



C-533-844

Administrative Review

POR: 01/01/2011 – 12/31/2011

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Office 8, Operations: PMT; EBG

September 30, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

FROM: Christian Marsh *cm*
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results: Countervailing
Duty (CVD) Administrative Review: Certain Lined Paper
Products from India

I. Summary

The Department of Commerce (the Department) is conducting an administrative review of the CVD order on lined paper products from India. The review covers one producer/exporter of the subject merchandise, A.R. Printing & Packaging India Pvt. Ltd. (AR Printing). The period of review (POR) is January 1, 2011, through December 31, 2011. We preliminarily determine that AR Printing received countervailable subsidies during the POR.

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection to assess countervailing duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), we will issue the final results no later than 120 days from the date of publication of this notice.

II. Background

On September 28, 2006, the Department published the *Lined Paper Order*.¹ On September 4, 2012, the Department published a notice of opportunity to request an administrative review of this CVD order.² On September 28, 2012, we received a timely request for review of the *Lined Paper Order* from the Association of American School Paper Suppliers (AASPS or Petitioner).³

¹ See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia*, 71 FR 56949 (September 28, 2006) (*Lined Paper Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 77 FR 53863 (September 4, 2012).

³ The firms included in Petitioner's request for review are identified in Attachment 1 of their September 28, 2013,



On September 29, 2012, AR Printing, a producer/exporter of subject merchandise, submitted a request for review. On October 1, 2012, Navneet Publications (India) Ltd. (Navneet), a producer/exporter of subject merchandise, submitted a request for review.⁴ On October 31, 2012, the Department published the *Initiation* of the administrative review of the *Lined Paper Order* covering the period January 1, 2011, through December 31, 2011.⁵

On October 5, 2012, Petitioner submitted a letter in which they clarified the names initially included in their review request.⁶ On October 8, 2012, the Department received a letter from Xylem Papercraft Pvt. Ltd. (Xylem) regarding its inclusion in Petitioner's request for an administrative review.⁷ In an October 16, 2012, letter to Xylem the Department explained that the company was required to submit a non-shipment claim via IA Access in order for the Department to consider rescinding the review with respect to Xylem.⁸ On November 27, 2012, Petitioner withdrew in a timely manner their request for a 2011 administrative review of the *Lined Paper Order*, in its entirety. On December 13, 2012, the Department issued the *Partial Rescission* in which it rescinded the administrative review on all firms named in Petitioner's September 28, 2012, request for review, except for AR Printing and Navneet - both of which requested a review.⁹

On November 29, 2012, the Department selected AR Printing and Navneet as mandatory respondents.¹⁰ On November 30, 2012, the Department issued the initial questionnaire to the Government of India (GOI), AR Printing, and Navneet.¹¹ On January 3, 2013, Navneet withdrew in a timely manner its request for a 2011 administrative review of the *Lined Paper Order*. The GOI submitted its initial questionnaire response on January 29, 2013.¹² AR Printing submitted its initial questionnaire response on February 4, 2013.¹³ On February 26, 2013, the Department issued the *Second Partial Rescission* in which it rescinded the administrative review of the *Lined Paper Order* requested by Navneet.¹⁴ On June 26, and August 27, 2013, the Department issued supplemental questionnaires to AR Printing to which AR Printing submitted its responses on July 23 and September 7, 2013, respectively.¹⁵ On June 27, 2013, the

submission.

⁴ Navneet's request for review was timely because it was filed on the first business day after end of the anniversary month.

⁵ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 77 FR 65858 (October 31, 2012) (*Initiation*).

⁶ In their initial request, Petitioner identified companies which the Department initiated reviews in prior segments with some name variations. Petitioner submitted the clarification letter to preserve consistency.

⁷ See Memorandum to the File, "Letter from Potential Respondent," (October 16, 2013), containing a letter that the Department received in the mail from Xylem.

⁸ See the Department's October 16, 2013, letter to Xylem.

⁹ See *Certain Lined Paper From India: Notice of Partial Rescission of Countervailing Duty Administrative Review*, 77 FR 74172 (December 13, 2012) (*Partial Rescission*).

