



PUBLIC VERSION

EAPA Case Number: 7395

David M. Schwartz
On behalf of GEO Specialty Chemicals, Inc.
Thompson Hine LLP
1919 M Street NW, Suite 700
Washington, DC 20036
David.Schwartz@ThompsonHine.com

Lizbeth R. Levinson
On behalf of Tiana International, LLC
Fox Rothschild LLP
1030 15th Street, NW
Suite 380 East
Washington, DC 20005
llevinson@foxrothschild.com

RE: Notice of Determination as to Evasion

Dear Counsel for the above-referenced Entities:

Pursuant to an examination of the record in Enforce and Protect Act (EAPA) case number 7395, U.S. Customs and Border Protection (CBP) has determined that there is not substantial evidence that Tiana International LLC (Tiana) entered merchandise covered by antidumping duty (AD) order A-570-836¹ on glycine from the People's Republic of China (China) and the countervailing duty (CVD) order C-570-081² on glycine from China into the customs territory of the United States through evasion. Specifically, CBP determined that there is not substantial evidence that

¹ See *Glycine from the People's Republic of China: Antidumping Duty Order*, 60 Fed. Reg. 16,116 (Dep't Commerce, Mar. 29, 1995). The scope of the AD order covers glycine of all purity levels. In a 2002 scope ruling, the Department of Commerce (Commerce) determined that all glycine further processed or "purified" from Chinese-origin technical grade, or "crude," glycine in a third country and exported to the United States is subject to the AD order on glycine from China. Based on Commerce's determination, glycine of any purity level originating from China is subject to the AD order. Furthermore, refining or further processing in a third country of glycine of any purity level which originates from China will not exclude the merchandise from the AD order. See Memorandum from Barbara E. Tillman to Joseph A. Spetrini, Deputy Assistant Secretary for Import Administration, "Final Scope Ruling; Antidumping Duty Order on Glycine from the People's Republic of China (A-570-836); (Watson Industries Inc.);" (May 3, 2002).

² See *Glycine from India and the People's Republic of China: Countervailing Duty Orders*, 84 Fed. Reg. 29,173 (Dep't Commerce, Jun. 21, 2019). The scope of the CVD order covers glycine at any purity level or grade. *Id.*, at 29,174.

Tiana imported Chinese-origin glycine into the United States after allegedly transshipping the glycine through India.

Background

On November 19, 2019, GEO Specialty Chemicals, Inc. (GEO), a manufacturer of glycine in the United States, submitted an allegation to CBP that Tiana was evading the AD and CVD orders on glycine from China by importing Chinese-origin glycine that was transshipped through India.³ GEO alleged that Tiana was transshipping Chinese glycine through India using two transshipment schemes described below.

GEO claimed that the first transshipment scheme involved three Indian companies, Crest Remedies, Studio Disrupt, and Mulji Mehta, all of which GEO alleged to be related. To support its claims concerning this transshipment scheme, GEO provided two sets of data, one showing that Crest Remedies had imported glycine into India from China and another showing that Tiana had imported glycine into the United States from Studio Disrupt.⁴ GEO argued that neither Studio Disrupt nor its affiliate Mulji Mehta were identified as an Indian manufacturer of glycine, and therefore Studio Disrupt must have obtained the glycine it exported from another entity.⁵ In an effort to evidence that Crest Remedies and Mulji Mehta were affiliated, GEO provided information showing that each company had a director who was also a director of another Indian company, Antop Hill Warehousing Co. Ltd. (Antop Hill), and both Crest Remedies and Mulji Mehta had offices in the Antop Hill complex where no production or warehousing activities were allegedly occurring.⁶ GEO submitted additional information demonstrating that Studio Disrupt and one of the Mulji Mehta companies had the same address in the Antop Hill complex, and that the address listed in the trade data for Studio Disrupt was an apartment located in a residential area with no manufacturing facilities.⁷ Based on the alleged affiliation between Crest Remedies and Mulji Mehta, Studio Disrupt's alleged affiliation with Mulji Mehta, and the three companies' proximate offices in the Antop Hill complex, GEO claimed that the glycine Crest Remedies was importing from China into India, which Studio Disrupt then exported to Tiana, was Chinese-origin glycine.⁸

According to GEO, the second transshipment scheme involved Tiana's Indian affiliate Kumar Industries (Kumar), from which it imported glycine into the United States.⁹ GEO argued that Tiana had a history of importing transshipped Chinese glycine from Indian companies.¹⁰ Citing Commerce's 2012 finding that two Indian companies circumvented the AD order on glycine from China, GEO asserted that one of the two companies, AICO Laboratories India Ltd. (AICO),

³ See Letter from GEO, "Revision of September 11, 2019 Evasion Allegation Against Tiana International LLC Under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act" (Nov. 19, 2019) (Allegation).

⁴ See Allegation at Exhibits 1-2.

⁵ *Id.* at 6-9 and Exhibits 3-4.

⁶ *Id.* at 7 and Exhibits 6, 7, 9, 10, 11, and 12.

⁷ *Id.* at 8-9 and Exhibits 1, 13, and 14.

⁸ *Id.* at 4-9.

⁹ *Id.* at 9 and Exhibits 20 and 21.

¹⁰ *Id.* at 9.

was, and still appeared to be, owned in large part by members of the Chopra family.¹¹ GEO maintained that members of the Chopra family had founded or were now serving as directors of Tiana International and Kumar.¹² GEO asserted that Kumar was also affiliated with Rakon Industries, which previously imported Chinese glycine into India, and Rudraa International, an Indian company that exported glycine to the United States.¹³

On November 27, 2019, CBP acknowledged receipt of the properly-filed EAPA allegation against Tiana.¹⁴ CBP found that the information in the allegation reasonably suggested that Tiana entered covered merchandise for consumption into the customs territory of the United States through evasion and consequently, on December 18, 2019, initiated an EAPA investigation pursuant to Title IV, section 421 of the Trade Facilitation and Trade Enforcement Act of 2015.¹⁵ After initiation of the investigation, CBP issued CF28 questionnaires to Tiana for an entry of glycine made during the period of investigation that was shipped from India by Kumar.¹⁶ CBP also reviewed information provided by Tiana International in response to a CF28 questionnaire issued for another entry made during the period of investigation of glycine exported from India by Studio Disrupt.¹⁷

Additionally, after initiation of the investigation, GEO voluntarily submitted factual information on January 3, 2020 and March 6, 2020.¹⁸

After evaluating the information on the record, on March 17, 2020, CBP found the information reasonably suggested that Tiana evaded the AD and CVD orders on glycine from China by importing glycine that was manufactured in China and transshipped through India by Studio

¹¹ *Id.* at 9, citing *Glycine From the People's Republic of China: Final Partial Affirmative Determination of Circumvention of the Antidumping Duty Order*, 77 Fed. Reg. 73,426 (Dec. 10, 2012) (*2012 Glycine Circumvention Determination*), and Exhibit 18.

