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Investigation
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December 16, 2013

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Countervailing Duty Investigation of Certain Oil Country Tubular
Goods from India

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain oil country tubular goods (OCTG) in India, as provided in section 703 of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

A. Initiation and Case History

On July 2, 2013, Maverick Tube Corporation, United States Steel Corporation, Boomerang Tube, Energex Tube, a division of JMC Steel Group, Northwest Pipe Company, Tejas Tubular Products, TMK IPSCO, Vallourec Star, L.P., and Welded Tube USA Inc. (collectively, Petitioners) filed a petition with the Department seeking the imposition of antidumping (AD) and countervailing duties (CVD) on OCTG from, inter alia, India.¹ Supplements to the petition and our invitation for consultations² to the Government of India (GOI) are described in the Initiation

¹ See Letter from Petitioners, "Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Oil Country Tubular Goods from India, the Republic of Korea, the Republic of the Philippines, Saudi Arabia, Taiwan, Thailand, the Republic of Turkey, Ukraine, and the Socialist Republic of Vietnam" (July 2, 2013).

² See Department Memorandum to the File, "Countervailing Duty Petition on Oil Country Tubular Goods from India: Contact with the Indian Embassy" (July 8, 2013). While the Department invited the GOI to consultations, the GOI did not respond.



Checklist.³ On July 29, 2013, the Department published the initiation of a CVD investigation on OCTG from India.⁴

We stated in the Initiation Notice that we intended to base our selection of mandatory respondents on U.S. Customs and Border Protection (CBP) entry data for the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation. On July 26, 2013, the Department released the CBP entry data under administrative protective order (APO).⁵

We received respondent selection comments from Petitioners;⁶ United Seamless Tubular Pvt. Ltd. (USTPL);⁷ and, GVN Fuels Ltd., ISMT Ltd., Jindal India Ltd., Jindal Pipes Ltd., Jindal SAW Ltd., Maharashtra Seamless Ltd., and Surya Global Steel Tube Ltd. (collectively, Indian companies).⁸ On August 13, 2013, USTPL and Oil Country Tubular Ltd. (OCTL) each responded separately to the Indian companies' comments stating that the allegations made therein, related to the appropriateness of choosing USTPL or OCTL as respondents, were false.⁹ We also received a request from USTPL to be considered as a voluntary respondent.¹⁰ On August 26, 2013, we selected GVN Fuels Ltd. (GVN) and Jindal Saw Ltd. (Jindal SAW) as mandatory respondents. With regard to USTPL's request for voluntary respondent treatment, we stated we would evaluate the circumstances during the course of the investigation to determine whether the Department may examine another respondent in addition to the mandatory respondents selected for individual examination, provided voluntary responses were submitted by USTPL.¹¹ On August 29, 2013, we received requests for voluntary respondent treatment from ISMT Ltd., Jindal India Ltd., JPL, Maharashtra Seamless Ltd. (MSL), and Surya Global Steel Tube Ltd.¹² ISMT and USPTL withdrew their requests for voluntary respondent treatment subsequently.¹³ The Department never received any questionnaire responses or other information from any of the companies requesting voluntary respondent treatment after their initial request.

³ See "Countervailing Duty Initiation Checklist: Certain Oil Country Tubular Goods from India" (July 22, 2013).

⁴ See Certain Oil Country Tubular Goods From India and Turkey: Initiation of Countervailing Duty Investigations, 78 FR 45502 (July 29, 2013) (Initiation Notice).

⁵ See Department Memorandum, "Customs Entry Data for Respondent Selection" (July 26, 2013).

⁶ See Letter from Petitioners, "Comments on Respondent Selection" (August 5, 2013).

⁷ See Letter from USTPL, "Comments Regarding CBP Data and Respondent Selection Methodology" (August 5, 2013).

⁸ See Letter from Indian companies, "Respondent Selection Comments (August 5, 2013); see also Letter from Indian companies, "Clarification to Respondent Selection Comments" (August 6, 2013).

⁹ See Letter from United Seamless Tubular Private Limited (USTPL), "Response to Kutak Rock's Respondent Selection Comments," (August 13, 2013) and Letter from Oil Country Tubular Ltd. (OCTL), "Response to Kutak Rock's Respondent Selection Comments" (August 13, 2013).

¹⁰ See Letter from USTPL, "Request to Become a Voluntary Respondent" (July 30, 2013).

¹¹ See Department Memorandum, "Countervailing Duty Investigation of Oil Country Tubular Goods from India: Respondent Selection Analysis" (August 26, 2013). As explained in that memorandum, when faced with a large number of producers/exporters, the Department may determine that it is not practicable to examine all companies. In these circumstances, section 777A(e)(2)(A)(ii) of the Act and 19 CFR 351.204(c) give the Department discretion to limit its examination to a reasonable number of the producers/exporters accounting for the largest volume of the subject merchandise.

¹² See Letter from Indian companies, "Request for Voluntary Respondent Treatment" (August 29, 2013).

¹³ See Letter from ISMT Ltd. (India), "Withdrawal of Request for Voluntary Treatment" (September 11, 2013) and Letter from USTPL, "Withdrawal of Request for Voluntary Respondent Status" (October 18, 2013).

