1300 Pennsylvania Avenue, NW
Washington, DC 20229

U.S. Customs and Border Protection

September 11, 2024

EAPA Case Number 7846

PUBLIC VERSION

David M. Murphy
On behalf of Shari Pharmachem (USA) LLC
Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP
599 Lexington Avenue FL 36
New York, NY 10022
dmurphy@gdlsk.com

David M. Schwartz
On behalf of Deer Park Glycine, LLC
Thompson Hine LLP
1919 M Street, NW, Suite 700
Washington, DC 20036
David.Schwartz@thompsonhine.com

RE: Notice of Determination as to Evasion

To the Counsel and Representatives of the Above-Referenced Entities:

Pursuant to an examination of the record in Enforce and Protect Act ("EAPA") Investigation 7846, U.S. Customs and Border Protection ("CBP") has determined there is substantial evidence that Shari Pharmachem (USA) LLC, also known as [company name] ("Shari Pharmachem USA") evaded the antidumping ("AD") and countervailing duty ("CVD") orders A-570-836 and C-570-081, respectively, on glycine from the People's Republic of China[1] by entering into the customs territory of the United States Chinese-origin glycine that was transshipped through India, and not declaring the glycine as subject to the aforementioned *AD/CVD Orders*.

Background

Allegation and Initiation

[1] *See Antidumping Duty Order: Glycine from the People's Republic of China*, 60 FR 16116 (March 29, 1995) and *Glycine From India and the People's Republic of China: Countervailing Duty Orders*, 84 FR 29173 (June 21, 2019) (collectively, the "*AD/CVD Orders*").

Geo Specialty Chemicals, Inc. ("GEO") filed an EAPA allegation against Shari Pharmachem USA.[2] GEO alleged that Shari Pharmachem USA entered Chinese-origin glycine into the United States that is subject to the *AD/CVD Orders* without declaring it, subject to those orders or paying the required AD/CVD cash deposits. On November 9, 2023, based on the information in the Allegation summarized below, the Trade Remedy Law Enforcement Directorate ("TRLED"), within CBP's Office of Trade, initiated an investigation under EAPA against Shari Pharmachem USA. GEO submitted documentation reasonably available to it to substantiate its claim that Shari Pharmachem USA has been importing Chinese-origin glycine that was transshipped through India, and Shari Pharmachem did not declare such merchandise, subject to the *AD/CVD Orders* on glycine from China. GEO provided Panjiva shipment data indicating it is reasonable to conclude Global Merchants in India shipped Chinese-origin glycine to Shari Pharmachem USA, and that Global Merchants does not produce glycine at its facilities in India. In addition, CBP noted GEO submitted what appear to be [evidence of transactions] of shipments of Chinese-origin glycine to Shari Pharmachem USA by [company name and description)].[3] CBP also based its decision to initiate on information available to it regarding entries of Shari Pharmachem USA.[4]

Evasion is defined as the "entry of covered merchandise into the customs territory of the United States for consumption by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the covered merchandise."[5] Under 19 C.F.R. §165.15(b), CBP will initiate an investigation if it determines that, upon considering the allegation, as supported by evidence reasonably available to the alleger, "{t}he information provided in the allegation…reasonably suggests that the covered merchandise has been entered for consumption into the customs territory of the United States through evasion."[6]

For the reasons noted above, CBP initiated an investigation under the authority of 19 U.S.C. §1517(b)(1) for Shari Pharmachem USA's imports of covered merchandise that are alleged to be entered for consumption into the customs territory of the United States through evasion.[7]

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[2] *See* the November 9, 2023, document named Initiation of Investigation for EAPA Case Number 7846 – Shari Pharmachem (USA) LLC ("Initiation Memo") at 1-2, which references GEO's initial allegation, dated September 8, 2023, its modified and resubmitted allegation, dated October 11, 2023 ("Allegation"), its supplemental to the Allegation, dated October 17, 2023 ("Supplement to Allegation"), and its allegation replacement page submission, dated October 18, 2023 ("Corrected Bracketing Document"). *See also* the February 14, 2024, document named Notice of Initiation of Investigation and Interim Measures: EAPA Case 7846 ("NOI") at 2. Note that on January 22, 2024, CBP was notified by GEO and Deer Park Glycine, LLC ("DPG") that on January 1, 2024, "GEO transferred its entire glycine business, including its sole glycine production facility, to DPG." *See* "Succession of Deer Park Glycine, LLC to Evasion Allegation of GEO Specialty Chemicals, Inc. Against Shari Pharmachem (USA) LLC Under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015," dated January 22, 2024. *See also* NOI at 2 (footnote 4).

[3] *See* Initiation Memo at 4.

[4] *Id.* Note that [company name], was identified by the importer as [description] for its entries of glycine.

[5] *See* 19 C.F.R. § 165.1; *see also* 19 U.S.C. §1517(a)(5).