¹² *Id.* at 9 and Exhibits 19, 22 and 23.

¹³ *Id.* at 9-10 and Exhibits 16, 20, 24, 25, and 26.

¹⁴ See 19 CFR 165.12; see also CBP Email, "Receipt of EAPA Case No. 7395: Allegation of Transshipment of Chinese Glycine through India" (Nov. 27, 2019).

¹⁵ See CBP Memorandum, "Initiation of Investigation for EAPA Case Number 7395" (Dec. 18, 2019); see also 19 USC 1517(b)(1) and 19 CFR 165.15.

¹⁶ See CF28 issued to Tiana for entry number []6017 (Jan. 14, 2020); Tiana CF28 Response for entry number []6017 (Feb. 21, 2020); Follow-up CF28 issued to Tiana for entry number []6017 (Mar. 2, 2020); and Tiana Follow-up CF28 Response for entry number []6017 (Mar. 24, 2020) (Tiana Follow-up CF28 Response for entry []6017). The Tiana Follow-up CF28 Response for entry []6017 was submitted after CBP issued its formal notice of investigation. For all documents referenced in this footnote, see Letter from Tiana, "EAPA Investigation No. 7395 – Submission of Business Confidential and Public Versions of Responses to CF 28s Issued to Tiana International" (Apr. 1, 2020) (CF28 for Entry []6017).

¹⁷ See CF28 issued to Tiana for entry number []6944 (May 1, 2019); Tiana CF28 Response for entry number []6944 (May 28, 2019); CBP Form 29 issued to Tiana for entry number []6944 (Jul. 2, 2019); and Tiana Follow-up Response for entry number []6944 (Aug. 19, 2019). For all documents referenced in this footnote, see Letter from Tiana, "EAPA Investigation No. 7395 – Submission of Business Confidential and Public Versions of Responses to CF 28s Issued to Tiana International, Entry-6944" (Apr. 6, 2020) (CF28 for Entry []6944).

¹⁸ See Letter from GEO, "EAPA Case No. 7395: Supplemental Evidence for Investigation of Tiana International LLC Under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act" (Jan. 3, 2020) (GEO First Supplemental Submission) and Letter from GEO, "EAPA Case No. 7395: Second Submission of Supplemental Evidence for Investigation of Tiana International LLC Under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act" (Mar. 6, 2020) (GEO Second Supplemental Submission).

Disrupt and Kumar.¹⁹ On March 24, 2020, CBP issued GEO and Tiana a notice of initiation of investigation concerning Tiana's alleged evasion of the AD and CVD orders on glycine from China.²⁰ Although CBP did not impose interim measures, CBP advised both GEO and Tiana that CBP would take appropriate measures to protect the revenue if it determined during this investigation that there was substantial evidence of evasion.²¹ The notice also informed GEO and Tiana that the entries covered by the investigation were those entered for consumption, or withdrawn from warehouse for consumption, from November 27, 2018 through the pendency of this investigation.²²

On April 23, 2020, CBP issued requests for information (RFIs) to Tiana, Studio Disrupt, and Kumar.²³ On May 15, 2020, CBP issued an RFI to [] ([] or Manufacturer #2), the claimed manufacturer for glycine exported by Studio Disrupt.²⁴ Studio Disrupt and Manufacturer #2 responded to the RFIs on June 18, 2020, Tiana submitted its RFI response on June 25, 2020, and Kumar filed its RFI response on June 26, 2020.²⁵

Between May 20, 2020 and July 3, 2020, GEO made four voluntarily submissions of factual information.²⁶ On July 13, 2020 and July 15, 2020, Tiana and Studio Disrupt voluntarily

¹⁹ See CBP Email, "CBP Notification - Notice of Investigation for EAPA Case No. 7395" (Mar. 17, 2020).

²⁰ See 19 CFR 165.15(d)(1); see also CBP Memorandum, "Notice of Initiation of Investigation Taken as to Tiana International LLC concerning Evasion of the Antidumping and Countervailing Duty Orders on Glycine from the People's Republic of China - EAPA Case Number 7395" (Mar. 24, 2020) (Notice of Initiation of Investigation).

²¹ See Notice of Initiation of Investigation at 6.

²² *Id.* at 2; see also 19 CFR 165.2.

²³ See CBP Memorandum to Tiana, "Request for Information to Importer with regard to Enforce and Protect Act (EAPA) investigation of whether Tiana International LLC has evaded the Antidumping and Countervailing Duty Orders on glycine from the People's Republic of China, A-570-836 and C-570-081, with entries of merchandise into the United States" (Apr. 23, 2020); CBP Memorandum to Studio Disrupt, "Request for Information to Exporter with regard to Enforce and Protect Act (EAPA) investigation of whether Tiana International LLC has evaded the Antidumping and Countervailing Duty Orders on glycine from the People's Republic of China, A-570-836 and C-570-081, with entries of merchandise into the United States" (Apr. 23, 2020); and CBP Memorandum to Kumar (Manufacturer #1), "Request for Information to Identified Manufacturer/Supplier with regard to Enforce and Protect Act (EAPA) investigation of whether Tiana International LLC has evaded the Antidumping and Countervailing Duty Orders on glycine from the People's Republic of China, A-570-836 and C-570-081, with entries of merchandise into the United States" (Apr. 23, 2020).

²⁴ See CBP Memorandum to Manufacturer #2, "Request for Information to Identified Manufacturer/Supplier with regard to Enforce and Protect Act (EAPA) investigation of whether Tiana International LLC has evaded the Antidumping and Countervailing Duty Orders on glycine from the People's Republic of China, A-570-836 and C-570-081, with entries of merchandise into the United States" (May 15, 2020).

²⁵ See Letter from Studio Disrupt, "EAPA Consolidated Case Number 7395: Response to Request for Information" (Jun. 18, 2020) (Studio Disrupt RFI Response); Letter from Manufacturer #2, "EAPA Consolidated Case Number 7395: Response to Request for Information" (Jun. 18, 2020) (Manufacturer #2 RFI Response); Letter from Tiana, "EAPA Consolidated Case Number 7395: Tiana International's Response to the Request for Information" (Jun. 25, 2020) (Tiana RFI Response); and Letter from Kumar, "EAPA Consolidated Case Number 7395: Response to the Request for Information" (Jun. 26, 2020) (Kumar RFI Response).