We sent our CVD questionnaire seeking information regarding the alleged subsidies on August 28, 2013.¹⁴ On September 13, 2013, GVN informed us that it was not a producer of OCTG and that all of GVN's exports of OCTG during the period of investigation (POI) were produced either by MSL or JPL.¹⁵ Thus, on September 20, 2013 we requested a full questionnaire response from MSL, and the GOI with respect to MSL.¹⁶

On October 21, 2013, we received the GOI's initial questionnaire response. However, since this response was not properly filed and served on the service list, we requested that the GOI correct its deficiencies and re-file its response.¹⁷ The GOI properly re-filed its response on November 5, 2013.¹⁸ Respondent companies GVN, MSL and Jindal SAW filed their questionnaire responses on October 31, 2013.¹⁹ Petitioners filed comments on GVN/MSL's and Jindal SAW's initial questionnaire responses on November 7, 2013.²⁰

Based on our review of the respondents' responses to the questionnaire, on November 8, 2013, we requested that GVN and the GOI provide responses to the full questionnaire with respect to one additional affiliated company, JPL.²¹ We also issued supplemental questionnaires to GVN/MSL, Jindal SAW, and the GOI on the same day. We received responses to the supplemental questionnaires, from Jindal SAW on November 19, 2013,²² and from GVN and MSL on November 22, 2013.²³ On November 25, 2011, we received JPL's full questionnaire response.²⁴ On November 25, 2013, we issued a second supplemental questionnaire to Jindal SAW, and the company responded on December 5, 2013.²⁵

We did not receive a timely response from the GOI to the supplemental questionnaire or our request for a full questionnaire response with respect to JPL, despite being reminded of these deadlines by email and by telephone.²⁶ On November 21 and 26, 2013 we received untimely

¹⁴ See Letter from Department to the GOI, "Countervailing Duty Investigation: Certain Oil Country Tubular Goods: Countervailing Duty Questionnaire" (August 28, 2013).

¹⁵ See Letter from GVN, "Notification of Exportation of Goods Produced By Other Parties" (September 13, 2013).

¹⁶ See Letter from Department to GVN/MSL, "Request for Full Questionnaire Response from Maharashtra Seamless Ltd." (September 20, 2013) and Letter from Department to GOI, "Request for Full Questionnaire Response Regarding Maharashtra Seamless Ltd." (September 20, 2013).

¹⁷ See Letter from Department, "Questionnaire Response Filed by the Government of India (GOI) on October 21, 2013" (October 29, 2013).

¹⁸ GOI initial questionnaire response.

¹⁹ GVN initial questionnaire response, MSL initial questionnaire response, and Jindal SAW initial questionnaire response.

²⁰ See Letter from Petitioners, "Comments on GVN/MSL Questionnaire Responses" (November 7, 2013) and Letter from Petitioners, "Comments on Jindal SAW Questionnaire Response" (November 7, 2013).

²¹ See Letter from Department to GVN, "Countervailing Duty Investigation of Certain Oil Country Tubular Goods from India: Request for Response to the Full Questionnaire with Regard to Affiliated Company, Jindal Pipes Limited" (November 8, 2013). We also requested information regarding Jindal Pipes Ltd. (JPL) from the GOI. See Letter from Department to the GOI, "Countervailing Duty Investigation of Certain Oil Country Tubular Goods from India: Request for Full Questionnaire Response for Jindal Pipes Limited" (November 8, 2013).

²² Jindal SAW first supplemental response.

²³ GVN first supplemental response and MSL first supplemental response.

²⁴ JPL initial questionnaire response.

²⁵ Jindal SAW second supplemental response.

²⁶ See Department Memorandum to File, "Deadline for Questionnaire Responses from the Government of India" (November 19, 2013).

requests from the GOI for extension of the November 15, 2013 deadline. On November 26, 2013 the Department declined to grant the extension due to the untimeliness of the GOI's requests.²⁷ Nevertheless, on November 29, 2013 the GOI filed its untimely supplemental questionnaire response. The Department removed the untimely response from the record of the proceeding, in accordance with 19 CFR 351.302(d).²⁸

Due to the revised deadlines provided to the GOI to re-file its initial questionnaire response and the impending deadline for filing of new subsidy allegations (NSAs), Petitioners requested an extension of the NSA deadline. In response, the Department extended the deadline for filing of NSAs to November 13, 2013.²⁹

On November 13, 2013, Petitioners filed new subsidy allegations (NSAs).³⁰ The Department is in the process of analyzing these allegations. If supported by reasonably available evidence, we will initiate an investigation regarding the allegations and issue a post-preliminary determination analysis as appropriate.

On November 14, 2013, Petitioners submitted comments on the GOI's initial questionnaire response and factual information with regard to measuring the adequacy of remuneration of and benefit from various input subsidies (Benchmarks).³¹ On November 18, 2013, Petitioners submitted additional benchmark information.³²

On November 27, 2013, Petitioners submitted factual information with respect to the O.P. Jindal Group, Jindal SAW and its relationship with the other members of the group, and the group's restructuring.³³ Further, on December 5, 2013, Petitioners submitted factual information with respect to JPL.³⁴ On December 11, 2013, JPL replied to Petitioners' comments.³⁵

²⁷ See Letter from Department, "Untimely Extension Requests by the Government of India (GOI)" (November 26, 2013).

²⁸ See Letter from Department, "Rejection of Untimely Filed Supplemental Questionnaire Response and Removal from the Record" (December 9, 2013).

²⁹ See Letter from Department "Extension of Deadline to Submit Allegations of Additional Subsidies, (November 5, 2013).

³⁰ See Letter from Petitioners, "Countervailing Duty Investigation Concerning Certain Oil Country Tubular Goods from India (C-549-828): New Subsidy Allegations" (November 13, 2013).

³¹ See Letter from Petitioners, "Countervailing Duty Investigation of Certain Oil Country Tubular Goods from India: Comments on GOI Initial Questionnaire Response and Factual Information" (November 14, 2013) and Letter from Petitioners, "Factual Information for Purposes of Measuring Adequacy of Remuneration and Benefit from Input Subsidies (benchmarks)" (November 14, 2013).

³² See Letter from Petitioners, "Countervailing Duty Investigation of Certain Oil Country Tubular Goods from India" (November 18, 2013).

³³ See Letter from Petitioners, "Countervailing Duty Investigation of Certain Oil Country Tubular Goods from India" (November 27, 2013).

³⁴ See Letter from Petitioners, "Factual Information to Rebut, Clarify, and Correct Statements Made by Jindal Pipes Limited (JPL)" (December 5, 2013).

³⁵ See Letter from Jindal Pipes Ltd., "Reply of Jindal Pipes Limited to Petitioner's Comments" (December 11, 2013).

On December 5, 2013 Jindal SAW submitted comments for consideration in the Department's preliminary determination.³⁶ On December 6, 2013, Petitioners submitted comments for consideration in the preliminary determination.³⁷

On September 5, 2013, the Department postponed the preliminary determination until November 29, 2013, in accordance with section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).³⁸ Additionally, as explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.³⁹ Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline becomes the next business day. The revised deadline for the preliminary results of this review is December 16, 2013.