¹⁰ See Memorandum to the File from John Conniff, Trade Analyst, "Respondent Selection and Release of Customs and Border Protection (CBP) Query Results," (November 29, 2012) (Respondent Selection Memorandum).

¹¹ See the Memorandum to the File from Eric B. Greynolds, Program Manager, Office 8, "Placement of Initial Questionnaire on Record of Administrative Review," (November 30, 2012) (Initial QNR).

¹² See the GOI's January 29, 2013, initial questionnaire response (GOI Initial QNR Response).

¹³ See AR Printing's February 4, 2013, initial questionnaire response (AR Printing Initial QNR Response).

¹⁴ See *Certain Lined Paper Products From India: Notice of Partial Rescission of Countervailing Duty Administrative Review; 2011*, 78 FR 13016 (February 26, 2013) (*Second Partial Rescission*).

¹⁵ See Department's June 26, 2013, first supplemental questionnaire (First Supp QNR) and August 27, 2013, second

Department issued a supplemental questionnaire to the GOI to which the GOI submitted its response on July 11, 2013.¹⁶ On July 9, 2013, the Department issued a second supplemental questionnaire to the GOI to which the GOI submitted its response on July 19, 2013.¹⁷

On August 16, 2013, Petitioner submitted comments on AR Printing First Supp QNR Response and a creditworthiness allegation.

III. Scope of the Order

The scope of this order includes certain lined paper products, typically school supplies,¹⁸ composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets,¹⁹ including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8-3/4 inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or “tear-out” size), and are measured as they appear in the product (*i.e.*, stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this order whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this order are:

- unlined copy machine paper;
- writing pads with a backing (including but not limited to products commonly known as “tablets,” “note pads,” “legal pads,” and “quadrille pads”), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;

supplemental questionnaire (Second Supp QNR); and AR Printing’s July 23, 2013, supplemental questionnaire response (AR Printing First Supp QNR Response) and September 7, 2013, supplemental questionnaire response (AR Printing Second Supp QNR Response).

¹⁶ See GOI’s July 11, 2013, supplemental questionnaire response (GOI First Supp QNR Response).

¹⁷ See GOI’s July 19, 2013, supplemental questionnaire response (GOI Second Supp QNR Response).

¹⁸ For purposes of this scope definition, the actual use or labeling of these products as school supplies or non-school supplies is not a defining characteristic.

¹⁹ There shall be no minimum page requirement for looseleaf filler paper.

- three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- index cards;
- printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- newspapers;
- pictures and photographs;
- desk and wall calendars and organizers (including but not limited to such products generally known as “office planners,” “time books,” and “appointment books”);
- telephone logs;
- address books;
- columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- lined business or office forms, including but not limited to: preprinted business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- lined continuous computer paper;
- boxed or packaged writing stationery (including but not limited to products commonly known as “fine business paper,” “parchment paper,” and “letterhead”), whether or not containing a lined header or decorative lines;
- Stenographic pads (“steno pads”), Gregg ruled,²⁰ measuring 6 inches by 9 inches;

Also excluded from the scope of this order are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™.²¹
- Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™.²²
- FiveStar® Advance™: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine

²⁰ “Gregg ruling” consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book.

²¹ Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

²² Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

covering, is captured both ends of a 1" wide elastic fabric band. This band is located 2-3/8" from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar® Advance™.²³

FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™.²⁴

Merchandise subject to this order is typically imported under headings 4811.90.9035, 4811.90.9080, 4820.30.0040, 4810.22.5044, 4811.90.9050, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2050, 4820.10.2060, and 4820.10.4000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.²⁵

IV. Subsidies Valuation Information

A. Allocation Period

The Department normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise.²⁶ The Department finds the AUL in this proceeding to be 13 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System.²⁷ The Department notified the respondents of the 13-year AUL in the initial

²³ Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

²⁴ Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

²⁵ See *Lined Paper Order*.

²⁶ See 19 CFR 351.524(b)(1) and (d)(2).