²⁶ See Letter from GEO, "EAPA Case No. 7395: Third Submission of Supplemental Evidence for Investigation of Tiana International LLC Under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act" (May 20, 2020) (GEO Third Supplemental Submission); Letter from GEO, "EAPA Case No. 7395: Fourth Submission of Supplemental Evidence for Investigation of Tiana International LLC Under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act" (Jun. 12, 2020); Letter from GEO, "EAPA Case No. 7395: Fifth Submission of Supplemental Evidence for Investigation of Tiana International LLC Under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act" (Jun. 29, 2020) (GEO Fifth Supplemental Submission); and

submitted factual information, and on July 15, 2020, Tiana and Kumar voluntarily submitted factual information.²⁷ On July 24, 2020, GEO submitted rebuttal information to Kumar's July 15, 2020 voluntary factual information submission.²⁸

CBP issued supplemental RFIs to Tiana, Studio Disrupt, and Manufacturer #2 on August 6, 2020, and a supplemental RFI to Kumar on August 13, 2020.²⁹ Studio Disrupt submitted its supplemental RFI response on August 20, 2020, Manufacturer #2 submitted its supplemental RFI response on August 26, 2020, and both Tiana and Kumar filed their supplemental RFI responses on August 27, 2020.³⁰ Between August 26, 2020 and September 4, 2020, GEO filed rebuttal information to each of these supplemental RFI responses.³¹

Letter from GEO, "EAPA Case No. 7395: Sixth Submission of Supplemental Evidence for Investigation of Tiana International LLC Under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act" (Jul. 3, 2020).

²⁷ See Letter from Tiana and Studio Disrupt, "EAPA Consolidated Case Number 7395: Submission of Voluntary Information" (Jul. 13, 2020) (Tiana and Studio Disrupt Factual Information Submission); Letter from Tiana and Studio Disrupt, "EAPA Case Number 7395: Second Submission of Voluntary Information" (Jul. 15, 2020) (Tiana and Studio Disrupt 2nd Factual Information Submission); and Letter from Tiana and Kumar, "EAPA Case Number 7395: Submission of Voluntary Information" (Jul. 15, 2020) (Tiana and Kumar Factual Information Submission).

²⁸ See Letter from GEO, "EAPA Case No. 7395: Submission of Factual Information in Rebuttal to July 15, 2020 Submission of Voluntary Information of Kumar Industries" (Jul. 24, 2020) (GEO Rebuttal to Tiana and Kumar Factual Information Submission).

²⁹ See CBP Memorandum to Tiana, "Supplemental Request for Information to Importer with regard to Enforce and Protect Act (EAPA) investigation of whether Tiana International LLC has evaded the Antidumping and Countervailing Duty Orders on glycine from the People's Republic of China, A-570-836 and C-570-081, with entries of merchandise into the United States" (Aug. 6, 2020); CBP Memorandum to Studio Disrupt, "Supplemental Request for Information to Exporter with regard to Enforce and Protect Act (EAPA) investigation of whether Tiana International LLC has evaded the Antidumping and Countervailing Duty Orders on glycine from the People's Republic of China, A-570-836 and C-570-081, with entries of merchandise into the United States" (Aug. 6, 2020); CBP Memorandum to Manufacturer #2, "Supplemental Request for Information to Identified Manufacturer/Supplier with regard to Enforce and Protect Act (EAPA) investigation of whether Tiana International LLC has evaded the Antidumping and Countervailing Duty Orders on glycine from the People's Republic of China, A-570-836 and C-570-081, with entries of merchandise into the United States" (Aug. 6, 2020); and CBP Memorandum to Kumar, "Supplemental Request for Information to Identified Manufacturer/Supplier with regard to Enforce and Protect Act (EAPA) investigation of whether Tiana International LLC has evaded the Antidumping and Countervailing Duty Orders on glycine from the People's Republic of China, A-570-836 and C-570-081, with entries of merchandise into the United States" (Aug. 13, 2020).

³⁰ See Letter from Tiana and Studio Disrupt, "EAPA Case Number 7395: Submission of Studio Disrupt's Supplemental RFI Response" (Aug. 20, 2020) (Studio Disrupt Supplemental RFI Response); Letter from Tiana and Manufacturer #2, "EAPA Consolidated Case Number 7395: Manufacturer #2's Response to Supplemental Request for Information" (Aug. 26, 2020) (Manufacturer #2 Supplemental RFI Response); Letter from Tiana, "EAPA Case Number 7395: Submission of Tiana's Supplemental RFI Response" (Aug. 27, 2020); and Letter from Tiana and Kumar, "EAPA Case Number 7395: Submission of Kumar Industries' Supplemental RFI Response" (Aug. 27, 2020) (Kumar Supplemental RFI Response).

³¹ See Letter from GEO, "EAPA Case No. 7395: Submission of Factual Information in Rebuttal to August 20, 2020 Supplemental Request for Information ('RFI') Response of Studio Disrupt" (Aug. 26, 2020); Letter from GEO, "EAPA Case No. 7395: Submission of Factual Information in Rebuttal to August 27, 2020 Supplemental Request for Information ('RFI') Response of Tiana International LLC" (Sep. 3, 2020); Letter from GEO, "EAPA Case No. 7395: Submission of Factual Information in Rebuttal to August 26, 2020 Supplemental Request for Information ('RFI') Response of 'Manufacturer #2'" (Sep. 3, 2020) (GEO Rebuttal to Manufacturer #2 Supplemental RFI Response); and Letter from GEO, "EAPA Case No. 7395: Submission of Factual Information in Rebuttal to August 27, 2020 Supplemental Request for Information ('RFI') Response of Kumar Industries" (Sep. 4, 2020).

CBP issued a second round of supplemental RFIs to Tiana, Studio Disrupt, Kumar, and Manufacturer #2 on September 18, 2020.³² Tiana and Studio Disrupt provided their responses to the second supplemental RFIs on September 25, 2020, while Kumar and Manufacturer #2 filed their second supplemental RFI responses on October 2, 2020.³³ GEO filed rebuttal information to Studio Disrupt's second supplemental RFI response on October 1, 2020 and to Kumar's and Manufacturer #2's second supplemental RFI responses on October 8, 2020.³⁴

Finally, on November 3, 2020, GEO and Tiana submitted written arguments,³⁵ and both GEO and Tiana submitted responses to the written arguments on November 18, 2020.³⁶

Analysis

Under 19 USC 1517(c)(1)(A), to reach a final determination as to evasion in this case, 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.”³⁷ Evasion is defined as “the entry of covered merchandise into the customs territory of the United States for

³² See CBP Memorandum to Tiana, “Second Supplemental Request for Information to Importer with regard to Enforce and Protect Act (EAPA) investigation of whether Tiana International LLC has evaded the Antidumping and Countervailing Duty Orders on glycine from the People’s Republic of China, A-570-836 and C-570-081, with entries of merchandise into the United States” (Sep. 18, 2020); CBP Memorandum to Studio Disrupt, “Second Supplemental Request for Information to Exporter with regard to Enforce and Protect Act (EAPA) investigation of whether Tiana International LLC has evaded the Antidumping and Countervailing Duty Orders on glycine from the People’s Republic of China, A-570-836 and C-570-081, with entries of merchandise into the United States” (Sep. 18, 2020); CBP Memorandum to Kumar, “Second Supplemental Request for Information to Identified Manufacturer/Supplier with regard to Enforce and Protect Act (EAPA) investigation of whether Tiana International LLC has evaded the Antidumping and Countervailing Duty Orders on glycine from the People’s Republic of China, A-570-836 and C-570-081, with entries of merchandise into the United States” (Sep. 18, 2020); and CBP Memorandum to Manufacturer #2, “Second Supplemental Request for Information to Identified Manufacturer/Supplier with regard to Enforce and Protect Act (EAPA) investigation of whether Tiana International LLC has evaded the Antidumping and Countervailing Duty Orders on glycine from the People’s Republic of China, A-570-836 and C-570-081, with entries of merchandise into the United States” (Sep. 18, 2020).