[6] *See also* 19 U.S.C. § 1517(b)(1).

[7] *See* Initiation at 4. *See also* 19 C.F.R. § 165.15.

Requests for Information and Interim Measures

On November 22, 2023, CBP issued a Customs Form 28 request for information ("CF28") to Shari Pharmachem USA covering entry numbers [number]7805 ("7805") and [number]3092 ("3092").[8] On November 29, 2023, CBP issued a CF28 to Shari Pharmachem USA covering entry number [number]4322 ("4322"), which, like Entry 3092, entered the United States during the period of investigation ("POI") (*i.e.*, from October 19, 2022, forward).[9] The CF28s requested that Shari Pharmachem USA provide entry package information (*e.g.*, CFP form 3461, CFP form 7501, invoices, packing lists, bills of lading, contracts, and various shipment documents), and other documentation relating to the transactions in question, including certificates of analysis, country of origin certificates, and proof of payment. CBP also requested "business licenses and addresses of the Indian manufacturer/seller/producer and any other companies involved in the processing of glycine," as well as documentation and production records relating to raw materials and manufacturing. Shari Pharmachem USA did not submit a timely response to the CF28 covering Entry 7805 and Entry 3092. On December 1, 2024, Shari Pharmachem USA submitted a response to the CF28 for Entry 4322, but it only provided a CBP Form 7501, an invoice, and a packing list; furthermore, the documentation provided in that CF28 response did not relate to Entry 4322, but, instead, appeared to relate to Entry [number]2649, a different Shari Pharmachem USA entry with entry date during the POI.[10]

Based on the failure of Shari Pharmachem USA to provide information requested in the CF28s and the evidence on the record at that time, CBP found there was reasonable suspicion that the glycine entered by Shari Pharmachem USA during the POI should have been declared as subject to the scope of the *AD/CVD Orders* at the time of entry, and therefore subject to AD/CVD cash deposits under those orders.[11] Consequently, CBP imposed interim measures.[12]

Requests for Information

Shari Pharmachem USA

After the imposition of interim measures and the issuance of the NOI, CBP, pursuant to 19 C.F.R. § 165.23, sent a Request for Information ("RFI") to Shari Pharmachem USA, which asked for information regarding a range of aspects of that company's business operations,

[8] The CF28 included, among other requests, a request for production information for the merchandise associated with Entry 7805, which was outside the POI of this EAPA investigation, but not for Entry 3092, which occurred in the POI.
[9] The CF28 included, among other requests, a request for production information for the merchandise associated with Entry 4322.
[10] *See* Shari Pharmachem USA's February 27, 2024, resubmission of CF28 response. The CF28 response was dated December 1, 2023. *Id*. at 3. Note that the NOI incorrectly identified that CF28 response date as December 1, 2024. *See* NOI at 4.
[11] *See* NOI at 5.
[12] *Id.*

including documentation associated with various entries of glycine for which the manufacturer ID ("MID") [company name].[13] The entries in question are as follows[14]:

RFI Selection Number	Entry Summary Number
RFI #1	[number]0098
RFI #2	[number]0676
RFI #3	[number]1245
RFI #4	[number]2250
RFI #5	[number]2649
RFI #6	[number]3092
RFI #7	[number]4322
RFI #8	[number]9528

Shari Pharmachem USA submitted its RFI response on March 21, 2024.[15] In its RFI response, Shari Pharmachem USA stated it "does not have an alternative name," and that the reference to "[name]" in some documentation submitted to CBP was the result of a typographical error."[16]

Shari Pharmachem USA also indicated that the glycine it imported from India was manufactured in India. For example, Shari Pharmachem USA stated:

> "Shari Pharmachem USA has imported Glycine-USP that was manufactured in India for wholesale trading in the United States during the period of 2022 and 2023."[17]
>
> "Shari Pharmachem USA imports only Glycine-USP manufactured in India for sale in the USA to wholesalers and distributors."[18]

In response to a request that it provide a list of all suppliers of the covered merchandise during the POI, Shari Pharmachem USA stated that all the glycine purchased through [company name]— which is referenced in this investigation as Supplier One—was "produced by [company name]," (referred to by Shari Pharmachem USA as ("[company name]"). Shari Pharmachem USA provided contact information for [company name], an Indian entity, which is referenced in this investigation as Supplier Two.[19] Shari Pharmachem

[13] *See* "EAPA 7846 – Request for Information" issued to Shari Pharmachem USA, dated February 15, 2024 ("Shari Pharmachem USA RFI").
[14] *See* Shari Pharmachem USA RFI at Appendix I. Henceforward, for ease of reference, entries will be referred to by their final four digits.
[15] *See* "Initial RFI Response of Shari Pharmachem (USA) LLC," dated March 21, 2024 ("Shari Pharmachem USA RFI Response").
[16] *See* Shari Pharmachem USA RFI Response at 4. In various documents submitted to CBP, the importer referenced that misspelling (*see, e.g.*, the entry summary in the Shari Pharmachem USA February 27, 2024, resubmission of CF28 response).
[17] *See* Shari Pharmachem USA RFI Response at 2.
[18] *Id.*
[19] *Id.* at 8-9. As noted below, [company name] distinguished itself from [company name].