²⁷ See U.S. Internal Revenue Service Publication 946 (2008), "How to Depreciate Property," at Table B-2: Table of

questionnaire and requested data accordingly.²⁸ No party in this proceeding has disputed this allocation period.

Furthermore, for any non-recurring subsidies, we have applied the “0.5 percent test,” as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for the same year. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL. If the amount of the subsidies are greater than 0.5 percent of the relevant sales value, then the benefits received are allocated over a time period corresponding to the AUL pursuant to the methodology described under 19 CFR 351.524(d)(1).

B. Attribution

AR Printing filed its response on behalf of itself. AR Printing, incorporated on April 21, 2005, under its prior name (Amin Rana Printing & Packaging Private Limited), is the producer/exporter of subject merchandise. Since its incorporation, AR Printing has been wholly-owned by individuals. During the POR, AR Printing was wholly-owned by four individuals.²⁹ Therefore, in accordance with 19 CFR 351.525(b)(6)(i), we have attributed any subsidies received by AR Printing to the sales of AR Printing.

C. Benchmarks for Loans and Discount Rates

Short-Term USD-Denominated Loans

For programs requiring the application of a benchmark interest rate, 19 CFR 351.505(a) states a preference for using an interest rate that the company could have obtained on a comparable loan in the commercial market. Also, 19 CFR 351.505(a)(3)(i) stipulates that when selecting a comparable commercial loan that the recipient “could actually obtain on the market,” the Department will normally rely on actual short-term and long-term loans obtained by the firm. However, when there are no comparable commercial loans, the Department may use a national average interest rate, pursuant to 19 CFR 351.505(a)(3)(ii). In addition, 19 CFR 351.505(a)(2)(ii) states that, generally, the Department will not consider a loan provided by a government-owned bank for purposes of “selecting a loan to compare with a government-provided loan,” *i.e.*, calculating benchmark rates.

In this review, we have required the use of U.S. dollar denominated short-term interest rate benchmark. AR Printing did not report having any company-specific interest rates on comparable commercial short-term, dollar denominated loans. Therefore, pursuant to 19 CFR 351.505(a)(3)(ii), we sought a national average interest rate as the benchmark. The GOI provided no information regarding U.S. dollar denominated loans in India. Therefore, consistent

Class Lives and Recovery Periods.

²⁸ See Initial QNR at II-2 and III-3.

²⁹ See AR Printing QNR Response at 3-6.

with past practice involving Indian CVD proceedings, we used U.S. dollar lending rates from private creditors as reported by the IMF's publication *International Financial Statistics*.³⁰

Discount Rate

For these preliminary results, we have determined that AR Printing did not receive countervailable long-term loans before or during the POR; however, AR Printing did have allocable non-recurring subsidies for 2007, 2008, and 2009 for which the Department requires discount rates. For allocating the benefit from non-recurring subsidies under the Duty-Free Import of Capital Goods and Raw Materials for Export Oriented Units (EOUs) program, we have used the long-term rupee-denominated interest rates described below for the year in which the government agreed to provide the subsidy, consistent with 19 CFR 351.524(d)(3)(i)(B).

Pursuant to 19 CFR 351.505(a)(2)(ii), where available, we used company-specific, weighted-average interest rates on comparable commercial long-term, rupee-denominated loans. When there were no comparable long-term, rupee-denominated loans from commercial banks during the year under consideration, pursuant to 19 CFR 351.505(a)(3)(ii), we use a national average interest rate as the benchmark. In its July 19, 2013, supplemental response, the GOI stated that the Reserve Bank of India (RBI) did not publish the prime lending rate.³¹ Therefore, we are preliminarily using national average interest rates from the IFS as benchmark rates for rupee-denominated long-term loans. We preliminarily find that the IFS rates provide a reasonable representation of long-term interest rates for rupee-denominated loans. Further, the record has no other information on long-term, rupee denominated loans for 2007, 2008, and 2009.