B. Period of Investigation

The POI is January 1, 2012, through December 31, 2012.

III. SCOPE COMMENTS

In accordance with the preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and we encouraged all parties to submit comments within 20 calendar days of the signature date of that notice.⁴⁰ On August 12, 2013, WSP Pipe Co, Ltd. (WSP) asked the Department to clarify that the scope of this investigation does not include "billets with a chemical composition used to produce a variety of products (including but not limited to OCTG), which have been pierced, but which have not been otherwise further processed prior to importation into the United States."⁴¹ Petitioners submitted rebuttal comments to this scope clarification request.⁴²

We are evaluating WSP's and Petitioners' comments. We will issue our preliminary decision regarding the scope of the AD and CVD investigations in the preliminary determination of the companion AD investigations, which are due for signature on February 13, 2014. We will

³⁶ See Letter from Jindal SAW, "OCTG from India: Preliminary Determination: Comments for Consideration by the Department Submitted On Behalf of Jindal SAW Ltd." (December 5, 2013).

³⁷ See Letter from Petitioners, "Countervailing Duty Investigation of Certain Oil Country Tubular Goods from India" (December 6, 2013).

³⁸ See Certain Oil Tubular Goods from India and Turkey: Postponement of Preliminary Determinations in the Countervailing Duty Investigations, 78 FR 56865 (September 16, 2013).

³⁹ See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (October 18, 2013).

⁴⁰ See Antidumping Duties; Countervailing Duties, 62 FR 27296, 27323 (May 19, 1997); see also Initiation Notice.

⁴¹ See Letter from WSP Pipe Co., Ltd., "Comments on scope of investigations: Antidumping Duty Investigations of Oil Country Tubular Goods from India, Korea, Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine and Vietnam: Countervailing Duty Investigation on Oil Country Tubular Goods from India and Turkey" (August 12, 2013).

⁴² See Letter from Petitioners, "Certain Oil Country Tubular Goods from India, Korea, Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine and Vietnam: Rebuttal Comments on Scope of Investigation" (August 22, 2013).

incorporate the scope decisions from the AD investigations into the scope of the final CVD determinations after considering any relevant comments submitted in case and rebuttal briefs.

IV. SCOPE OF THE INVESTIGATION

The merchandise covered by the investigation is certain oil country tubular goods (OCTG), which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (e.g., whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the investigation also covers OCTG coupling stock.

Excluded from the scope of the investigation are: casing or tubing containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.

The merchandise subject to the investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

The merchandise subject to the investigation may also enter under the following HTSUS item numbers: 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, 7304.59.80.80, 7305.31.40.00, 7305.31.60.90, 7306.30.50.55, 7306.30.50.90, 7306.50.50.50, and 7306.50.50.70.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

V. INJURY TEST

Because India is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from India materially injure, or threaten material injury to, a U.S. industry. On August 16, 2013, the ITC determined that there is a reasonable indication that an

industry in the United States is materially injured by reason of imports of OCTG from, inter alia, India.⁴³

VI. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE FACTS AVAILABLE

Sections 776(a)(1) and (2) of the Act provide that the Department shall, subject to section 782(d) of the Act, apply “facts otherwise available” if, inter alia, necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or, (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available (i.e., “adverse facts available” (AFA)) when a party has failed to cooperate by not acting to the best of its ability in complying with a request for information. Section 776(b) of the Act authorizes the Department to use as AFA information from the petition, the final determination, or a previous administrative review, or other information placed on the record.

For the reasons explained below, the Department determines that AFA is warranted pursuant to sections 776(a) and (b) of the Act because, by not responding to our requests for information, the GOI failed to cooperate to the best of its ability.

Although the GOI filed a response to the initial questionnaire, the Department informed the GOI, in accordance with section 782(d) of the Act, that the response was deficient in several respects and an extensive supplemental questionnaire was required.⁴⁴ The GOI did not provide a timely response to the supplemental questionnaire and did not request an extension of time to file its response until six days after the supplemental questionnaire was due, at which time its counsel requested an extension by email.⁴⁵ The GOI failed to demonstrate that good cause existed for extending the relevant deadlines. In addition, the GOI did not provide a response to a request from the Department for a full questionnaire response with respect to a cross-owned affiliate of MSL/GVN, JPL. See “Initiation and Case History” section above for citations to the record recording these events.

The GOI, therefore, failed to provide requested information by the deadlines, within the meaning of section 776(a)(2)(B) of the Act. The GOI did not inform the Department, in advance of the deadlines and pursuant to section 782(c)(1) of the Act, of any difficulty in submitting the requested information. Further, section 782(e) of the Act does not apply, because the GOI did

⁴³ See Certain Oil Country Tubular Goods from India, Korea, the Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine, and Vietnam: Inv. Nos. 701-TA-499-500 and 731-TA-1215-1223 (Preliminary) (September 2013); Certain Oil Country Tubular Goods From India, Korea, the Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine, and Vietnam: Determinations, 78 FR 52213 (August 22, 2013).

⁴⁴ See Letter from Department, “Countervailing Duty Investigation of Certain Oil Country Tubular Goods from India: Supplemental Questionnaire” (November 8, 2013).

⁴⁵ See Email from Mr. Sharad Bhansali of APJ-SLG, Counsel to Government of India, (November 21, 2013).

not submit information by the appropriate deadlines and did not act to the best of its ability. By failing to answer fully the questionnaire and to respond timely to the supplemental questionnaire, the GOI also significantly impeded the proceeding, within the meaning of section 776(a)(2)(C) of the Act. We further find that an adverse inference is warranted under section 776(b) of the Act. The GOI failed to cooperate to the best of its ability when it failed to respond timely to the supplemental questionnaire, despite being reminded of the applicable deadline.