³³ See Letter from Tiana, “EAPA Case Number 7395: Submission of Tiana’s 2nd Supplemental RFI Response” (Sep. 25, 2020); Letter from Tiana and Studio Disrupt, “EAPA Case Number 7395: Submission of Studio Disrupt’s 2nd Supplemental RFI Response” (Sep. 25, 2020) (Studio Disrupt 2nd Supplemental RFI Response); Letter from Kumar and Tiana, “EAPA Case Number 7395: Submission of Kumar’s 2nd Supplemental RFI Response” (Oct. 2, 2020); and Letter from Manufacturer #2 and Tiana, “EAPA Case Number 7395: Submission of Tiana’s 2nd Supplemental RFI Response” (Oct. 2, 2020) (Manufacturer #2 2nd Supplemental RFI Response).

³⁴ See Letter from GEO, “EAPA Case No. 7395: Submission of Factual Information in Rebuttal to September 25, 2020 Second Supplemental Request for Information (‘RFI’) Response of Studio Disrupt” (Oct. 1, 2020) and Letter from GEO, “EAPA Case No. 7395: Submission of Factual Information in Rebuttal to October 2, 2020 Second Supplemental Request for Information (‘RFI’) Responses of ‘Manufacturer #2’ and Kumar Industries” (Oct. 8, 2020).

³⁵ See Letter from GEO, “GEO Specialty Chemicals, Inc.’s Written Arguments” (Nov. 3, 2020) (GEO Written Arguments) and Letter from Tiana, Kumar, Studio Disrupt, and Manufacturer #2, “EAPA Case Number 7395: Submission of Written Comments” (Nov. 3, 2020) (Tiana Written Arguments), respectively.

³⁶ See Letter from GEO, “GEO Specialty Chemicals, Inc.’s Response to Tiana International, LLC’s Written Arguments” (Nov. 18, 2020) and Letter from Tiana, Kumar, Studio Disrupt, and Manufacturer #2, “EAPA Case Number 7395: Submission of Rebuttal Written Comments” (Nov. 18, 2020), respectively.

³⁷ See also 19 CFR 165.27(a). Substantial evidence is not defined in the statute. However, the Federal Circuit has stated that “substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” See *A.L. Patterson, Inc. v. United States*, 585 Fed. Appx. 778, 781-782 (Fed. Cir. 2014) (quoting *Consol. Edison Co. of N.Y. v. NLRB*, 305 U.S. 197, 229 (1938)).

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 of any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the merchandise.”³⁸ As discussed below, based on the record of this investigation, substantial evidence does not exist to determine that Tiana entered covered merchandise into the customs territory of the United States through evasion.

Tiana’s Imports from Studio Disrupt

GEO alleges that Tiana’s imports of glycine from Studio Disrupt could not have been produced by the claimed manufacturer, [] (*i.e.*, Manufacturer #2), and that the glycine exported by Studio Disrupt consisted of Chinese glycine that was mislabeled as Indian in origin. However, CBP finds that there is not substantial evidence that Tiana’s imports of glycine from Studio Disrupt were transshipped through India from China. In this section, CBP addresses GEO’s arguments regarding Tiana’s imports of glycine from Studio Disrupt, as well as arguments related to Studio Disrupt’s affiliate, Mulji Mehta Enterprises,³⁹ and Crest Remedies.

Studio Disrupt’s and Manufacturer #2’s Batch Numbers for Glycine

GEO argues that Studio Disrupt has never maintained any records directly tying the glycine that Studio Disrupt sold to Tiana to Manufacturer #2.⁴⁰ In particular, GEO refers to Studio Disrupt’s statements that it does not keep any written records to trace its batch numbers for the glycine to Manufacturer #2’s batch numbers, but that it is able to link the material using the dispatch date, quantity, and other information.⁴¹

CBP agrees that the batch numbers on Studio Disrupt’s invoices are different from those on Manufacturer #2’s production records, and Studio Disrupt itself admits that it does not keep written records to trace its batch numbers to those of Manufacturer #2.⁴² However, Studio Disrupt explained that it is able to trace the glycine using the dispatch date on Manufacturer #2’s invoices and dispatch reports to Studio Disrupt’s invoices to Tiana, and provided a chart and supporting documentation showing the details from each document that could be used to trace the glycine purchased from Manufacturer #2 to the glycine sold to Tiana.⁴³ In addition, Studio Disrupt indicated that the quantity of glycine on Manufacturer #2’s invoices and dispatch report match the quantity of glycine on Studio Disrupt’s invoices to Tiana.⁴⁴ CBP reviewed the chart and supporting documentation and confirmed that the glycine purchased from Manufacturer #2

³⁸ See 19 CFR 165.1; *see also* 19 USC 1517(a)(5)(A).

³⁹ Studio Disrupt states that it is affiliated with Mulji Mehta Enterprises. *See* Tiana and Studio Disrupt Factual Information Submission at Statement on Behalf of Mulji Mehta (page 8 of PDF) and Tiana and Studio Disrupt 2nd Factual Information Submission at 2 and Attachment 1.

⁴⁰ *See* GEO Written Arguments at 10-11.

⁴¹ *Id.* at 10, citing Studio Disrupt Supplemental RFI Response at 3 and Studio Disrupt 2nd Supplemental RFI Response at 1.

⁴² *See* Studio Disrupt Supplemental RFI Response at 3.

⁴³ *See* Studio Disrupt 2nd Supplemental RFI Response at 1 and Exhibits 1.0, 1.1, 1.2, and 1.3; *see also* Studio Disrupt RFI Response at Exhibit 4 for Studio Disrupt’s export invoice.

⁴⁴ *See* Studio Disrupt 2nd Supplemental RFI Response at 1 and Exhibits 1.1, 1.2, and 1.3.

linked to the glycine sold to Tiana based on the various details. Further, CBP observed that the batch numbers on Manufacturer #2's dispatch reports traced to the production documentation provided in Manufacturer #2's RFI response for each sale to Studio Disrupt.⁴⁵ Because Studio Disrupt is able to tie its batch numbers to Manufacturer #2's batch numbers using information from various documents, CBP finds that the absence of any single record providing a direct match between Studio Disrupt's and Manufacturer #2's batch numbers does not indicate that Manufacturer #2 did not produce the glycine.

