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U.S. Customs and Border Protection

PUBLIC VERSION

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RE: Notice of Initiation of Investigation and Interim Measures: EAPA Case 7846

Dear Counsel and/or Representatives for the Above-Referenced Entities:

This letter is to inform you that U.S. Customs and Border Protection ("CBP") has commenced a formal investigation under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act ("TFTEA") of 2015, commonly referred to as the Enforce and Protect Act ("EAPA"). Specifically, CBP is investigating whether 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 ("China")[1] by entering into the United States Chinese-origin glycine that was transshipped through India, and not declaring the glycine as subject to the aforementioned AD/CVD orders. Based on a review of information on the record, CBP has determined that there is reasonable suspicion of evasion of AD/CVD duties by Shari Pharmachem USA; therefore, CBP has imposed the interim measures outlined below.

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

Period of Investigation

Pursuant to 19 CFR 165.2, entries covered by an EAPA investigation "are those entries of allegedly covered merchandise made within one year before the receipt of an allegation...."[2] Entry is defined as an "entry for consumption, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United States."[3] As noted in the initiation memorandum for Shari Pharmachem USA, Geo Specialty Chemicals, Inc. ("Geo") filed an EAPA allegation against the importer.[4] On October 19, 2023, 2023, CBP acknowledged receipt of the properly filed EAPA allegation.[5] Therefore, the entries covered by the period of investigation ("POI") are those entered for consumption, or withdrawn from warehouse for consumption, on October 19, 2022, through the pendency of this investigation.[6]

Initiation

GEO alleged that Shari Pharmachem USA entered Chinese-origin glycine into the United States that are subject to the AD/CVD orders without declaring them 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.[7]

TRLED will initiate an investigation if it determines that "{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…."[8] 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."[9] Thus, the allegation must reasonably suggest not only that merchandise subject to an AD and/or CVD order was entered into the United States by the importer alleged to be evading, but that such

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[2] *See* 19 CFR 165.2.
[3] *See* 19 CFR 165.1.
[4] *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"). 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.
[5] *See* the email from TRLED to counsel for GEO dated October 19, 2023.
[6] *See* 19 CFR 165.22.
[7] *See* Initiation Memo.
[8] *See* 19 CFR 165.15(b)(2).
[9] *See* 19 CFR 165.1 (setting forth the definition of "evasion" used here); *see also* 19 USC 1517(a)(5).

entry was made by a material false statement or act, or material omission, that resulted in the reduction or avoidance of applicable AD and/or CVD cash deposits or other security.

In assessing the claims made and evidence provided in the allegation, TRLED found that information provided by GEO reasonably suggests that Shari Pharmachem USA engaged in attempts to evade the AD/CVD orders through failure to declare entries of glycine as subject to those orders. Evidence submitted by GEO supporting its allegation of evasion by Shari Pharmachem USA is summarized below.

GEO submitted documentation reasonably available to it to substantiate its claim that Shari Pharmachem USA imported Chinese-origin glycine into the United States through the Indian companies Global Merchants and [company name], and that Shari Pharmachem USA misrepresented the imported glycine as Indian in origin to evade the payment of AD/CVD duties on Chinese-origin glycine.[10]

GEO provided Panjiva shipment data which indicates that Global Merchants in India shipped Chinese-origin glycine to Shari Pharmachem USA. Specifically, GEO pointed to data from Panjiva identifying shipments of glycine from China to Global Merchants of India, as well as shipments of glycine from Global Merchants to the United States, with matching batch numbers. In each example, the shipment to the United States occurred soon after the shipment from China to India. Geo indicated it obtained [document type] documentation from [company name] showing that [company name and description] for [transaction reference].[11]

GEO also provided evidence that Global Merchants does not produce glycine at its facilities in India. Specifically, GEO provided information obtained from private investigators that [extent of activity] Global Merchants locations, [location description], and there was no indication at any of them of the presence of glycine manufacturing equipment. In addition, documentation [research activity description] indicated Global Merchants sources glycine from China, and [research activity description] one of the investigators [research of business activities].[12]

GEO also provided what appear to be [evidence of transactions] of shipments of Chinese-origin glycine to Shari Pharmachem USA by [company name and business activity]. The documents include [list of documents], which link, through batch numbers, glycine from China with [company name] and, in turn, with Shari Pharmachem USA.[13]

Furthermore, CBP confirmed that the importer entered merchandise during the POI as having [location] as a country of origin, under a Harmonized Tariff Schedule of the United States

[10] *See* Initiation Memo at 2 and 4.
[11] *See* Initiation Memo at 2. *See also* Allegation at 5-7, citing Allegation Exhibits 3 and 4, and Corrected Bracketing Document at 6, citing Allegation Exhibits 3, 4, and 5.
[12] *See* Initiation Memo at 2-3. *See also* Allegation at 7-8, citing Allegation Exhibit 6.
[13] *See* Initiation Memo at 3. *See also* Allegation at 9-10, citing Allegation Exhibits 7 and 8.