USA stated that "{f}or the glycine purchased from [company name]…, [company name] represented that [description related to business activity]," and provided contact information for [company name], which is referenced in this investigation as Supplier Three.[20]

Shari Pharmachem USA also stated that upon receiving orders from U.S. customers, Shari Pharmachem USA would submit the orders to [company name], "who will, in turn, negotiate all terms and conditions with the manufacturer in India."[21] Shari Pharmachem USA claimed that for transactions involving [company name] (Supplier Three), Shari Pharmachem USA "[description related to business activity]."[22]

According to Shari Pharmachem USA, for the sales channel involving [company name] (Supplier One) sourcing glycine from [company name], "Shari Pharmachem USA has continuously visited the manufacturing plants in India for physical inspection to ensure the subject merchandise imported were and will be made in India."[23] Although asked for evidence of such visits,[24] Shari Pharmachem USA provided none. According to Shari Pharmachem USA, [company name] (Supplier One) [business activity] related to the export of glycine [aspect of business activity] to Shari Pharmachem USA, and Shari Pharmachem USA [description related to business activity].[25]

In response to a request that Shari Pharmachem USA "identify the source of records and information used to file a CBP entry" and "explain how these records are created, maintained, and transferred," Shari Pharmachem USA responded that it "receives commercial documents from the supplier, which include the invoice, packing list, certification of origin, certificate of analysis, bill of lading, arrival notice, *etc*." and that "{a}ll documents are submitted to customs broker for clearance."[26] CBP had requested that for the entries identified in Appendix I of the RFI, Shari Pharmachem USA provide a range of documents, including, among others, "{c}ountry of origin certificates" and "{i}nspection certificates." In response, Shari Pharmachem USA stated that Exhibit III-Q10 of its response contains "transactional documents and entry documents" identified as "7501, invoice packing list, bill of lading, certificate of origin, certificate of analysis, *etc*."[27] A description of what was provided in Exhibit III-Q10 for each requested entry follows:

> RFI #1 (Entry 0098) ([company name] (Supplier Three) identified by Shari Pharmachem USA as the supplier. Documents included are Packing List (Exhibit III-Q10.1.b), Certificate of Origin (Exhibit III-Q10.1.f), Invoice (Exhibit III-Q10.1.g), Customs Form 7501 (Exhibit III-Q10.1.h), Bill of Lading and Arrival Notices (Exhibit III-Q10.1.i), and Certificate of Analysis (Exhibit III-Q10.1.k). With the exception of

[20] *Id.* at 9.
[21] *Id.* at 10.
[22] *Id.*
[23] *Id.* at 12.
[24] *See* Shari Pharmachem USA RFI at Part III, Question 15.
[25] *See* Shari Pharmachem USA RFI Response at 12.
[26] *Id.* at 10-11.
[27] *Id.* at 9-10.

Exhibit III-Q10.1.i, which does not reference a country of origin, each of the aforementioned documents identify India as the country of origin of the merchandise.

RFI #2 (Entry 0676) ([company name] (Supplier Two) claimed by Shari Pharmachem USA to be the manufacturer, given there is no reference to [company name] (Supplier Three) in the documents, and the exporter was [company name] (Supplier One). Documents included are Packing List (Exhibit III-Q10.2.b), Certificate of Origin (Exhibit III-Q10.2.f), Invoice (Exhibit III-Q10.2.g), Customs Form 7501 (Exhibit III-Q10.2.h), and Bill of Lading (Exhibit III-Q10.2.i). With the exception of Exhibit III-Q10.2.i, which does not reference a country of origin, each of the aforementioned documents identify India as the country of origin of the merchandise.

RFI #3 (Entry 1245) ([company name] (Supplier Two) claimed by Shari Pharmachem USA to be the manufacturer, given there is no reference to [company name] (Supplier Three) in the documents, and the exporter was [company name] (Supplier One). Documents included are Packing List (Exhibit III-Q10.3.b), Certificate of Origin (Exhibit III-Q10.3.f), Invoice (Exhibit III-Q10.3.g), Customs Form 7501 (Exhibit III-Q10.3.h), and Bill of Lading (Exhibit III-Q10.3.i). With the exception of Exhibit III-Q10.3.i, which does not reference a country of origin, each of the aforementioned documents identify India as the country of origin of the merchandise.

RFI #4 (Entry 2250) - - no documents were provided by Shari Pharmachem USA for this entry in its RFI response.