Glycine Imported by Chemsteel from China

GEO claims that Studio Disrupt exported glycine to Tiana that was imported from China by another Indian company, Chemsteel, based on data obtained from [REDACTED].⁴⁶ According to the data, Chemsteel imported 20,000 kilograms (kg) of glycine into India on September 17, 2018 from China on bill of lading number 8086662.⁴⁷ Another set of data showed that on February 22, 2019, Studio Disrupt made two shipments of glycine to Tiana that were both described as a "RE EXPORT" of "BE NO. 8086662" with "DT 17.09.2018" in quantities of 19,000 and 20,000 kg on bill of lading numbers 2230128 and 2230156, respectively.⁴⁸ GEO argues that shipping bill number 2230156 appears on the bill of lading for Tiana entry number [REDACTED] 6944 (*i.e.*, the entry from Studio Disrupt that was subject to the CF28 issued prior to the EAPA investigation⁴⁹). GEO contends that the bill of lading for Tiana entry number [REDACTED] 6944 also lists container number MSCU6603841, which "matches the container number for that shipment of transshipped Chinese glycine."⁵⁰ Based on these data, GEO argues that the glycine reflected on Studio Disrupt shipping bill number 2230156 consisted of Chinese-origin glycine imported into India by Chemsteel.

Additionally, GEO asserts, the [REDACTED] data show that Studio Disrupt's affiliate, Mulji Mehta Enterprises, shipped 19,000 kg of glycine from India to the United States to consignee Summit Resource Group.⁵¹ This glycine was described as a "RE EXPORT" of "BE NO. 8086662" with "DT 17.09.2018," which, according to the [REDACTED] data, was imported by Chemsteel into India from China. GEO claims that the Chopra family has supplied glycine to Summit Resource Group since 2012, and thus it is likely that Tiana was the importer of record for the glycine shipped by Mulji Mehta Enterprises.⁵²

CBP finds that while shipping bill number 2230156 and container number MSCU6603841 do appear on the bill of lading for Tiana entry [REDACTED] 6944 from Studio Disrupt, the [REDACTED] data provided by GEO are discrepant and cannot be relied upon as evidence of evasion. The [REDACTED] data show that Chemsteel imported 20,000 kg of glycine into India from China on bill of lading 8086662. However, the other set of [REDACTED] data indicates that there were five shipments of glycine (including the two shipments from Studio Disrupt to Tiana)

⁴⁵ See Manufacturer #2 RFI Response at Exhibit 5.

⁴⁶ See GEO Written Arguments at 14-15.

⁴⁷ *Id.* at 14, citing GEO First Supplemental Submission at Exhibit 2

⁴⁸ *Id.*, citing GEO First Supplemental Submission at Exhibit 1.

⁴⁹ See CF28 for Entry [REDACTED] 6944.

⁵⁰ See GEO Written Arguments at 14-15.

⁵¹ *Id.* at 35-36; *see also* GEO First Supplemental Submission at Exhibits 1 and 2.

⁵² *Id.* at 36-38.

described as a “RE EXPORT” of “BE NO. 8086662 with “DT 17.09.2018,” and that the total quantity of those five shipments was 97,000 kg. It is simply not possible for Chemsteel to have imported 20,000 kg of glycine into India from China on bill of lading number 8086662 and then for that same glycine to have been re-exported in five shipments totaling 97,000 kg. In fact, the total quantity of the two exports by Studio Disrupt according to the [] data is 39,000 kg, which is almost twice the quantity of Chemsteel’s import of glycine on bill of lading 8086662. Based on these inconsistencies in the [] data, CBP finds that these data do not prove that Studio Disrupt exported to Tiana any glycine that Chemsteel may have imported from China. As for GEO’s claim that container number MSCU6603841 matches the container number for that shipment of allegedly transshipped Chinese glycine, CBP finds that the record contains no evidence linking container number MSCU6603841 to the glycine imported by Chemsteel from China on bill of lading 8086662.

Similarly, based on the discrepancy in the [] data between the volume of glycine that was imported by Chemsteel from China into India and the volume of this glycine that was supposedly re-exported from India to the United States, CBP finds that such data cannot be relied upon as evidence that Studio Disrupt’s affiliate, Mulji Mehta Enterprises, transshipped Chinese glycine through India to Tiana. Further, the record contains no evidence that Tiana was the importer of record for any glycine shipped by Mulji Mehta Enterprises during the period of this EAPA investigation.

Manufacturer #2’s Production Records for Glycine

GEO argues that the record contains evidence demonstrating that Manufacturer #2 could not account for the source of the glycine that Studio Disrupt sold to Tiana. First, GEO cites the August 19, 2019 email accompanying Tiana’s follow-up CF28 response for entry number []6944, in which Tiana stated that Manufacturer #2 “refused to provide time cards of workers and plant photographs due to confidential nature of information . . . {and} are not willing to share these details.”⁵³ GEO states that Manufacturer #2 finally provided a list and photographs of equipment it allegedly used to produce the glycine for Studio Disrupt,⁵⁴ but contends that the existence of a functioning glycine production facility does not establish the origin of the glycine.

CBP acknowledges that Studio Disrupt did not provide time cards or photographs for Manufacturer #2 in response to the CF28 for entry []6944. However, Manufacturer #2 responded to CBP’s subsequent RFI and provided employee pay slips⁵⁵ and plant and equipment photographs⁵⁶

GEO also asserts that Manufacturer #2 did not provide the labor and overhead costs associated with the glycine, and merely stated that “we manufacture and have sold many other products in the market” and “{Our} labor and overhead costs are accounted based on all products

⁵³ See GEO Written Arguments at 13, citing CF28 for Entry []6944 at Attachment 4.

⁵⁴ See GEO Written Arguments at 17, citing Manufacturer #2 Supplemental RFI Response at 3.

⁵⁵ See Manufacturer #2 RFI Response at 6 and Exhibit 9.

⁵⁶ *Id.* at 7 and Exhibit 8 and Manufacturer #2 Supplemental RFI Response at 3 and Exhibit 3.

manufactured and sold, and are not limited to glycine production.”⁵⁷

Manufacturer #2 stated that it could not identify the costs specifically related to glycine production because it manufactures and sells many other products and it described these other products as broad spectrum products related to the pharmaceutical and dye industries and stated that there are many different grades for each.⁵⁸ Thus, Manufacturer #2 claimed that it is difficult to estimate the percentages of total production, but estimated that approximately [] percent of its revenue is generated from products other than glycine.⁵⁹ Manufacturer #2 also stated that it is [] and that it [] to calculate accurate labor and overhead costs only for glycine.⁶⁰ As a result, Manufacturer #2 provided an estimation of the profits received from its sales of glycine to Studio Disrupt.⁶¹ CBP finds that although Manufacturer #2 did not provide labor and overhead costs specifically for glycine production, the record contains documentation showing that Manufacturer #2 produced the glycine in India from raw materials, as described below.