When a government fails to provide requested information concerning alleged subsidy programs, the Department, as AFA, typically finds that a financial contribution exists under the alleged program and that the program is specific.⁴⁶ In this investigation, the GOI's failure to respond to the deficiency questions included in the supplemental questionnaire impeded the Department's ability to determine whether five programs benefitting the respondents are countervailable: "Advance License Program/Advance Authorization Program," "Export Promotion Capital Goods Program," "Pre-Shipment and Post-Shipment Export Financing," "Provision of Hot-Rolled Steel by the Steel Authority of India, Ltd. at Less Than Adequate Remuneration," and "State Government of Maharashtra Sales Tax Program." Accordingly, in selecting from among the facts available, we are drawing an adverse inference with respect to these programs and preliminarily determine that the GOI is providing a financial contribution that is specific. In calculating the amount of the benefit received, we have relied on information provided by the respondent companies, which have cooperated in the investigation.

VII. SUBSIDIES VALUATION

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. The Department finds the AUL in this proceeding to be 15 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System.⁴⁷ The Department notified the respondents of the 15-year AUL in the initial questionnaire and requested data accordingly. Although Jindal SAW responded that the Department should use a company-specific AUL of 18 years, it failed to establish that the IRS tables "do not reasonably reflect the company-specific AUL for the industry or the country-wide AUL for the industry under investigation."⁴⁸ See 19 CFR 351.524(d)(2)(i).⁴⁹

⁴⁶ See, e.g., Notice of Preliminary Results of Countervailing Duty Administrative Review: Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea, 71 FR 11397, 11399 (March 7, 2006) (unchanged in the Notice of Final Results of Countervailing Duty Administrative Review: Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea, 71 FR 38861 (July 10, 2006), in which the Department relied on adverse inferences in determining that the Government of Korea directed credit to the steel industry in a manner that constituted a financial contribution and was specific to the steel industry within the meaning of sections 771(5)(D) and 771(5A)(D)(iii) of the Act, respectively).

⁴⁷ See U.S. Internal Revenue Service Publication 946 (2008), "How to Depreciate Property," at Table B-2: Table of Class Lives and Recovery Periods.

⁴⁸ In its first supplemental questionnaire, the Department requested that Jindal SAW provide its calculation of the company-specific AUL, in accordance with 19 CFR 351.524(d)(2)(iii), and tie the depreciation figures used in that calculation to its financial statements. Jindal SAW based its calculation of the company-specific AUL only on its last two fiscal years of the company.

Furthermore, for 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.

B. Attribution of Subsidies

Cross Ownership: In accordance with 19 CFR 351.525(b)(6)(i), the Department normally attributes a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of the Department’s regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The preamble to the Department’s regulations further clarifies the Department’s cross-ownership standard. According to the preamble, relationships captured by the cross-ownership definition include those where:

{T}he interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a “golden share” may also result in cross-ownership.⁵⁰

⁴⁹ “The Secretary will presume the allocation period for non-recurring subsidies to be the AUL of renewable physical assets for the industry concerned as listed in the Internal Revenue Service’s (IRS) 1977 Class Life Asset Depreciation Range System (Rev. Proc. 77-10, 1977-1, C.B. 548 (RR-38)), as updated by the Department of Treasury. The presumption will apply unless a party claims and establishes that the IRS tables do not reasonably reflect the company-specific AUL or the country-wide AUL for the industry under investigation, subject to the requirement, in paragraph (d)(2)(ii) of this section, that the difference between the company-specific AUL or country-wide AUL for the industry under investigation and the AUL in the IRS tables is significant. If this is the case, the Secretary will use company-specific or country-wide AULs to allocate non-recurring benefits over time (see paragraph (d)(2)(iii) of this section).”

⁵⁰ See Countervailing Duties, 63 FR 65348, 65401 (November 25, 1998).

Thus, the Department's regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists.

The U.S. Court of International Trade (CIT) has upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.⁵¹

The O.P. Jindal Group, the D.P. Jindal Group, and the B.C. Jindal Group

GVN, MSL, JPL, Jindal SAW, which belong to Jindal family members, have formally separated over a period of time, resulting in three separate groups of companies.⁵² The groups of companies are referred to as the O.P. Jindal Group, the D.P. Jindal Group, and the B.C. Jindal Group. According to the respondents, these groups are not legal entities, but informal titles designating the family members that own and manage the companies within these groups.⁵³ The Jindal family tree demonstrates that Mr. O.P. Jindal (now deceased) and Mr. B. C. Jindal are sons of the late Mr. Net Ram Jindal. Each brother created his own separate group of companies. Mr. B.C. Jindal's son, Mr. D.P. Jindal, then separated from his father and created his own group of companies.⁵⁴ GVN, MSL, and JPL belong to the D.P. Jindal Group and, Jindal SAW to the O.P. Jindal Group. Further, Mr. O.P. Jindal (during his life time) handed over the management of each of the distinct corporate entities (that were spin-offs) from his original company to several sons; accordingly, Jindal SAW is headed by Mr. P.R. Jindal.⁵⁵ One of the companies in the B.C. Jindal Group – Jindal India Ltd. – is also a producer and exporter of OCTG, but not a respondent in this investigation. Apart from the respondent companies, each group has a number of other companies involved in varied businesses.⁵⁶

According to the respondents, each group is run independently of the others, without any sharing of facilities, board members, or proprietary information.⁵⁷ Although there is some inter-group cross-shareholding, such ownership does not amount to a majority shareholding or control (*i.e.*, no single family member owns more than five percent of two or more companies in two or more groups). Further, although companies in one group have sold merchandise to companies in the other groups, including inputs for subject merchandise during the POI, these transactions are reported to be on an arm's length basis between vendor and supplier.⁵⁸ Regardless of the portion of inputs provided by the suppliers' of their total sales (of the O.P. Group) for the production of OCTG, the purchasers of these inputs MSL or JPL (of the D.P. Group), would not be able to exercise any leverage over these suppliers, because the inputs do not constitute the suppliers sole

⁵¹ See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

⁵² See GVN first supplemental response at 2-3, "B.C. Jindal and O.P. Jindal separated and created their own group of companies, respectively. Mr. D.P. Jindal is the son of Mr. B.C. Jindal, from whom he separated and created his own group of companies"

⁵³ *Id.* at 2.