RFI #5 (Entry 2649) ([company name] (Supplier Three) identified by Shari Pharmachem USA as the supplier. Documents included are Packing List (Exhibit III-Q10.5.b), Certificate of Origin (Exhibit III-Q10.5.f), Invoice (Exhibit III-Q10.5.g), Customs Form 7501 (Exhibit III-Q10.5.h), Bill of Lading and Arrival Notices (Exhibit III-Q10.5.i), and Certificate of Analysis (Exhibit III-Q10.5.k). With the exception of Exhibit III-Q10.5.i, which does not reference a country of origin, each of the aforementioned documents identify India as the country of origin of the merchandise.

RFI #6 (Entry 3092) ([company name] (Supplier Three) identified by Shari Pharmachem USA as the supplier. Documents included are Packing List (Exhibit III-Q10.6.b), Certificate of Origin (Exhibit III-Q10.6.f), Invoice (Exhibit III-Q10.6.g), Customs Form 7501 (Exhibit III-Q10.6.h), Bill of Lading and Arrival Notices (Exhibit III-Q10.6.i), and Certificate of Analysis (Exhibit III-Q10.6.k). With the exception of Exhibit III-Q10.6.i, which does not reference a country of origin, each of the aforementioned documents identify India as the country of origin of the merchandise.

RFI #7 (Entry 4322) ([company name] (Supplier Three) identified by Shari Pharmachem USA as the supplier. Documents included are Packing List (Exhibit III-Q10.7.b), Certificate of Origin (Exhibit III-Q10.7.f), Invoice (Exhibit III-Q10.7.g), Customs Form 7501 (Exhibit III-Q10.7.h), Bill of Lading and Arrival Notices (Exhibit III-Q10.7.i), and Certificate of Analysis (Exhibit III-Q10.7.k). With the exception of

Exhibit III-Q10.7.i, which does not reference a country of origin, each of the aforementioned documents identify India as the country of origin of the merchandise.

RFI #8 (Entry 9528) - - no documents were provided for this entry by Shari Pharmachem USA in its RFI response.

CBP issued a supplemental RFI to Shari Pharmachem USA on April 18, 2024.[28] Shari submitted its response in two documents, the first dated April 25, 2024, and the second dated May 2, 2024.[29] In response to CBP's repeated request for shipment-related documents for RFI #4 and RFI #8, as well as an explanation for why Shari Pharmachem USA had not provided such information in its initial RFI response, Shari Pharmachem USA provided neither a narrative response nor the requested documents.[30]

In response to CBP's request that Shari Pharmachem USA explain why, for RFI #3, the packing list date is [date] but the invoice date is [date], a difference of [duration of time], Shari Pharmachem USA provided no explanation for the discrepancy, instead stating that "{t}he entry documentation was provided by [company name], and that "Shari Pharmachem USA does not maintain this information and cannot explain this discrepancy."[31] When asked by CBP to explain discrepancies in product batch numbers on the RFI #7 export invoice and packing list versus the RFI #7 Certificate of Analysis versus the RFI #7 Certificate of Origin, Shari Pharmachem USA gave the same response.[32] Shari Pharmachem USA stated not only that it does not maintain documents associated with its entries, but it claimed it "had no knowledge about the existence of [company name]" and "never submitted any orders to [company name]."[33]

[company name] (Supplier One)

CBP also issued an RFI to Supplier One, which asked for information regarding a range of aspects of that company's business operations, including documentation associated with eight shipments associated with entries of glycine by Shari Pharmachem USA.[34]

In its RFI response, Supplier One states that [name] owns [number]% of [company name], and indicates [description] as well.[35] Supplier One states "{s}ales and every other operations

[28] *See* "EAPA 7846 – Supplemental Request for Information," dated April 18, 2024 ("Shari Pharmachem USA Supplemental RFI").
[29] *See* "Supplement RRI {sic} Response of Shari Pharmachem (USA) LLC," dated April 25, 2024 ("Shari Pharmachem USA Supplemental RFI Partial Response") and "Supplemental RFI Response of Shari Pharmachem (USA) LLC" dated May 2, 2024 ("Shari Pharmachem USA Supplemental RFI Completed Response").
[30] *See* Shari Pharmachem USA Supplemental RFI Completed Response at 2 (RFI #4) and 3 (RFI #8).
[31] *Id.* at 3.
[32] *Id.*
[33] *Id.* at 4.
[34] *See* "EAPA 7846 – Request for Information" issued to [company name], also referred to as Supplier One, dated February 15, 2024 ("Supplier One RFI").
[35] *See*, *e.g.*, "Response to Request for Information" submitted by [company name] (Supplier One) on March 25, 2024 ("Supplier One RFI Response") at 4 and Appendix 1. Note however that Shari Pharmachem USA stated that "Shari Pharmachem USA and [company name] {Supplier One} do not have any common