("HTSUS") number associated with glycine covered by the scope of the AD/CVD orders on glycine from China, and, for those entries, [business activity].[14]

Consequently, there was sufficient evidence to reasonably suggest that AD/CVD duties were not paid on subject entries of glycine from China imported by Shari Pharmachem USA.

Interim Measures

Not later than 90 calendar days after initiating an investigation under EAPA, CBP will decide based on the record evidence if there is reasonable suspicion that such merchandise covered by the AD/CVD orders was entered into the United States through evasion.[15] CBP need only have sufficient evidence to support a reasonable suspicion that the importer alleged to be evading entered merchandise covered by an AD and/or CVD order into the customs territory of the United States by a materially false statement or act, or material omission, that resulted in the reduction or avoidance of applicable AD and/or CVD cash deposits or other security. If reasonable suspicion exists, CBP will impose interim measures pursuant to 19 USC 1517(e) and 19 CFR 165.24. As explained below, CBP is imposing interim measures because, based on the record evidence, there is reasonable suspicion that Shari Pharmachem USA entered covered merchandise into the customs territory of the United States through evasion.

CF28s

On November 22, 2023, CBP issued a Customs Form 28 request for information ("CF28") to Shari Pharmachem USA covering entry numbers [number]7805 and [number]3092.[16] On November 29, 2023, the CEE issued a CF28 to Shari Pharmachem USA covering entry number [number]4322, which, like Entry 3092, entered the United States during the POI.[17] 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. They 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

[14] *See* Initiation Memo at 4. *See also* TRLED Receipt Report documentation dated October 20, 2023. This analysis revealed entries for which [company names and description], and those entries were entered [entry information]. *Id.*

[15] *See* 19 CFR 165.24(a).

[16] 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.

[17] The CF28 included, among other requests, a request for production information for the merchandise associated with Entry 4322.

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.

Analysis

As noted above, Shari Pharmachem USA failed to respond properly to one CF28 relating to one of its entries of glycine during the POI of this investigation, given the information it provided related to a different entry, and did not include requested information relating to production. As also noted above, Shari Pharmachem USA failed to respond at all to another CF28 relating to two entries of glycine, one of them occurring during the POI of this investigation. Shari Pharmachem USA provided no information supporting its claimed country of origin of [location] for the entries in question. This, combined with the aforementioned evidence discussed herein as a basis for initiating the investigation, leads CBP to find that there is reasonable suspicion that the glycine entered by Shari Pharmachem USA during the POI should have been declared as subject to the China AD/CVD at the time of entry, and therefore subject to AD/CVD cash deposits under those orders.

Enactment of Interim Measures

Based on the record evidence described above, CBP determines that reasonable suspicion exists that Shari Pharmachem USA imported China-origin glycine into the United States that was transshipped through India, which should have been subject to the AD/CVD Orders on glycine from China. Therefore, CBP is imposing interim measures pursuant to this investigation.[18]

Specifically, in accordance with 19 USC 1517(e)(1-3), CBP shall:

> (1) 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;
> (2) pursuant to the Commissioner's authority under 19 USC 1504(b), 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; and
> (3) pursuant to the Commissioner's authority under 19 USC 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.[19]

In addition, CBP will require live entry and reject any entry summaries that do not comply with live entry and require refiling of entries that are within the entry summary rejection period. CBP will also evaluate Shari Pharmachem USA's continuous bonds to determine their sufficiency. Finally, CBP may pursue additional enforcement actions, as provided by law, consistent with 19 USC 1517(h).

For future submissions or factual information that you submit to CBP pursuant to this EAPA investigation, please provide a business confidential version and a public version with a public

[18] *See* 19 USC 1517(e); *see also* 19 CFR 165.24.
[19] *See also* 19 CFR 165.24(b)(1)(i-iii).

summary[20] using the EAPA Case Management System (CMS), found at https://eapallegations.cbp.gov. All public versions will be accessible to the parties to the investigation via the CMS.[21] Please note that CBP is requiring that all documents submitted via the CMS are made text searchable, especially if those documents are submitted as PDFs.

Should you have any questions regarding this investigation, please feel free to contact us at eapallegations@cbp.dhs.gov with steve.d.bezirganian@cbp.dhs.gov and derek.r.king@cbp.dhs.gov copied. Please include "EAPA Case 7846" in the subject line of your email. Additional information on this investigation, including the applicable statute and regulations, may be found on CBP's website at: https://www.cbp.gov/trade/trade-enforcement/tftea/eapa.

Sincerely,

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

[20] *See* 19 C.F.R. § 165.4, 165.23(c), and 165.26.
[21] You will need a login name and password to use the CMS. The website will direct you how to obtain those.