Finally, GEO claims that Manufacturer #2 appears to be the conduit for transferring payments from Studio Disrupt to the supplier of the glycine, based on a question that CBP asked in its supplemental RFI to Manufacturer #2 regarding payments and Manufacturer #2’s response to that question.⁶²

In its supplemental RFI response, Manufacturer #2 clarified that when it received a payment from Studio Disrupt, Manufacturer #2 then paid [], in accordance with the terms agreed upon between Manufacturer #2 and the raw material supplier, [].⁶³ Manufacturer #2 explained that it had an agreement with [] that Manufacturer #2 would [] Studio Disrupt.⁶⁴ Thus, Manufacturer #2’s responses do not describe a situation in which Manufacturer #2 is transferring payments to a supplier of Chinese-origin glycine, but rather a situation in which Manufacturer #2 makes payments to a raw material supplier. Moreover, CBP reviewed the invoices from Manufacturer #2’s raw material supplier, [], and the invoices for the transportation of raw materials to Manufacturer #2’s factory, and found that these invoices demonstrate that Manufacturer #2 purchased [] (*i.e.*, raw materials used to manufacture glycine) from the raw material supplier.⁶⁵

Furthermore, CBP reviewed the documentation that Manufacturer #2 provided for the production of the glycine for [] entries that Tiana imported from Studio Disrupt during the period of investigation. In addition to the raw material invoices and invoices for the transportation of the

⁵⁷ See GEO Written Arguments at 16, citing Manufacturer #2 2nd Supplemental RFI Response at 2-3 and Manufacturer #2 Supplemental RFI Response at 1.

⁵⁸ See Manufacturer #2 2nd Supplemental RFI Response at 2 and Manufacturer #2 RFI Response at 5.

⁵⁹ See Manufacturer #2 RFI Response at 5.

⁶⁰ See Manufacturer #2 2nd Supplemental RFI Response at 3.

⁶¹ *Id.* at Exhibit 1.4.

⁶² See GEO Written Arguments at 16-17, citing Manufacturer #2 Supplemental RFI Response at 1.

⁶³ See Manufacturer #2 Supplemental RFI at 2 and Manufacturer #2 Supplemental RFI Response at 1.

⁶⁴ See Manufacturer #2 Supplemental RFI Response at 1.

⁶⁵ See Manufacturer #2 RFI Response at Exhibit 5 and Manufacturer #2 Supplemental RFI Response at Exhibit 2.

raw materials invoices mentioned above, Manufacturer #2 provided blending reports and batch production reports for the production of the glycine.⁶⁶ CBP's examination of the production records did not reveal any facts or discrepancies indicating that Manufacturer #2 did not manufacture the glycine. In fact, the invoices from Manufacturer #2's raw material supplier, [], show that Manufacturer #2 purchased [] kg of [] and [] kg of [], and Manufacturer #2's production records indicate that it takes [] kg of [] and [] kg of [] to produce 1 kg of finished glycine. Based on these figures, CBP finds that Manufacturer #2 purchased sufficient amounts of the raw materials [] and [] to produce the [] kg of glycine sold to Studio Disrupt and exported to Tiana.

Relationship with Crest Remedies

Contrary to GEO's assertions in the Allegation, Studio Disrupt placed information on the record claiming that neither it nor Mulji Mehta is not affiliated with Crest Remedies.⁶⁷ Studio Disrupt stated that it has never purchased any glycine from Crest Remedies and that neither it nor Mulji Mehta is connected with Crest Remedies.⁶⁸ Studio Disrupt asserted that the Antop Hill warehousing complex is a public limited company with 624 shareholders, and its main activity is to maintain 627 units in 3 buildings. Studio Disrupt claimed that according to Antop Hill's articles of association, unit owners must be shareholders in Antop Hill, and therefore both Viraj Mehta of Mulji Mehta and Sanjay Mirani of Crest Remedies hold shares in Antop Hill. Studio Disrupt indicated that Antop Hill also elects honorary directors; currently, Viraj Mehta of Mulji Mehta is a director, whereas Sanjay Mirani of Crest Remedies is not.⁶⁹

GEO maintains that Crest Remedies is affiliated with Studio Disrupt and Mulji Mehta based on the overlapping directorships in the Antop Hill complex, as both Viraj Mehta and Sanjay Mirani may be the major shareholders in that complex.⁷⁰ Even if Crest Remedies is not affiliated with Studio Disrupt and Mulji Mehta, GEO argues that the record shows a "close glycine supply relationship between Studio Disrupt/Mulji Mehta and Crest Remedies and clear evidence that Crest Remedies sourced Chinese glycine into India."⁷¹

The record contains data submitted by GEO from [] demonstrating that Crest Remedies imported glycine into India from China.⁷² However, Studio Disrupt asserted neither it nor Mulji Mehta has any connection to Crest Remedies' business.⁷³ Based on the record of this investigation, the only apparent connection between Mulji Mehta and Crest Remedies is that both Viraj Mehta of Mulji Mehta and Sanjay Mirani of Crest Remedies are shareholders in Antop Hill as owners of units in the Antop Hill warehousing complex and have served as

⁶⁶ *Id.*

⁶⁷ See generally Tiana and Studio Disrupt Factual Information Submission.

⁶⁸ *Id.* at Statement on Behalf of Studio Disrupt (page 6 of PDF)

⁶⁹ *Id.*

⁷⁰ See GEO Written Arguments at 38-39.

⁷¹ *Id.* at 39.

⁷² See Allegation at Exhibit 2.

⁷³ See Tiana and Studio Disrupt Factual Information Submission at Statement on Behalf of Studio Disrupt (page 6 of PDF).

directors of Antop Hill.⁷⁴ Nonetheless, CBP finds there is nothing on the record of this investigation that connects any Chinese glycine imports by Crest Remedies to transactions by Studio Disrupt or Mulji Mehta, or to any of Tiana's imports of glycine during the period of investigation. Thus, CBP determines that Viraj Mehta's and Sanjay Mirani's shareholdings and rotating directorships in Antop Hill do not provide evidence of a scheme, on behalf of Tiana, to transship Chinese glycine through India.

Tiana's Imports from Kumar

GEO alleges that Tiana's imports of glycine from its affiliate, Kumar, were transshipped through China, and that CBP should apply adverse inferences against Tiana and Kumar because they failed to cooperate to the best of their abilities in responding to CBP's requests for information.⁷⁵ However, CBP determines that there is not substantial evidence that Tiana's imports of glycine from Kumar consisted of transshipped Chinese glycine, and also determines that the application of adverse inferences is not warranted. CBP addresses the arguments raised by GEO below.

Tiana's and Kumar's Affiliates

GEO argues that when CBP asked Tiana and Kumar to provide information regarding their affiliates, both companies listed only five affiliated companies.⁷⁶ However, GEO claims that Kumar provided information to Commerce in the AD investigation on glycine from India showing that Kumar had at least seven affiliates,⁷⁷ and information that GEO placed on the record of this investigation revealed four additional affiliates.⁷⁸ GEO asserts that Tiana and Kumar have concealed information regarding their affiliates from CBP, and thus CBP should apply adverse inferences against Tiana and Kumar.