{sic} are overlooked with great detail by [name],” and that “{w}ithout [name]’s approval no sales can go forward.”[36]

Supplier One stated repeatedly that it does not produce glycine.[37] Supplier One states that it procured glycine for Shari Pharmachem USA from [company name] (Supplier Two), and that the glycine originated in China.[38] Supplier One reiterated numerous times that all the glycine imported into India for re-shipment to Shari Pharmachem USA originated in China.[39]

In response to CBP’s request that it “provide a chart which indicates the total quantity and value (Q&V) of all sales of the covered merchandise that you sold during the POI, *i.e.*, October 19, 2022, onward, in (or to)” various markets, Supplier One responded that it “exclusively supplies for Shari Pharmachem (USA) LLC to USA,” and provided a chart listing twelve transactions. Supplier One noted “{a}ll of the above mentioned goods are of Chinese origin,” and that all of the merchandise “was imported from China to India and was then exported to USA.”[40]

In a supplemental questionnaire issued to Supplier One on April 19, 2024, CBP requested additional fields of data for those shipments,[41] and in its response, Supplier One revised the chart (Supplier One Shipment Chart) to include invoice date, quantity, value, batch number, shipping bill number, bill of lading number, Chinese supplier name, manufacturing date, import China export number, China bill of lading number and invoice number.[42] Only lines 8 through 12 of the revised Supplier One chart indicating Chinese-origin glycine relate to entries in the POI:

> Line 8 in Supplier One Shipment Chart corresponds with Shari Pharmachem USA RFI #3
> Line 9 in Supplier One Shipment Chart corresponds with Shari Pharmachem USA RFI #2
> Lines 10 and 11 in Supplier One Shipment Chart correspond with Shari Pharmachem USA RFI #4
> Line 12 in Supplier One Shipment Chart corresponds with Shari Pharmachem USA RFI #8[43]

Supplier One provided Certificates of Origin and Certificates of Analysis for glycine.[44] There are several Certificates of Origin, each of which indicate they were issued in China and identify merchandise as of Chinese origin, but Supplier One did not link them directly to the shipments

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owners,” and that it “believes [company name] was and is fully controlled by the two local directors who founded the company back in 2021.” *See* Shari Pharmachem USA Supplemental RFI Completed Response at 2.

[36] *See* Supplier One RFI Response at 6.

[37] *See*, *e.g.*, Supplier One RFI Response at 5, 21, 22, 23, 26, and 27.

[38] *See*, *e.g.*, Supplier One RFI Response at 4 and 5.

[39] *See*, *e.g.*, Supplier One RFI Response at 13, 21, and 26.

[40] *See* Supplier One RFI Response at 24.

[41] *See* “Supplemental Request for Information” issued to Supplier One on April 19, 2024 (“Supplier One Supplemental RFI”).

[42] *See* untitled submission by Supplier One dated May 10, 2024 (“Supplier One Supplemental RFI Response”) at 4-5. Also, Supplier One revised an invoice date for the twelfth line item from the chart in the original Supplier One RFI Response, from [date] to [date]. *See* Supplier One Supplemental RFI Response at 4-5 *versus* Supplier One RFI Response at 24.

[43] *See* Supplier One Supplemental RFI Response at 4-5.

[44] *See* Supplier One RFI Response at 2, 18, 19, 20, and, for documents, Appendix 4, and, for Line 12 shipment (corresponding with Shari Pharmachem USA RFI #8); *see also* Supplier One Supplemental RFI Response at 3 and, for Certificate of Analysis documents, 11 and 12.

for which we requested information.[45] Supplier One provided the following Certificates of Analysis with batch numbers that tie to particular shipments, each of them with a header identifying [company name and information related to company]:

> Line 8 in Supplier One Shipment Chart (Shari Pharmachem USA RFI #3): Certificates of Analysis on pages 105 and 106 of Appendix 4 of Supplier One RFI Response.
>
> Line 9 in Supplier One Shipment Chart (Shari Pharmachem USA RFI #2): Certificates of Analysis on pages 107 and 108 of Appendix 4 of Supplier One RFI Response.
>
> Lines 10 and 11 in Supplier One Shipment Chart (Shari Pharmachem USA RFI #4: Certificates of Analysis on pages 109, 110, 111, and 112 of Appendix 4 of Supplier One RFI Response.
>
> Line 12 in Supplier One Shipment Chart (Shari Pharmachem USA RFI #8): Certificates of Analysis on pages 11 and 12 of Supplier One Supplemental RFI Response.

