determine that critical circumstances exist if:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

According to § 353.16(g) of the Department's regulations, we treat imports as being massive if they increase by 15 percent.

To determine whether PRC glycine imports have been massive over a relatively short period, we used import statistics from the Bureau of Census. We were able to use these statistics because the HTSUS statistical category matches the scope of the investigation (see Comment 1, below). In addition, although our standard critical circumstances methodology is based on company specific import data, we believe that the public information regarding the volume of PRC imports into the United States is the best available information for determining whether critical circumstances exist. This is based on the facts that (1) the subject merchandise is the only merchandise imported under the relevant HTSUS number and (2) the Department presumes that all exporters in the PRC are owned or controlled by the PRC government.

Pursuant to § 353.16(g) of the Department's regulations, when making critical circumstances determinations, the Department normally compares the period beginning on the first day of the month of the initiation and ending at least three months later with a comparable period prior to the initiation. The Department considers the period immediately prior to a preliminary determination because it is the period in which exporters of the subject merchandise could take advantage of the knowledge of the dumping investigation to increase exports to the United States without being subject to antidumping duties. See, Final Determination of Sales at Less Than Fair Value of Certain Internal-Combustion, Industrial Forklift Trucks from Japan, (53 FR 12552, April 15, 1988). For purposes of this final determination, we are comparing the four month period prior to the initiation with the four month period after the initiation of this investigation.

Based on our analysis of the available monthly import statistics, we have determined that imports of glycine have not been massive over a relatively short period of time. The import statistics show that volume of the imports has increased by only 7.14 percent. Therefore, we find that the requirements of section 733(e)(1)(B) have not been met with respect to glycine from the PRC.

Because we find that imports of glycine from the PRC have not been massive over a relatively short period, we do not need to consider whether there is a history of dumping or whether importers of this project knew or should have known that it was being sold at less than fair value. Therefore, we determine that critical circumstances do not exist with respect to imports of glycine from the PRC.

Interested Party Comments

Comment 1

Kal Kan Foods, an interested party, argues that the Department's preliminary determination of critical circumstances was unfair and not in accordance with the Department's precedent. Kal Kan contends that U.S. glycine importers had no knowledge that the merchandise was being sold in the United States at less than a fair value. Accordingly to Kal Kan, the Department's non-market economy (NME) methodology, which uses surrogate values, is complex and causes the calculated dumping margins to be unpredictable. Kal Kan further contends that the Department should use the public information of the Bureau of Census to determine the existence of massive imports instead of relying on BIA.

Petitioners disagree with the interested party's argument and argue that the Department should make a final affirmative determination of critical circumstances based on BIA.

DOC Position

Under the circumstances present in this case, it is possible for the Department to use public information, such as Census data, to determine whether imports have been massive over a relatively short period. In this proceeding, the product under investigation has a unique HTSUS number, hence, the import statistics only reflect imports of the subject merchandise. Moreover, in accordance with the Department's presumption that all exporters in the PRC are owned or controlled by the government, we view the exporters as a single company. Given these two factors, the import

statistics constitute a reasonable surrogate for company-specific import data.

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(4) of the Act, we are directing the Customs Service to cease suspension of liquidation of all entries of glycine from the PRC that are entered, or withdrawn from warehouse, for consumption from August 18, 1994, (i.e., 90 days prior to the date of publication of our preliminary determination in the Federal Register) to November 15, 1994. However, we are directing the Customs Service to continue to suspend liquidation for entries of glycine from the PRC that are entered, or withdrawn from warehouse, for consumption on or after November 16, 1994, the date of the publication of the preliminary determination in the Federal Register. The Customs Service shall require a cash deposit or posting of a bond equal to 155.89 percent ad valorem on all entries of glycine from the PRC. This suspension of liquidation will remain in effect until further notice.

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will now determine, within 45 days, whether these imports are materially injuring, or threatening material injury to the U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse. for consumption on or after the effective date of the suspension of liquidation.

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).