⁵⁴ *Id.* at 2-3.

⁵⁵ See Jindal SAW first supplemental response dated at 2.

⁵⁶ See MSL first supplemental response at Exhibit MS1-1(e), GVN initial questionnaire response at Exhibit G-1(a), and Jindal SAW second supplemental response.

⁵⁷ See GVN first supplemental response at 3.

⁵⁸ *Id.* at 3-4.

businesses.⁵⁹ The familial relationships among the owners of the members of these groups, the small percentages of common ownership, and the purchaser-supplier relationship found between these companies are not a sufficient basis for cross-ownership under 19 CFR 351.525(b)(6).⁶⁰ Based on the record information and in accordance with 19 CFR 351.525(b)(6), we find no cross-ownership between the three groups of companies. Therefore, we preliminarily determine that cross-ownership does not exist between the O.P. Jindal Group, the D.P. Jindal Group, and the B.C. Jindal Group.

GVN, MSL, JPL

GVN responded to the Department's questionnaire stating it was not a producer of subject merchandise but an exporter of the merchandise produced by its affiliates MSL and JPL.⁶¹ GVN stated that all three companies were part of the D.P. Jindal Group, adding that the group was known as such because Mr. D.P. Jindal and his immediate family owned shares in each of the companies either directly or indirectly.⁶² Ms. Rachna Jindal, daughter-in-law of Mr. D.P. Jindal, is a director of Stable Trading Co. Ltd., a shareholder of GVN.⁶³ Other shareholders of the companies that own GVN are also visible in their financial statements.⁶⁴ Although none of GVN's directors are related to Mr. D.P. Jindal, GVN is engaged exclusively in one activity -- the export trading of material -- both subject and non-subject merchandise -- supplied by MSL and JPL.⁶⁵ Although GVN reported it was initially registered as a non-banking finance company and has an investment division, it stated that it diversified its activities into exports of pipe and ceased to be a non-banking finance company during 2012.⁶⁶ Further, GVN stated that its board of directors does not have much involvement with the regular operations of the company, and that these tasks were managed by the Deputy General Manager of Exports in coordination with MSL staff.⁶⁷ GVN added that there have been meetings between senior executives among GVN, MSL, and JPL with respect to the development, production, sale and distribution of subject merchandise.⁶⁸

MSL responded to the Department's questionnaire stating it was a producer of subject merchandise. MSL identified two companies as its wholly-owned subsidiaries, stating that although cross-ownership otherwise exists between them, these subsidiaries were not involved in any way with subject merchandise. MSL also noted it held a 49.89 percent share in a joint venture, Hydril Jindal International Pvt. Ltd. (Hydril Jindal). According to MSL, its joint venture partner held the majority voting shares in Hydril Jindal. During the POI, Hydril Jindal

⁵⁹ See MSL first supplemental response at 10 and Exhibit MS1-1(a); see also Jindal SAW initial questionnaire response.

⁶⁰ See Certain Steel Wheels From the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination, 77 FR 17017 (March 23, 2012) and accompanying Issues and Decision Memorandum (IDM) at 6-7 (explaining that, in addition to "primary" familial relations among owners, a combination of other factors were necessary to find cross-ownership).

⁶¹ See GVN initial questionnaire response at 1.

⁶² Id. at 3.

⁶³ See MSL first supplemental response at Exhibit MS1-1(g).

⁶⁴ See GVN first supplemental response at Exhibits GS1-5.

⁶⁵ Id. at 6.

⁶⁶ See GVN initial questionnaire response at 5.

⁶⁷ See GVN first supplemental response at 6.

⁶⁸ Id. at 7.

did premium threading for MSL on a tolling basis for a small percentage of the subject merchandise sold by MSL. Hydril Jindal also purchased some merchandise from MSL during the POI which it further processed and re-sold. MSL withdrew from the joint venture after the POI, in August 2013.⁶⁹ MSL also reported purchasing inputs from O.P. Jindal Group companies used in the production of subject merchandise.⁷⁰ Lastly, MSL stated that it and other members of the D.P. Jindal Group acknowledge that they are affiliated under the Department's definition as they are all directly or indirectly ultimately owned by Mr. D.P. Jindal. MSL added it believes that it should be treated as a single entity along with GVN and JPL for duty deposit and assessment purposes because the business operations of the three companies are intertwined through the sharing of sales information, involvement in product and pricing decisions, involvement in production decisions, and the sharing of facilities.⁷¹

In its questionnaire response, JPL reported that it produces subject and non-subject merchandise. JPL reported that only a miniscule portion of subject merchandise was sold by JPL during the POI, which was finished by MSL on a tolling basis and thereafter exported to the United States by GVN.⁷² JPL reported having three subsidiaries during the POI, but noted that none of the subsidiaries produced subject merchandise or supply inputs for the production of subject merchandise.⁷³ JPL also reported purchasing inputs from O.P. Jindal Group companies.⁷⁴ Finally, similar to MSL, JPL acknowledged affiliation among the D.P. Jindal Group companies directly or indirectly ultimately owned by Mr. D.P. Jindal. JPL added that it believes that it should be treated as a single entity along with GVN and MSL for duty deposit and assessment purposes for the same reasons noted by MSL.⁷⁵

In evaluating the above information we find that Mr. D.P. Jindal and his immediate family are the majority shareholders of MSL and JPL either directly or indirectly through companies in which the immediate family has significant shareholdings.⁷⁶ Further, Mr. D.P. Jindal is the chairman of both MSL and JPL, while his sons Mr. Saket Jindal and Mr. Raghav Jindal are directors of JPL. In addition, Mr. Saket Jindal is also the Managing Director of MSL.⁷⁷ Mr. D.P. Jindal and family members also hold positions as directors of the various companies that have shareholdings in MSL and JPL.⁷⁸ Thus, we find MSL and JPL meet the standard of cross-ownership through common ownership and control, pursuant to the language in the *CVD Preamble* quoted above and in 19 CFR 351.525(b)(6)(vi). With respect to GVN, record information indicates this company is also cross-owned with MSL and JPL. As noted, GVN is exclusively engaged in the export trading of merchandise supplied by MSL and JPL. During the POI, GVN also conducted its operations in coordination with MSL. Moreover, both MSL and JPL have indicated their business operations are intertwined through the sharing of sales information, involvement in product and pricing decisions, involvement in production decisions,

⁶⁹ See MSL initial questionnaire response at 6-7.