In their RFI responses, Tiana and Kumar both reported that they are affiliated with [], as well as []

[].⁷⁹ Although GEO has asserted that Tiana and Kumar are affiliated with additional companies, Tiana and Kumar provided an affidavit and support documentation (*e.g.*, retirement deeds, resignation letters, and dissolution deeds) to clarify or refute any affiliation with Advance Exports, AICO Agencies Pvt. Ltd., AICO Laboratories, Rakon Industries, Ravi Industries, Rexusize Rasayan Industries, Reliance Corporation, Reliable Rasayan Industries, and Reliance Rasayan Pvt. Ltd.⁸⁰ Despite GEO's extensive arguments regarding affiliation, there is no information on the record of the investigation showing that Tiana was the importer of record for glycine from any of its actual or purported affiliates during the period of investigation, with the exception of Kumar. Further, there is no information on the record of the investigation demonstrating that Kumar purchased glycine from any of its actual or purported affiliates during the period of investigation. Finally, as explained below in the sub-section "Raw Material

⁷⁴ *Id.* at Statement on Behalf of Studio Disrupt (page 6 of PDF) and Exhibits 2, 3, and 4.

⁷⁵ See GEO Written Arguments at 18-19.

⁷⁶ *Id.* at 20, citing Tiana RFI Response at 12 and Exhibit RFIT 5.2 and Kumar RFI Response at Exhibit RFIK-12.

⁷⁷ *Id.* at 21, citing Allegation at Exhibit 20.

⁷⁸ *Id.* at 21-23, citing GEO Fifth Supplemental Submission at 2 and Exhibit 3 and GEO Rebuttal to Tiana and Kumar Factual Information Submission at 2-3 and Exhibits 2, 3, and 4.

⁷⁹ See Tiana RFI Response at 13 and Exhibit RFIT 5.2 and Kumar RFI Response at Exhibit RFIK-12.

⁸⁰ See Tiana and Kumar Factual Information Submission at 4-5 and Exhibit 1.

Documentation,” information on the record establishes that Kumar manufactured glycine in India from raw materials and exported that glycine to Tiana. CBP finds that Tiana and Kumar have not concealed information regarding their affiliates, and as a result the application of adverse inferences is not warranted.

Number of Employees

GEO asserts that the number of employees reported by Kumar fluctuated throughout the investigation, noting that Kumar’s website indicated 15 employees from August 29, 2019 to May 17, 2020, but later (during the Covid-19 pandemic) indicated 45-50 employees.⁸¹ GEO claims Kumar identified 13 employees in its RFI response but reported an additional number of workers in its supplemental RFI response.⁸² According to GEO, Kumar would need 28-40 employees to produce 1,200-1,800 MT of glycine per year.⁸³ GEO argues that the apparent discrepancies in the number of employees establish that Kumar does not have sufficient manpower to produce the volume of glycine shipped to Tiana.⁸⁴

The list of employees that Kumar provided in its RFI response indicated that Kumar had a total of 13 employees.⁸⁵ Kumar later clarified that the listed employees are permanent employees with specific job titles such as [], and stated that “the number of total employees working in the plant is in the range of []. The names of the laborers are not listed because [].”⁸⁶ Further, Kumar’s wage expense ledger for the period of investigation demonstrates that wages were paid to more than just the listed permanent employees each month.⁸⁷ CBP finds that Kumar adequately clarified the information originally provided with respect to the number of employees.

Raw Material Documentation

GEO contends that Tiana and Kumar failed to provide certificates of origin for its raw materials and detailed raw material inventory records.⁸⁸ GEO maintains that Tiana and Kumar repeatedly failed to provide the information requested by CBP, and therefore CBP should apply adverse inferences to Tiana and Kumar.⁸⁹

In its RFI response, Kumar submitted sales and production packages for [] entries for which Tiana was the importer of record and Kumar was the manufacturer.⁹⁰ The production

⁸¹ See GEO Written Arguments at 26-27, citing GEO Third Supplemental Submission at 3 and Exhibit 4 and GEO Rebuttal to Tiana and Kumar Factual Information Submission at Exhibit 1.

⁸² *Id.*, citing Kumar RFI Response at 7 and Exhibit RFIK-14.1 and Kumar Supplemental RFI Response at Question 18.

⁸³ *Id.* at 27, citing GEO Third Supplemental Submission at 3 and Exhibit 5.

⁸⁴ *Id.* at 26-28.

⁸⁵ See Kumar RFI Response at Exhibit RFIK-14.1.

⁸⁶ See Kumar 2nd Supplemental RFI Response at 6.

⁸⁷ See Kumar RFI Response at Exhibit RFIK-14.

⁸⁸ See GEO Written Arguments at 28-31, citing CF28 for Entry []6017 at Attachments 3, 4, and 5, Tiana RFI Response at 20, and Kumar Supplemental RFI Response at Question 9.

⁸⁹ *Id.* at 30-31.

⁹⁰ See Kumar RFI Response at Exhibit RFIK-17.1 to 17.72.

documents provided in the packages include invoices for raw materials; delivery invoices for the transportation of the raw materials to Kumar's factory; raw material issue slips (indicating movement of raw materials from inventory to be used in production); batch production records detailing the raw materials used for each batch; and packing department dispatch reports.⁹¹ The raw material invoices show that Kumar purchased [], and the batch production records detail the steps involved in converting the raw materials into glycine, the amount of raw material used, the start and end time for [], and the amount of glycine produced.⁹²

CBP finds that the sales and production packages support Kumar's production of the glycine sold to Tiana during the period of investigation.⁹³ Kumar's inventory movement register indicates that during the period November 2018 to March 2020, Kumar consumed [] kg of [] and [] kg of [] to manufacture [] kg of glycine (of which [] kg was sold to Tiana).⁹⁴ Based on the inventory movement register, it takes [] kg of [] and [] kg of [] to produce 1 kg of finished glycine. CBP conducted an in-depth review of the production records for certain sales and production packages and found that consistent with the inventory movement register, Kumar used, on average, [] kg of [] and [] kg of [] to produce 1 kg of the finished glycine exported to Tiana. Additionally, Kumar submitted payment and purchase ledgers for raw material purchases and invoices for raw material purchases, and CBP traced the amounts recorded in the inventory movement register for purchases of the raw materials [] and [] during [] to the purchase and payment ledgers and invoices.⁹⁵ While reviewing this information, CBP did not observe any facts or discrepancies indicating that Kumar did not manufacture the glycine.

Based on the evidence on the record, CBP determines that Kumar produced the glycine shipped to Tiana from raw materials, and that Kumar did not fail to provide the information requested by CBP.

Machinery Used to Produce the Glycine

GEO asserts that Kumar failed to provide a list of machinery used to produce glycine, and thus has impeded CBP's investigation.⁹⁶

While Kumar did not provide a written list of the machinery used to produce glycine, Kumar provided photographs of its plant and the glycine production equipment, with labels indicating which equipment was shown in each photograph and explanations of which step in the production process each piece of equipment is used.⁹⁷ In addition, although Kumar stated that it

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*; see also Kumar Supplemental RFI Response at Exhibit RFIK-18.