Creditworthiness

On August 19, 2013, Petitioner alleged that AR Printing was uncreditworthy in 2010. Pursuant to 19 CFR 351.505(a)(4)(i)(A) – (D), the Department will consider the following factors to determine a company's creditworthiness: 1) receipt by the firm of comparable commercial long-term loans; 2) present and past indicators of the firm's financial health; 3) present and recent past indicators of the firm's ability to meet its cost and fixed financial obligations with its cash flow; and 4) evidence of the firm's future financial position, such as market studies, country and industry economic forecasts, project and loan appraisals prepared prior to the agreement between the lender and the firm on the terms of the loan.

AR Printing reported receiving two long-term loans in 2010, one from Kotak Mahindra Bank, a commercial bank, and another from the State Bank of India (SBI). The terms of these loans were also established in 2010.³²

³⁰ See, e.g., *Certain Hot-Rolled Carbon Steel Flat Products from India: Final Results and Partial Rescission of Countervailing Duty Administrative Review*, 74 FR 20923 (April 20, 2009) (*2007 Review of HRS from India*) and accompanying Issues and Decision Memorandum (2007 Review of HRS from India IDM) at Benchmarks for Loans and Discount Rates and *Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination*, 78 FR 50385 (August 19, 2013) (*Shrimp from India*) and accompanying Issues and Decision Memorandum (Shrimp From India IDM) at Loan Benchmarks and Discount Rate Benchmarks for Allocating Non-Recurring Subsidies.

³¹ See GOI's July 19, 2013, supplemental questionnaire response at 1.

³² See AR Printing Second Supp QNR Response at 3 – 6.

Based on the following record evidence, the Department is not initiating Petitioner's uncreditworthiness allegation. First, pursuant to 19 CFR 351.505(a)(4)(ii), AR Printing's receipt of comparable commercial long-term loan from Kotak Mahindra Bank in 2010 constitutes dispositive evidence of its creditworthiness in 2010. Second, we preliminarily determine that AR Printing did not use any of the long-term loan programs included in the initial questionnaire (e.g., the GOI's Loan Guarantee Program).³³ Further, we preliminarily determine that AR Printing did not receive any allocable subsidies that would require the use of a long-term discount rate for calendar year 2010, the period covered by Petitioner's uncreditworthy allegation. Thus, for the reasons explained above, Petitioner's uncreditworthiness allegation is moot.

V. Analysis of Programs

A. Programs Preliminarily Determined to be Countervailable

1. Pre- Shipment Export Financing

The Department of Banking Operations & Development, Directives Division of RBI provides short-term pre-shipment export financing, or "packing credits," to exporters through commercial banks. Upon presentation of a confirmed export order or letter of credit to a bank, companies receive pre-shipment credit lines upon which they may draw as needed. Credit line limits are established by commercial banks based upon a company's creditworthiness and past export performance, and may be denominated either in Indian rupees or in foreign currency. Commercial banks extending export credit to Indian companies must, by law, charge interest on this credit at rates capped by the RBI. AR Printing reported that it had pre-shipment financing denominated in U.S. dollars outstanding during the POR.³⁴

The Department has previously determined that RBI's pre-shipment export financing programs confer countervailable subsidies because: (1) the provision of the export financing constitutes a financial contribution, pursuant to section 771(5)(D)(i) of the Act, as a direct transfer of funds in the form of loans; (2) the provision of the export financing confers benefits on the respondents under section 771(5)(E)(ii) of the Act inasmuch as the interest rates, which are determined by the RBI, provided under these programs are lower than commercially available interest rates; and (3) these programs are specific under section 771(5A)(B) of the Act because they are contingent upon export performance.³⁵ No new information or evidence of changed circumstances has been presented in this review to warrant a reconsideration of the Department's findings with respect to RBI's pre-shipment export financing program.

³³ See Initial QNR at III-18, First Supp QNR at 5, and Second Supp QNR at 3; see also AR Printing Initial QNR Response at Exhibit 7, AR Printing First Supp QNR Response at 19 – 20, and AR Printing Second Supp QNR Response at 3-6 and Exhibits S2-2, S2-3.

³⁴ See AR Printing Initial QNR Response at 20.