⁷⁰ See MSL first supplemental response at 10.

⁷¹ See MSL initial questionnaire response at 4.

⁷² See JPL initial questionnaire response at 10.

⁷³ *Id.* at 6.

⁷⁴ *Id.* at 5.

⁷⁵ *Id.* at 3-4.

⁷⁶ See MSL first supplemental response at Exhibit MS1-1(c) and MS1-1(d).

⁷⁷ See GVN first supplemental questionnaire response dated November 22, 2013, at Exhibit GS1-1(a) Part 2.

⁷⁸ See MSL first supplemental response at Exhibit MS1-1(g).

and the sharing of facilities. Thus, we find that GVN is also cross-owned with MSL and JPL for purposes of this preliminary determination. Accordingly, we are preliminarily attributing subsidies received by MSL and JPL to the combined sales of the two companies, in accordance with 19 CFR 351.525(b)(6)(ii), and “cumulating” those subsidies with subsidies received by GVN, in accordance with 19 CFR 351.525(c).

Jindal SAW

Jindal SAW responded to the Department’s questionnaire on behalf of itself, reporting that it did not have any affiliated companies involved or engaged in the sale, purchase, marketing and production of subject merchandise.⁷⁹ Jindal SAW further reported that the O.P. Jindal Group was undergoing restructuring. Jindal SAW stated it is the ultimate holding/parent company for all operations.⁸⁰ While Jindal SAW has several subsidiaries, these companies are not involved in the production or sale of subject merchandise or the production of inputs used in subject merchandise. Moreover, the record indicates no cross-ownership between Jindal SAW (and its affiliates) and the other members of the O.P. Jindal Group (no single family member owns more than five percent of the shares in Jindal Saw and also in any of the other members; there are no board members or senior executives shared by Jindal Saw and the other members).⁸¹ Therefore, we will attribute subsidies received by Jindal SAW to its own sales, in accordance with 19 CFR 351.525(b)(6)(i).

C. Denominators

In accordance with 19 CFR 351.525(b), the Department considers the basis for the respondents’ receipt of benefits under each program when attributing subsidies, e.g., to the respondents’ export or total sales. The denominators we used to calculate the countervailable subsidy rates for the various subsidy programs described below are explained in the “Preliminary Calculation Memoranda” prepared for this investigation.⁸²

D. Benchmarks and Discount Rates

We are investigating loans that the respondents received under the Export Financing program, unfulfilled export obligations under the Export Promotion Capital Goods (EPCG) program, which the Department treats as loans, and non-recurring, allocable duty waivers under the same program (see 19 CFR 351.524(b)(1)). For programs requiring the application of a benchmark interest rate or a discount rate, 19 CFR 351.505(a)(1) 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) states that the Department will normally rely on actual short-term and long-term loans obtained by the firm. However, when there are no comparable commercial

⁷⁹ See Jindal SAW initial questionnaire response at 5.

⁸⁰ See Jindal SAW first supplemental response at 8-9.

⁸¹ Id. at 6.

⁸² See Department Memoranda, “Countervailing Duty Investigation of Certain Oil Country Tubular Goods from India: GVN Fuels Limited/Maharashtra Seamless Limited/Jindal Pipes Limited. Preliminary Calculation Memorandum” and “Countervailing Duty Investigation of Certain Oil Country Tubular Goods from India: Jindal SAW Limited. Preliminary Calculation Memorandum,” both dated concurrently with this memorandum (collectively, Preliminary Calculation Memoranda).

loans, the Department may use a national average interest rate, pursuant to 19 CFR 351.505(a)(3)(ii). Finally, 19 CFR 351.505(a)(2)(ii) states that the Department will not consider a loan provided by a government owned special purpose bank for purposes of calculating benchmark rates.⁸³

In accordance with these regulations and the Department's previous examination of these subsidy programs, we have used, where available, the respondents' fixed rate long-term commercial loans, and the respondents' weighted-average rate of short-term commercial borrowing, depending on the non-recurring or recurring nature of the subsidy program. In the few instances where contemporaneous long-term loans from commercial lenders were not available, we relied on long-term lending rates published by the International Monetary Fund in International Financial Statistics,⁸⁴ which are comparable in structure and currency, in accordance with 19 CFR 351.505(a)(2).

Discount Rates

For allocating the benefit from non-recurring grants under the EPCG program and the State of Maharashtra Sales Tax Deferment Scheme, as part of the Sales Tax Incentive under Part-I of the 1988 Scheme, we have used the long-term rupee-denominated interest rate benchmark for the year in which the government agreed to provide the subsidy, consistent with 19 CFR 351.524(d)(3)(i)(A).

VIII. ANALYSIS OF PROGRAMS

Based upon our analysis of the record and the responses to our questionnaires, we preliminarily determine the following.

A. Programs Preliminarily Determined To Be Countervailable

GOI Programs

Duty Exemption/Remission Schemes

1. Advance License Program/Advance Authorization Program

In several prior investigations, the Department has determined that import duty exemptions provided under the Advance License Program (ALP)/Advance Authorization Program (AAP) program are countervailable export subsidies.⁸⁵ Under this program, exporters may import, duty

⁸³ See, e.g., Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India, 71 FR 7534 (February 13, 2006) and IDM at Comment 3; see also Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review, 73 FR 7708 (February 11, 2008) and accompanying IDM at "Benchmark Interest Rates and Discount Rates" section.

⁸⁴ See Preliminary Calculation Memoranda.