[company name] (Supplier Two)

CBP issued an RFI to Supplier Two on April 12, 2024.[46] Before the deadline for that response, Supplier Two submitted an email to CBP in which Supplier Two stated it: 1) imports glycine from China that it resells to Indian customers; 2) never exported glycine to the United States; 3) supplied glycine to [company name]; 4) is a trading company and has no manufacturing unit; 5) has had business interactions with [company name], which "is a manufacturing company in India," but [company name] has "never ever supplied any material" to [company name] or Shari Pharmachem USA, and 6) has "never have had any direct or indirect contact or communication" with [company name] or Shari Pharmachem USA.[47] Subsequently, Supplier Two did not submit a response to the RFI by the established deadline. CBP gave Supplier Two another opportunity to submit its RFI response,[48] but Supplier Two did not do so.

[company name] (Supplier Three)

On April 12, 2024, CBP issued an RFI to Supplier Three.[49] On June 4, 2024, Supplier Three submitted an RFI response.[50] Supplier Three repeatedly stated in its RFI response that it does

[45] *See* Supplier One RFI Response at Appendix 4 (pages 130-132). Supplier One stated later that in India, the "{p}rocess to obtain certificate of origin is quite easy and does not require site visit or any sort of confirmation whether goods were manufactured in India or not," and that "{b}y paying mere fees amount of 5-10 USD" to a local government body, that body will issue such certificates. *See* Supplier One Supplemental RFI Response at 18.
[46] *See* "Request for Information" issued to Supplier Two on April 12, 2024 ("Supplier Two RFI").
[47] *See* April 17, 2024, email from Supplier Two contact to TRLED official.
[48] *See* April 29, 2024, email from TRLED official to Supplier Two contact.
[49] *See* "Request for Information" issued to Supplier Three on April 12, 2024 ("Supplier Three RFI").
[50] *See* untitled submission by Supplier Three dated June 4, 2024 ("Supplier Three RFI Response").

not manufacture glycine.[51] It also indicates it does not manufacture any products.[52] Supplier Three refers to itself as an Indian exporter of various products, including glycine.[53]

Supplier Three states it has imported glycine from [location], and that "the same finished product glycine is exported to Shari Pharmachem (USA) LLC."[54] Supplier Three states the glycine "is stored in a storage facility" in [location] until it is "exported to Shari Pharmachem (USA) LLC."[55] Regarding its interactions with parties involved with those export transactions, Supplier Three states it "provided all information to [company name] and they further were passing the information to Shari Pharmachem USA," noting that "[company name] was never in direct touch with Shari Pharmachem USA."[56]

In Question 12 of Part III of the RFI issued to Supplier Three,[57] CBP requested a variety of documents related to the following export sales of glycine (note that the number in parentheses in the "RFI Selection Number" refers to the corresponding request number in the original Shari Pharmachem USA RFI):

RFI Selection Number	Invoice Number	Batch Number	HTS Number
RFI #1 (1)	[number]	[number]	2922494300
RFI #2 (5)	[number]	[number] [number]	2922494300
RFI #3 (6)	[number]	[number] [number]	2922494300
RFI #4 (7)	[number]	[number] [number]	2922494300

In response to this question, Supplier Three provided various documentation.[58] We note the following regarding some of the information provided:

> The first invoice referenced above ([number]) relates to Shari Pharmachem USA RFI #1. Much of the information in the export invoice provided by Supplier Three matches what is in the export invoice submitted by Shari Pharmachem USA, but some differs, including the identified country of origin, which is "China" in the Supplier Three version.[59]

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[51] *See* Supplier Three RFI Response at 2, 3, 12, and 13.
[52] *Id.* at 2, 5, 6, 10, and 11.
[53] *Id.* at 2.
[54] *Id.*
[55] *Id.*
[56] *Id.* at 9.
[57] *See* Supplier Three RFI at the aforementioned question, and Appendix I.
[58] *See* Supplier Three RFI Response at 9 and Appendix 3.
[59] *See* Supplier Three RFI Response at Appendix 3 (page 1) versus the Shari Pharmachem USA version discussed above.

The second invoice referenced above ([number]) relates to Shari Pharmachem USA RFI #5. Much of the information in the export invoice provided by Supplier Three matches what is in the export invoice submitted by Shari Pharmachem USA, but some differs, including the identified country of origin, which is "China" in the Supplier Three version.[60]

The third invoice referenced above ([number]) relates to Shari Pharmachem USA RFI #6. Much of the information in the export invoice provided by Supplier Three matches what is in the export invoice submitted by Shari Pharmachem USA, but some differs, including the identified country of origin, which is "China" in the Supplier Three version.[61]

The fourth invoice referenced above ([number]) relates to Shari Pharmachem USA RFI #7. Much of the information in the export invoice provided by Supplier Three matches what is in the export invoice submitted by Shari Pharmachem USA, but some differs, including the identified country of origin, which is "China" in the Supplier Three version.[62]