³⁵ See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 72 FR 6530 (February 12, 2007) (2004 Review of PET Film from India) and accompanying Issues and Decision Memorandum (2004 Review of PET Film from India IDM) at "Pre-Shipment and Post-Shipment Export Financing" section.

To calculate the benefit conferred by the pre-shipment loan program, we compared the actual interest paid on the loans with the amount of interest that would have been paid at the benchmark interest rates. We used a U.S. dollar denominated benchmark, as describe in the “Subsidies Valuation Information” section. We converted U.S. dollar denominated benefits into rupees using exchange rate data obtained from the U.S. Federal Reserve. Where the benchmark interest payment exceeds the actual interest paid, the difference constitutes the benefit. For pre-shipment loans, we calculated the net subsidy rate by dividing the benefit by AR Printing’s total exports, consistent with the Department’s practice.³⁶ On this basis, we preliminarily calculate a countervailable subsidy rate of 0.09 percent *ad valorem* for AR Printing.

2. Duty-Free Import of Capital Goods and Raw Materials for Export Oriented Units (EOUs)

Pursuant to paragraph 6.1 of the Foreign Trade Policy (FTP) 2004-2009, the GOI designates firms that export 100 percent of their production of goods and services, excepting permissible sales in Domestic Tariff Areas (DTAs), as EOUs. Firms designated as EOUs are eligible for certain benefits from the GOI provided that they have achieved a positive net foreign exchange, calculated cumulatively for a period of five years from the commencement of production.³⁷ Further, to be eligible for benefits, EOUs must have a minimum investment of rupees 100,000 lacs in building, plant, and machinery.³⁸ Firms that meet the eligibility criteria are able to import capital goods and raw materials, components, consumables, intermediates, spares, and packing materials without payment of import duties.³⁹ AR Printing reported receiving such duty exemptions under the EOU program during and prior to the POR.⁴⁰

In the *Final Determination of PET Resin from India*, the Department determined that this program was countervailable.⁴¹ We found that this program provides a financial contribution in the form of forgone revenue within the meaning of section 771(5)(D)(ii) of the Act and confers a benefit in the amount of exemptions and reimbursements of customs duties and certain sales taxes on capital equipment in accordance with section 771(5)(E) of the Act and 19 CFR 351.519(4)(i).⁴² We further found that the assistance provided under this program was specific as an export subsidy within the meaning of section 771(5A)(B) of the Act.⁴³ We preliminarily determine that interested parties have not submitted any information or argument that warrants

³⁶ See, e.g., *Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from India*, 71 FR 45034 (August 8, 2006) (*Lined Paper from India Investigation*) and accompanying Issues and Decision Memorandum (*Lined Paper from India Investigation IDM*) at Pre- and Post-Shipments Export Financing and Comment 6.

³⁷ See GOI Initial QNR Response at 57 – 61.

³⁸ One lac is equal 100,000 Rupees.

³⁹ See AR Printing Initial QNR Response at 26; see also GOI Initial QNR Response at 62.

⁴⁰ See AR Printing Initial QNR Response at 31, 36, Exhibit 14a, and Exhibit 14d.

⁴¹ See *Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment With Final Antidumping Duty Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin From India* (Preliminary Determination of PET Resin from India), 69 FR 52866, 52870 (August 30, 2004) (unchanged in the *Final Affirmative Countervailing Duty Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin From India*, 70 FR 13460 (March 21, 2005) (*Final Determination of PET Resin from India*), and accompanying Issues and Decision Memorandum (PET Resin Investigation I&D Memorandum).

⁴² See *id.*

⁴³ See *Preliminary Determination of PET Resin from India*, 69 FR at 52870; unchanged in *Final Determination of PET Resin from India*.

reconsideration of the Department's findings regarding this program. Therefore, we preliminarily continue to find the GOI's provision of assistance under this program is countervailable.