⁸⁵ See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review, 75 FR 6634 (February 10, 2010) (PET Film from India 2007 Review) and accompanying IDM at "Advance License Program;" see also Certain Hot-Rolled Carbon Steel Flat Products From India: Final Results of Countervailing Duty Administrative Review, 75 FR 43488 (July 26, 2010) (Hot-Rolled from India 2006 Review) and accompanying IDM at "Advance License Program."

free, specified quantities of materials required to manufacture products that are subsequently exported. The exporting companies, however, remain contingently liable for the unpaid duties until they have fulfilled their export requirement. The quantities of imported materials and exported finished products are linked through standard input-output norms (SIONs) established by the GOI. In PET Film from India 2007 Review, the Department found that the ALP confers a countervailable subsidy because: (1) a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided under the program, as the GOI exempts the respondents from the payment of import duties that would otherwise be due; (2) the GOI does not have in place and does not apply a system that is reasonable and effective for the purposes intended in accordance with 19 CFR 351.519(a)(4), to confirm which inputs, and in what amounts, are consumed in the production of the exported products, making normal allowance for waste, nor did the GOI carry out an examination of actual inputs involved to confirm which inputs are consumed in the production of the exported product, and in what amounts; thus, the entire amount of the import duty deferral or exemption earned by the respondent constitutes a benefit under section 771(5)(E) of the Act; and, (3) this program is specific under section 771(5A)(A) and (B) of the Act because it is contingent upon export.

As explained above, in this investigation, relying on AFA, we preliminarily determine that the GOI provided financial contributions under this program, and that this program is specific. MSL and Jindal SAW provided information on their use of this program and we have used that information to calculate the amount of benefits received.⁸⁶ Pursuant to 19 CFR 351.524(c)(1), the exemption of import duties normally provides a recurring benefit. Thus, we are treating the benefit provided under the ALP/AAP program as a recurring benefit.

Unless the ALP licenses are tied to the production of a particular product within the meaning of 19 CFR 351.525(b)(5), the Department will consider the company's ALP licenses to benefit all of the company's exports. Therefore, because MSL's and Jindal SAW's ALP/AAP licenses are not tied to the production of a particular product,⁸⁷ we have divided the total value of the duties exempted under the ALP/AAP licenses during the POI for each company by the company's total export sales. On this basis, we determine countervailable subsidy rates under the ALP/AAP program of 2.52 percent ad valorem for GVN/MSL/JPL and 0.24 percent ad valorem for Jindal SAW.⁸⁸

⁸⁶ See MSL initial questionnaire response at 23.

⁸⁷ Specifically, Jindal reported that the ALP licenses reported have been used to import inputs for the production of OCTG and non-OCTG products, and that those licenses were specific to products manufactured at the Nashik division, only. Thus, we used total export sales of the Nashik division for our calculations. See Jindal SAW initial questionnaire response at 17 and Exhibit 17 and first supplemental response at 20-23, and Exhibits 52 and 56.

⁸⁸ See Preliminary Calculation Memoranda.

Other Countervailable Subsidies Provided by the GOI

2. Export Promotion Capital Goods (EPCG) Program

In several prior investigations, the Department has determined that import duty reductions or exemptions provided under the EPCG program are countervailable export subsidies.⁸⁹ The EPCG program provides for a reduction of or exemption from customs duties and excise taxes on imports of capital goods used in the production of exported products. Under this program, producers pay reduced duty rates on imported capital equipment by committing to earn convertible foreign currency equal to six times the duty saved within a period of six years. Once a company has met its export obligation, the GOI will formally waive the duties on the imported goods. If a company fails to meet the export obligation, the company is subject to payment of all or part of the duty reduction, depending on the extent of the shortfall in foreign currency earnings, plus an interest penalty.

As explained above, we preliminarily determine, relying on AFA, that the GOI provided a financial contribution under this program, and that the program is specific. MSL, JPL and Jindal SAW provided information on their use of this program and we have used that information to calculate the amount of benefits received.⁹⁰

Under the EPCG program, the exempted import duties would have to be paid to the GOI if the accompanying export obligations are not met. It is the Department's practice to treat any balance on an unpaid liability that may be waived in the future as a contingent-liability interest-free loan pursuant to 19 CFR 351.505(d)(1).⁹¹ Since the unpaid duties are a liability contingent on subsequent events, these interest-free contingent-liability loans constitute the first benefit under the EPCG program. The second benefit arises when the GOI waives the duty on imports of capital equipment covered by those EPCG licenses for which the export requirement has already been met. For those licenses for which the GOI has acknowledged that the company has completed its export obligation, we treat the import duty savings as grants received in the year in which the GOI waived the contingent liability on the import duty exemption pursuant to 19 CFR 351.505(d)(2).

Import duty exemptions under this program are approved for the purchase of capital equipment. The preamble to our regulations states that, if a government provides an import duty exemption tied to major 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"⁹² In accordance with 19 CFR 351.524(c)(2)(iii) and past

⁸⁹ See, e.g., Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination, 78 FR 50385 (August 19, 2013) (Shrimp from India) and accompanying IDM at 14-17; see also Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India, 67 FR 34905 (May 16, 2002) (PET Film from India) and accompanying IDM at "EPCGS."

⁹⁰ See MSL initial questionnaire response at 23 and Jindal SAW initial questionnaire response at 40-42 and Exhibits 24 and 25.

⁹¹ Id.

⁹² See Countervailing Duties, 63 FR 65348, 65393 (November 25, 1998).

practice, we are treating these import duty exemptions on capital equipment as non-recurring benefits.⁹³

Information provided by the respondents indicates that their EPCG licenses were issued for the purchase of capital goods for the production of both subject and non-subject merchandise.⁹⁴ However, this information does not allow us to tie particular EPCG licenses to particular products within the meaning of 19 CFR 351.525(b)(5). As such, we are attributing the EPCG benefits received by the respondents to their total exports.

MSL met the export obligations for certain EPCG licenses prior to December 31, 2012 (the last day of the POI), and the GOI has formally waived the relevant import duties.⁹⁵ For a number of their licenses, however, the respondents had not yet met their export obligations.⁹⁶ Therefore, although the respondents received a deferral from paying import duties for the capital equipment imports, the final waiver of the obligation to pay the duties had not yet been granted for a number of these imports.