The Appendix 3 documents submitted by Supplier Three do not include specific information linking the merchandise in question to China, other than the references to China as the country of origin. However, in Question 9 of Section III of the RFI issued to Supplier Three, CBP requested that Supplier Three provide documentation and other information related to a purchase from each supplier of the covered merchandise (*i.e.*, glycine), if neither Supplier Three nor an affiliate of Supplier Three produced the glycine it sold.[63] In response, Supplier Three stated that "{a}ll details of supplies made to us for the covered merchandise are attached in (Appendix 4)."[64] Supplier Three provided in that appendix a few sets of documents indicating purchases of glycine from Chinese supplier [company name] during [period of time].[65]

In a supplemental RFI, CBP asked Supplier Three to provide additional sales-related documentation and explanation relating to the transactions.[66] In its response, Supplier Three supplied certificates of analysis and certificates of origin for both its purchases of glycine and for its exports to Shari Pharmachem USA.[67] With regard to the documents provided for Supplier Three's exports, the certificates of analysis contain the logo of Supplier Three, and make no reference to China, and the certificates of origin indicate they were issued in [location], identify

[60] *See* Supplier Three RFI Response at Appendix 3 (page 6) versus the Shari Pharmachem USA version discussed above.
[61] *See* Supplier Three RFI Response at Appendix 3 (page 16) versus the Shari Pharmachem USA version discussed above.
[62] *See* Supplier Three RFI Response at Appendix 3 (page 11) versus the Shari Pharmachem USA version discussed above.
[63] *See* Supplier Three RFI at the aforementioned question.
[64] *See* Supplier Three RFI Response at 9 and Appendix 4.
[65] *Id.* at Appendix 4.
[66] *See* "Supplemental Request for Information" issued to Supplier Three on June 7, 2024 ("Supplier Three Supplemental RFI").
[67] *See* "Response to Request to Information" submitted by Supplier Three and dated June 14, 2024 ("Supplier Three Supplemental RFI Response"), at Appendix 1 and Appendix 2, respectively, as noted in the narrative at 2.

"India" in the column named "Origin criteria," and possess declarations indicating the merchandise was produced in [location].[68] However, certain sales documents for Supplier Three's purchases indicate a different country of origin. The certificates of analysis have a heading identifying [company name] and contain Chinese characters, while the certificates of origin are titled "Certificate of Origin of the People's Republic of China," possess certificates indicating the merchandise was produced in China, and identify as exporter [company name], with a [location] address.[69] With regard to linking its import and export documents, Supplier Three stated that "{i}n The Shipping Bill of the Export Leg {*i.e.*, Appendix 3 of the original RFI response} there is Third Country Export Mentioned in the Description this is how it can be linked."[70]

Additional Factual Information

On May 28, 2024, Deer Park Glycine, LLC ("DPG") placed additional factual information on the record.[71] DPG cited information indicating Hitesh Patel of Shari Pharmachem USA established a new Indian company on May 16, 2024, named SPL Holding (India) Private Limited.[72] DPG also stated that the new Indian company's "subscriber" is identified as SPL Holding Corporation, a company registered in the United States whose representative is Hitesh H. Patel.[73] DPG also provided information indicating Hitesh Patel is president of SPL Holding Corporation, another company registered in the United States, as well as information indicating ties between Hitesh Patel and Shari Pharmachem USA and a company named SPV Ventures.[74] DPG concludes that "{g}iven the timing of Hitesh Patel's establishment of SPL Holding (India) Private Limited and the similarity between that company's nomenclature and those of Hitesh Patel's other U.S. companies," CBP should consider SPL Holding (India) Private Limited "a potential 'Supplier Four', and that SPL Holding Corporation and SPL Ventures be considered potential U.S. importers of record as this {EAPA} investigation continues."[75]

Written Argument and Rebuttal to Written Argument

On June 6, 2024, CBP extended the deadlines for parties to submit written arguments and responses to written arguments,[76] and on June 25, 2024, CBP established those deadlines as July 9, 2024, and July 24, respectively.[77]

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[68] *Id.* at Appendix 2.
[69] *Id.* at Appendix 1.
[70] *Id.* at 2.
[71] *See* "Deer Park Glycine, LLC – Voluntary Submission of Factual Information," dated May 28, 2024 ("DPG Factual Information"). Note that on January 22, 2024, CBP was notified by GEO and Deer Park Glycine, LLC ("DPG") that on January 1, 2024, "GEO transferred its entire glycine business, including its sole glycine production facility, to DPG." *See* "Succession of Deer Park Glycine, LLC to Evasion Allegation of GEO Specialty Chemicals, Inc. Against Shari Pharmachem (USA) LLC Under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015," dated January 22, 2024. *See also* NOI at 2 (footnote 4).
[72] *See* DPG Factual Information at 1-2 and Exhibit A.
[73] *Id.* at 2.
[74] *Id.* at 2 and Exhibit B.
[75] *Id.* at 2.
[76] *See* TRLED email dated June 6, 2024.
[77] *See* TRLED email dated June 25, 2024.