Normally, import duty exemptions are considered to be recurring benefits and are expensed in the year of receipt.⁴⁴ Thus, we are treating the duty exemptions on raw materials as recurring benefits. However, the Department's regulations recognize that, under certain circumstances, it may be appropriate to allocate over time the benefits of a program normally considered a recurring subsidy, rather than to attribute the benefits to the year of receipt.⁴⁵ Where the benefit received from the exemption of import duties is granted for the capital goods of AR Printing, we preliminarily determine that it is appropriate to treat the exemption of duties on capital goods as a non-recurring benefit.⁴⁶

Therefore, to calculate the countervailable subsidy for AR Printing, we summed duty exemptions on capital goods and raw material inputs received during the POR. Further, for duty exemptions received on capital goods in the 12 years prior to the POR, we summed the amount of exemptions received in each year. We then conducted the "0.5" percent test, as described in the "Allocation Period" section above, on each of the annual sums. We then allocated those annual sums that passed the "0.5 percent" test to the POR using the subsidy allocation formula described under 19 CFR 351.524(d)(1). To calculate the total benefit received under the program, we summed duty exemptions received during the POR as well as those allocated to the POR.

Next, we divided AR Printing's total benefits under the program by its total export sales during the POR. Our method of calculating the benefit under this program is consistent with the Department's practice.⁴⁷ On this basis, we preliminarily calculate a countervailable subsidy rate of 2.85 percent *ad valorem* for AR Printing.

B. Programs Preliminarily Determined to be Terminated

1. Target Plus Scheme (TPS)

In prior CVD proceedings involving India, the Department has determined that the GOI provides import duty exemptions under the TPS that are countervailable.⁴⁸ In the instant review, the GOI states that it abolished the TPS as of April 7, 2006, pursuant to *Notification No. 57 (RE-*

⁴⁴ See 19 CFR 351.524(c)(1).

⁴⁵ In the Preamble to our regulations, the Department provides an example of when it may be more appropriate to consider the benefits of a tax program to be non-recurring benefits, and, thus, allocate those benefits over time. See *Preamble; Countervailing Duties; Final Rule*, 63 FR 65348, 65393 (November 25, 1998). We stated in the *Preamble* that, if a government provides an import duty exemption tied to major capital equipment purchases, it may be reasonable to conclude that, because these duty exemptions are tied to capital assets, the benefits from such duty exemptions should be considered non-recurring, even though import duty exemptions are on the list of recurring subsidies.

⁴⁶ See 19 CFR 351.524(c)(2)(iii).

⁴⁷ See *Preliminary Determination of PET Resin from India*, 69 FR at 52870, unchanged in *Final Determination of PET Resin from India*.

⁴⁸ See, e.g., *Certain Hot-Rolled Carbon Steel Flat Products From India: Final Results of Countervailing Duty Administrative Review*, 73 FR 40295 (July 14, 2008) (*2006 Review of HRS from India*), and accompanying Issues and Decision Memorandum (2006 HRS from India I&D Memorandum) at "Target Plus Scheme."

2005)/2004-2009.⁴⁹ The GOI further states that September 30, 2007, was the last date that eligible firms could apply for a TPS certificate, after which firms had until September 30, 2009, to use the TPS certificate to receive duty exemptions under the program.⁵⁰ In addition, the GOI states that companies are not permitted to receive residual benefits under the program and that it has not instituted any successor program to replace the TPS.⁵¹

Therefore, pursuant to the criteria set forth under 19 CFR 351.526(d), we preliminarily determine that the TPS has been terminated. Additionally, AR Printing reported that it did not use the TPS. Therefore, our preliminary determination that the TPS has been terminated does not impact the net subsidy rate calculated for AR Printing.

2. Duty Free Replenishment Certificate Scheme (DFRCS)

The Initial QNR contained questions concerning the DFRCS. Subsequent to the issuance of the Initial QNR, the Department found in the *2010 Review of Lined Paper from India* that the GOI terminated DFRCS effective May 1, 2006, residual benefits under the program ceased to be provided 24 months after the termination date, and the GOI had not implemented a successor program. On this basis, in the *2010 Review of Lined Paper from India* the Department found the DFRCS to be terminated.⁵² In light of the Department's determination in the *2010 Review of Lined Paper from India* and absent any information to the contrary, in the instant review we preliminarily determine that the DFRCS has been terminated.

