.

MR. BURCH: Closing and rebuttal remarks on behalf of respondents will be given by Lizbeth R. Levinson of Fox Rothschild and Jonathan T. Stoel of Hogan Lovells. Ms. Levinson and Mr. Stoel, you have seventeen minutes.

MS. LEVINSON: Like a scavenger hunt looking for my name. I think Mr. Stoel is going to begin.

CLOSING REMARKS OF JONATHAN T. STOEL

MR. STOEL: Good afternoon, Commissioners. Once again, for the record, my name is Jonathan Stoel, and thank you for letting me close out today's hearing with you. I want to thank you for your attention and I promise you, I don't think we're gonna use our full seventeen minutes by any methods.

So where do we stand after today's testimony and

your good questions? First, I think we all agree that the Commission likely will not be able to render a final determination with respect to imports from Thailand.

This is so for at least two reasons: One, you do not have a DOC final determination, and so legally, we agree with your office of general counsel, it will be inappropriate for you to make a finding of material injury or threat thereof at this time.

Second, as discussed with Commissioner Schmidtlein, both with the petitioners' panel and then this afternoon with Ms. Levinson, it's particularly not appropriate to make a final with respect to Thailand because the Commerce Department has actually found zero percent subsidization and zero percent dumping with respect to Thailand subject to any further revisiting of that.

I would also point out that a decision with respect to Thailand would be particularly odd in this circumstance because, on the one hand, Commerce has apparently sent a team to verify Thailand, has made certain findings, and CVP obviously has made certain other findings. I think the prudent thing for you and for all the participants in this proceeding is to let the CVP investigation play out.

Also the Commerce Department has indicated that it's gonna be rendering--excuse me--issuing questionnaires

and possibly verifying again, and so I think it's prudent for all of us to see what happens with that proceeding before making any next steps.

Second, and I also wanna add that it's not just the issue of decumulation that's relevant here. In terms of fairness for the other countries for imports from certainly India and Japan, it's very important that the impact of imports from Thailand and/or China, as I think we all know, we're not sure which at this point, that those need to be segregated. You cannot, as to use the petitioners' famous words, you cannot use the "hammering effects" of imports from a country that we don't know where they're actually from. You can't use those against Japan or against India. So it's very important that we try to segregate out what impacts there might be from, whether it's Thailand or China.

Second, for all the reasons we've talked about today, Japan should be decumulated from all other imports. Japanese imports do not behave similarly to those other imports in the U.S. market. I did not hear any response from the petitioners to my comments at least twice today. There have been no allegations against Japan that Japanese imports were subsidized. That wasn't even alleged in the petitions filed by the petitioners. And that's very important, because as I said, the hot-rolled steel from India, you decided to cumulate only those countries that are

the so-called CVD countries. Japan is not a CVD country. For that reason alone, it ought to be decumulated.

Secondly, there have been no allegations of evasion, circumvention or any other potentially nefarious behavior with respect to Japanese imports. Again, if our goal is to evaluate like behaving imports in the U.S. market, the fact that there are no, even allegations against Japanese imports has to be taken into account, and for that reason, Japanese imports ought to be decumulated.

Second, Commissioner Schmidtlein did far better than I in explaining to the petitioners this morning why there has been no material injury to the domestic industry as a result of cumulated imports from China, Japan and India. She walked through very persuasively the record in explaining why there was no material injury. And if that's the case and she did it very well, I would like to add, there certainly has been no material injury with respect to imports from Japan.

As I explained in my discussion with Commissioner Kearns, the volume of Japanese imports has actually gone down over the POI. Japanese pricing has remained remarkably flat and stable. So I don't think that we can say that there's been injury as a result of Japanese imports alone over the POI.

Next, I wanna turn to my friend's comments about

GEO and Chattem may or may not be serving the U.S. market. Consistent with Nestle Purina's 2007 submission and our submission in the prehearing briefs, the domestic industry still cannot meet the qualitative and quantitative needs of the U.S. industry. Witness after witness today, and in their statements to the Commission so far, have testified to this fact. There's really been no debate.