⁹⁴ See Kumar Supplemental RFI Response at Exhibits RFIK-18 and RFIK-19.

⁹⁵ See Kumar RFI Response at Exhibits RFIK-15 and RFIK-15.1; Kumar Supplemental RFI Response at Exhibits RFIK-19, RFIK-25, RFIK-25.1, RFIK-26, and RFIK 26.1; and Kumar 2nd Supplemental RFI Response at Exhibit 33.

⁹⁶ See GEO Written Arguments at 31-33, citing Kumar Supplemental RFI Response at Question 8.b.

⁹⁷ See Kumar RFI Response at Exhibit RFIK-4.2, Kumar Supplemental RFI Response at Exhibit RFIK-23, and Kumar 2nd Supplemental RFI Response at Exhibit RFIK-32.

was “unable to provide a list of all the machinery which was [] and used to manufacture the Glycine,” Kumar provided invoices for the following machinery used to produce of glycine: []⁹⁸ Kumar also

provided the extract of its machinery ledger.⁹⁹ Thus, CBP finds that Kumar did not impede the investigation in responding to CBP’s requests for information.

General Issues

Certification Requirements for Glycine Imported from India

GEO contends that pursuant to the 2012 determination by Commerce that two Indian companies were circumventing the AD order on glycine from China, Commerce instituted a country-wide certification requirement to ensure that glycine imports from India are not actually subject to the AD order on glycine from China.¹⁰⁰ Under these certification requirements, importers of glycine shipped from India must (1) complete an importer certification for entries of Indian-origin glycine; (2) maintain the certification on file with supporting documentation, and (3) provide these records to CBP upon request. GEO points to CBP’s question whether Tiana’s “contracts include requirements for the required certification if your company is claiming glycine not subject to {AD duties} because it does not contain raw materials from PRC.” GEO argues that Tiana responded that it has no such requirements because it does “not have any contracts with the manufacturers / suppliers of Glycine”¹⁰¹ and claimed the Indian certificate of origin as its sole support for country of origin at the time of entry.¹⁰² GEO asserts that Tiana’s reliance on the Indian certificate of origin, as its sole support for country of origin at the time of entry, is misplaced. GEO claims that Tiana failed to provide the signed importer certifications and supporting documentation, even though CBP requested them, and therefore should be subject to the China-wide AD rate for its imports of glycine from India.¹⁰³

Pursuant to the certification requirements described above, importers of Indian glycine are only required to provide the importer certification and supporting documentation upon CBP’s request. CBP made no such request to Tiana during this investigation. As for the question that CBP asked Tiana in the CF28 for entry []6017, CBP specifically asked whether Tiana’s “contracts include requirements for the required certification if your company is claiming glycine not subject to {AD duties} because it does not contain raw materials from PRC.”¹⁰⁴ In response, Tiana stated, “No, we do not have any contracts with the manufacturers / suppliers of Glycine.”¹⁰⁵ CBP finds that Tiana’s statement that it does not have contracts with its manufacturers and suppliers cannot be construed to mean that Tiana does not maintain the

⁹⁸ See Kumar Supplemental RFI Response at Questions 8.b and 8.d and Exhibit RFIK-24.

⁹⁹ See Kumar RFI Response at Exhibit RFIK-4.

¹⁰⁰ See GEO Written Arguments at 7-8, citing *2012 Glycine Circumvention Determination* and accompanying Issues and Decision Memorandum (both provided in GEO Rebuttal to Manufacturer #2 Supplemental RFI Response at Exhibit 1).

¹⁰¹ *Id.* at 8, citing CF28 for Entry []6017 at Attachment 3.

¹⁰² *Id.* at 8-9, citing Tiana RFI Response at 7-8.

¹⁰³ *Id.* at 7-10.

¹⁰⁴ See CF28 for Entry []6017 at Attachment 2.

¹⁰⁵ *Id.* at Attachment 3.

requisite importer certification and support documentation. Moreover, the record contains documentation supporting Kumar’s and Manufacturer #2’s production of glycine in India from raw materials for [] of Tiana’s entries of glycine during the period of investigation.

Shipments from Avid Organics

GEO argues that Tiana was also the importer of record for Chinese glycine transshipped from India by Avid Organics to Norris Industries, asserting that Norris Industries and its affiliate Maypro Industries historically have imported glycine from Tiana’s affiliates.¹⁰⁶ GEO cites [] data showing that Chemsteel imported 20,000 kg of glycine from China into India on bill of lading 8086662 and another set of [] data showing that Avid Organics shipped 20,000 kg of glycine from India to the United States to consignee Norris Industries Inc. that was described as a “RE EXPORT” of “BE NO. 8086662” with “DT 17.09.2018.”¹⁰⁷

As discussed previously with respect to Studio Disrupt and Mulji Mehta Enterprises, CBP finds that the [] data cited by GEO are discrepant. Specifically, these data show that Chemsteel imported 20,000 kg of glycine from China on bill of lading 8086662, yet show that a total quantity of 97,000 kg of glycine associated with bill of lading 8086662 was re-exported from India.¹⁰⁸ Therefore, CBP determines that these data cannot be relied upon as evidence that Avid Organics transshipped Chinese glycine through India to Tiana. Moreover, the record contains no evidence that Tiana was the importer of record for any glycine shipped by Avid Organics during the period of investigation. In addition, [

] ¹⁰⁹

¹⁰⁶ See GEO Written Arguments at 40, citing GEO Second Supplemental Submission at 2 and Allegation at 9-10 and Exhibits 16 and 18-26.

¹⁰⁷ See GEO Written Arguments at 40-41, citing GEO Second Supplemental Submission at 1-2 and Exhibit 2.

¹⁰⁸ See GEO First Supplemental Submission at Exhibits 1 and 2.

¹⁰⁹ See Kumar 2nd Supplemental RFI Response at [].

Actions Taken Pursuant to the Negative Determination as to of Evasion

In light of CBP's determination that there is not substantial evidence that Tiana entered covered merchandise into the customs territory of the United States through evasion during the period of this investigation, CBP will reverse any actions taken with respect to entries subject to this investigation. However, CBP will take any appropriate actions under the AD and CVD orders on glycine from India with respect to Tiana's entries of glycine from India.¹¹⁰ CBP's negative determination as to evasion in this EAPA investigation does not preclude CBP or other agencies from pursuing other enforcement actions or penalties as may be appropriate.

Sincerely,



Brian M. Hoxie
Director, Enforcement Operations Division
Trade Remedy Law Enforcement Directorate
CBP Office of Trade

¹¹⁰ See *Glycine From India and Japan: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Orders*, 84 Fed. Reg. 29,170 (Dep't Commerce, Jun. 21, 2019) and *Glycine from India and the People's Republic of China: Countervailing Duty Orders*, 84 Fed. Reg. 29,173 (Dep't Commerce, Jun. 21, 2019).