3. Income Tax Exemptions Under 80 HHC

The Initial QNR contained questions concerning the Income Tax Exemptions Under 80 HHC. Subsequent to the issuance of the Initial QNR, the Department determined that the GOI terminated the 80 HHC program effective March 31, 2004 with no residual benefits and that no replacement program had been implemented.⁵³ In light of that determination and absent any information to the contrary, we preliminarily determine that the Income Tax Exemptions Under 80 HHC has been terminated in the instant review.

⁴⁹ See GOI First Supp QNR Response at 3 and Exhibits 3, 4, 4A, 4B, and 5.

⁵⁰ *Id.* at 4.

⁵¹ *Id.*

⁵² See *Certain Lined Paper Products From India: Preliminary Results of Countervailing Duty Administrative Review; Calendar Year 2010*, 77 FR 61742 (October 11, 2012) (*2010 Preliminary Results of Lined Paper from India*) and accompanying Issues and Decision Memorandum (2010 Preliminary Results of Lined Paper from India IDM) at "Duty Free Replenishment Certificate Scheme," unchanged in *Certain Lined Paper Products From India: Final Results of Countervailing Duty Administrative Review; 2010*, 78 FR 22845 (April 17, 2013) (*2010 Review of Lined Paper from India*) and accompanying Issues and Decision Memorandum (2010 Review of Lined Paper from India IDM) at "Programs Determined to be Terminated, Constituting a Program-Wide Change."

⁵³ See 2010 Preliminary Results of Lined Paper from India IDM at "Income Tax Exemptions Under 80 HHC," unchanged in *2010 Review of Lined Paper from India*. See also *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 72 FR 6530 (February 12, 2007) (*2004 Review of PET Film from India*), and accompanying Issues and Decision Memorandum (2004 Review of PET Film from India I&D Memorandum), at "Income Tax Exemption Scheme 80 HHC."

4. Exemption of Export Credit from Interest Taxes

The Initial QNR contained questions concerning the Exemption of Export Credit from Interest Taxes. Subsequent to the issuance of the Initial QNR, the Department determined that the GOI terminated the Exemption of Export Credit from Interest Taxes program effective April 1, 1993, with no residual benefits and that no replacement program had been implemented.⁵⁴ In light of that determination and absent any information to the contrary, we preliminarily determine that the Exemption of Export Credit from Interest Taxes has been terminated in the instant review.

C. Programs Preliminarily Determined to be Not Used

1. Advance License Program
2. Duty Entitlement Passbook Scheme
3. Export Promotion Capital Goods Scheme
4. Export Processing Zones
5. Income Tax Exemption Scheme
6. Market Development Assistance
7. Status Certificate Program
8. Market Access Initiative
9. Loan Guarantees from the GOI
10. Income Deduction Program, 80 IB Tax Program
11. State Government of Gujarat Provided Tax Incentives
12. State Government of Maharashtra Sales Tax Program
13. Electricity Duty Exemptions Under the State Government of Maharashtra Package Scheme of Incentives of 1993
14. Refunds of Octroi Under PSI of 1993, Maharashtra Industrial Policy
15. Infrastructure Subsidies to Mega Projects
16. Land for Less than Adequate Remuneration

⁵⁴ See 2010 Preliminary Results of Lined Paper from India IDM at "Exemption of Export Credit from Interest Taxes," unchanged in 2010 Review of Lined Paper from India. See also Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determination: Carbazole Violet Pigment 23 from India, 69 FR 22763, 22768 (April 27, 2004) and Final Affirmative Countervailing Duty Determination: Carbazole Violet Pigment 23 from India, 69 FR 67321 (November 17, 2004) (Carbazole Violet Pigment from India), and accompanying Issues and Decision Memorandum (Carbazole Violet Pigment from India I&D Memorandum) at "Program Determined To Be Terminated" section.

VI. Conclusion

We recommend applying the above methodology for these preliminary results.

✓
Agree

Disagree

Paul Piquado
Paul Piquado
Assistant Secretary
for Import Administration

30 SEPTEMBER 2013
Date