Also, as I discussed with Commissioner Williamson blithely this afternoon, I would really point you to Exhibit 1 and Exhibits 3 to 5 of the Nestle Purina prehearing brief. We take on the comments from Mr. Schwartz, which I think really are incorrect. I have to say, I think they're incorrect, what he just said to you. We take on those comments very clearly. And we walked through how the petitioners, and particular GEO, are behaving in the market. And I would respectfully urge you to take a look at that. I think it tells you quite a bit.

Nestle Purina had decided not to participate in this hearing today, but they have provided you a lot of insight on the market, and I think those exhibits in particular show you how the domestic industry has been behaving or not behaving.

Moreover, U.S. glycine purchasers purchase glycine primarily on the basis of nonprice factors. That's very different than many of the cases before you. Quality,

availability and product consistency are clearly the most important things to purchasers in the U.S. market. That's very different.

In sum, my friend GEO CEO is correct. 2019 is not 2007. But petitioners' claims to the Commission are still flimsy. We respectfully ask that the Commission find at least that Japanese imports are not materially injuring the domestic industry, and we ask you to look very skeptically at petitioners' claims, particularly with respect to volume.

As I said, petitioners claim that they need to operate high-capacity utilization, but witness after witness has been telling you they'd like to buy from them, and they themselves admitted, even just a few minutes ago, that they're not able to supply. To me, that is not material injury as a result of subject imports. I thank you for your time and your attention.

CLOSING REMARKS OF LIZBETH LEVINSON

MS. LEVINSON: This is Liz Levinson. I also would like to thank you for extremely probing questions and obviously a great familiarity with the record on behalf of the Commission. We appreciate all the time and effort that you put into it. I agree with Mr. Stoel, and I just have two points that I'd like to add.

One is that I do recognize that we spent what may

be viewed as a disproportionate amount of time on what may be viewed as niche products, the semi-conductor and the intravenous glycine. I wanna make it clear that that testimony went to the issue of like product and not to our general arguments on the injury issue for the domestic industry. We believe that there is no injury to the domestic industry that has been caused by imports and we believe that there's no causal link.

But the focus on the niche products was more for the like product analysis, which I think is a valid one, and there were several questions about, "What are the volumes of these niche products?" and while the volumes may be small, I don't think the like product criteria takes into effect the volume. Volume is not relevant to the like product calculation.

I know there's a lot of concern about what exactly is recognizable about quality glycine. And I ask you to look at Exhibit 5 to the joint Japanese respondents' brief. Yuki, or YGK conducted a series of tests comparing Indian, Thai, Chinese and domestic supply of glycine, and in that chart, there is a listing of all the chemicals that have been examined, and an explanation for why Yuki's product--and these tests, by the way, were done in some cases by outside parties--but there is an explanation of what trace metals are problematic in glycine, especially

glycine that's made for semi-conductor use. That concludes my remarks and our case. And thank you very much.

CHAIRMAN JOHANSON: I would like to thank all the parties for appearing here today. I will now make the closing statement.

Post-hearing briefs, statements responsive to questions and requests of the Commission and corrections to the Staff Report must be filed by May 7th, 2019. Closing of the record and final release of data to parties occurs on May 22nd, 2019. And final comments are due on May 24th, 2019. This hearing is adjourned.

(Whereupon at 3:44 p.m., the hearing was adjourned.)

CERTIFICATE OF REPORTER

TITLE: In The Matter Of: Glycine from China, India, Japan, and Thailand

INVESTIGATION NOS.: 701-TA-603-605 and 731-TA-1413-1415

HEARING DATE: 4-30-19

LOCATION: Washington, D.C.

NATURE OF HEARING: Final

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: 4-30-19

SIGNED: Mark A. Jagan

Signature of the Contractor or the Authorized Contractor's Representative

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceedings of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker identification and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceedings.

SIGNED: Christopher Weiskircher
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I hereby certify that I reported the above-referenced proceedings of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceedings.

SIGNED: Larry Flowers
Court Reporter