On July 9, 2024, DPG submitted written arguments.[78] Shari Pharmachem USA did not submit written arguments, nor did it submit a response to DPG's written arguments.

Analysis

Under 19 U.S.C. § 1517(c)(1)(A), to reach a determination as to evasion, CBP must "make a determination, based on substantial evidence, with respect to whether such covered merchandise entered into the customs territory of the United States through evasion." Evasion is defined as "the entry of covered merchandise into the customs territory of the United States for consumption by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the merchandise."[79] As discussed below, the record of this investigation contains substantial evidence supporting a determination that Shari Pharmachem USA entered covered merchandise into the United States through evasion, resulting in the avoidance of applicable AD/CVD deposits or other security.

In its RFI responses, Shari Pharmachem USA provided documents indicating that the merchandise associated with at least some of the U.S. entries of glycine in question originated in India. However, as noted above, for two of its entries Shari Pharmachem USA failed to provide any of the requested documentation. Furthermore, [company name] (Supplier One), the MID for all of Shari Pharmachem USA's entries of glycine identified by the latter as originating in India, indicated in its own RFI responses that the merchandise associated with all the entries originated in China. The documentation submitted by [company name] in support of its contention includes references to China as the country of origin, as well as certificates of analysis identifying the name of a Chinese company.

In addition, [company name] noted it does not produce glycine, and indicated the two suppliers of the merchandise, Supplier Two and Supplier Three, did not produce the merchandise, either. Shari Pharmachem USA identified those same two entities as the suppliers of the merchandise, claiming one of them, Supplier Two, actually produced the merchandise, and that the other one, Supplier Three, had indicated to Shari Pharmachem USA that [company references] had produced the merchandise. However, when asked in RFIs about the merchandise associated with the transactions in which they were involved, both Supplier Two and Supplier Three not only stated they did not produce glycine, but they also indicated the merchandise originated in China. Although Supplier Two did not submit a proper RFI response,[80] Supplier Three, in its RFI responses, stated its merchandise originated in China, and included documentation supporting that contention.

[78] *See* "Written Arguments of Deer Park Glycine, LLC," dated July 9, 2024 ("DPG Written Argument").
[79] *See* 19 C.F.R. § 165.1.
[80] Supplier Two did not submit an actual RFI response, but rather, as noted above, made its claims in an email to CBP prior to the deadline for submission of the RFI. Nevertheless, Supplier Two's claims, in conjunction with its failure to submit a proper RFI response, at the very least does not support Shari Pharmachem USA's claim that the merchandise it imported originated in India.

Finally, as noted in the Initiation, the Allegation contained information indicating [business activities], and that [business description]. Specifically, the Allegation referenced [evidence related to transactions], and that [business description]. Furthermore, [documentation] information cited in the Initiation links [business activity] to Shari Pharmachem USA.[81] This is consistent with the claims of [company name] in its [documentation].[82]

Based on the information on the record of this investigation, as discussed above, CBP finds there is substantial evidence that Shari Pharmachem USA imported glycine of Chinese origin that it claimed, at time of entry, originated in India, and failed to pay appropriate AD cash deposits required for merchandise subject to the *AD/CVD Orders* on glycine from the People's Republic of China.

Actions Taken Pursuant to the Affirmative Determination of Evasion

In light of CBP's determination that Shari Pharmachem USA entered covered merchandise into the customs territory of the United States through evasion, and pursuant to 19 U.S.C. § 1517(d) and 19 C.F.R. § 165.28, CBP shall:

(1) suspend or continue to suspend the liquidation of each unliquidated entry of such covered merchandise that entered on or after November 9, 2023, the date of the initiation of the investigation. CBP will suspend the entries subject to this investigation until instructed to liquidate these entries;

(2) pursuant to the Commissioner's authority under 19 U.S.C. § 1504(b), extend or continue to extend the period for liquidating each unliquidated entry of such covered merchandise that entered before November 9, 2023, the date of the initiation of the investigation; CBP will rate adjust and change those entries to type 03 and continue suspension until instructed to liquidate these entries; and

(3) pursuant to the Commissioner's authority under 19 U.S.C. § 1623, take such additional measures as the Commissioner determines necessary to protect the revenue of the United States, including requiring a single transaction bond or additional security or the posting of a cash deposit with respect to such covered merchandise.[83]

Finally, CBP may pursue additional enforcement actions, as provided by law, consistent with 19 U.S.C. § 1517(h).

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[81] *See e.g.* Initiation Memo at [#], citing Allegation documentation.

[82] Although [business information] in the Allegation, Shari Pharmachem USA considers [business information]. Consequently, in this paragraph, CBP is bracketing information [description] in order to [intent of bracketing information].

[83] *See also* 19 C.F.R. § 165.24(b)(1)(i)-(iii).

Sincerely,

Victoria Cho
Director, Enforcement Operations Division
Trade Remedy Law Enforcement Directorate
Office of Trade