To calculate the benefit received from the GOI's formal waiver of import duties for the respondents' capital equipment imports where the export obligations were met prior to December 31, 2012, we considered only the amount of basic customs duties waived. The record indicates that the additional duty (CVD),⁹⁷ the Education Cess on CVD, and the Special Additional Duty (SAD) are creditable under India's VAT system (*i.e.*, they are refunded regardless of whether a firm uses the EPCG program). Therefore, we adjusted our calculations by excluding the additional duty (CVD), the Education Cess on CVD, and the SAD when the data was provided. We treated these amounts as grants pursuant to 19 CFR 351.504. Further, consistent with the approach followed in PET Film from India, we determine the year of receipt of the benefit to be the year in which the GOI formally waived the respondents' outstanding import duties.⁹⁸ Next, we performed the "0.5 percent test," as described under 19 CFR 351.524(b)(2), for the total value of duties waived, for each year in which the GOI granted the respondents an import duty waiver. For any years in which the value of the waived import duties was less than 0.5 percent of the respondent's total export sales, we expensed the value of the duty waived to the year of receipt. For years in which the value of the waivers exceeded 0.5 percent of the respondent's total export sales in that year, we allocated the value of the waived duties using the allocation period of 15 years. For purposes of allocating the value of the waived duties over time, we used the appropriate discount rate for the year in which the GOI officially waived the import duties.

As noted above, import duty reductions or exemptions received for capital equipment imports for which the respondents had not yet met their export obligations may have to be repaid to the GOI

⁹³ See, e.g., PET Film from India 2007 Review and accompanying IDM at Comment 9.

⁹⁴ See MSL initial questionnaire response at 36, JPL initial questionnaire response at 24, and Jindal SAW initial questionnaire response at 40-42 and Exhibits 24 and 64 (identifying non-specific HTS).

⁹⁵ See MSL's initial questionnaire response at 40 and Exhibit M-11(f).

⁹⁶ See Jindal SAW's second supplemental response.

⁹⁷ "Cenvatable" and levied under section 3(1) of the Customs Tariff Act, 1975, of India.

⁹⁸ See PET Film from India and accompanying IDM at Comment 5.

if the obligations under the licenses are not met. Consistent with our practice and prior determinations, we are treating the unpaid import duty liabilities as interest-free loans.⁹⁹

The amount of the unpaid duty liability to be treated as an interest-free loan is the amount of the import duty reduction or exemption for which the respondent applied, which had not been officially waived by the GOI as of the end of the POI. Accordingly, we find the benefit to be the interest that the respondents would have paid during the POI had they borrowed the full amount of the duty reduction or exemption at the time of importation.¹⁰⁰

As stated above, the time period for fulfilling the export requirement expires six years after importation of the capital good. As such, pursuant to 19 CFR 351.505(d)(1), the benchmark for measuring the benefit is a long-term interest rate because the event upon which repayment of the duties depends (*i.e.*, the date of expiration of the time period to fulfill the export commitment) occurs at a point in time that is more than one year after the date of importation of the capital goods. As the benchmark interest rate, we used the long-term interest rates as discussed in the “Benchmarks and Discount Rates” section, above. We then multiplied the total amount of unpaid duties under each license by the long-term benchmark interest rate for the year in which the capital good was imported and summed these amounts to determine the total benefit from these contingent liability loans.

The benefit received under the EPCG program is the sum of: (1) the benefit attributable to the POI from the formally waived duties for imports of capital equipment for which the respondents met export requirements by the end of the POI; and (2) interest due on the contingent-liability loans for imports of capital equipment that have unmet export requirements during the POI. We divided the total benefit received by the respondents under the EPCG program by the respondents’ total export sales during the POI. Accordingly, we preliminarily determine a countervailable subsidy rate of 0.12 percent ad valorem for GVN/MSL/JPL and a countervailable subsidy rate of 0.40 percent ad valorem for Jindal SAW.¹⁰¹

3. Pre-Shipment and Post-Shipment Export Financing

In several prior investigations, the Department has previously determined that import duty reductions or exemptions provided under the Export Financing program are countervailable export subsidies.¹⁰² The GOI provides pre-shipment and post-shipment export financing to make short-term working capital available to exporters at internationally comparable interest rates. The financing is denominated in Indian rupee (INR) and in foreign currencies (*e.g.*, U.S. dollars).

⁹⁹ See 19 CFR 351.505(d)(1); see also PET Film from India and accompanying IDM at “EPCGS” and Final Affirmative Countervailing Duty Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin From India, 70 FR 13460 (March 21, 2005) and accompanying IDM at “Export Promotion Capital Goods Scheme (EPCGS).”

¹⁰⁰ See, *e.g.*, Notice of Preliminary Results and Rescission in Part of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India, 70 FR 46483, 46488 (August 10, 2005) (unchanged in Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India, 71 FR 7534 (February 13, 2006)).

¹⁰¹ See Preliminary Calculation Memoranda.

¹⁰² See, *e.g.*, Shrimp from India and accompanying IDM at 17 and PET Film from India and accompanying IDM at “Pre-Shipment and Post-Shipment Export Financing.”

- a) With respect to the rupee-denominated export financing, the Reserve Bank of India (RBI) previously capped the interest rate that commercial banks could charge on these loans.¹⁰³ However, beginning on July 1, 2010, the RBI eliminated the interest rate cap and set only a floor rate for these loans.¹⁰⁴ At the same time, the RBI instituted an interest subvention program for certain exporting companies, including small and medium enterprises. In order to receive this interest assistance, the interest rate on the rupee-denominated export financing had to be less than the bank's benchmark prime lending rate minus 4.5 percent. Thus, rupee-denominated pre-shipment and post-shipment export financing that was eligible for the subvention was subject to an interest-rate cap. None of the respondent companies reported receiving export financing in Indian rupees.
- b) With respect to export financing denominated in foreign currencies, the RBI requires banks to fix interest rates with reference to LIBOR, EURO LIBOR, or EURIBOR; these rates are subject to caps, with the size of the cap depending on the duration of the loan.¹⁰⁵ We preliminarily determine that pre-shipment and post-shipment export financing denominated in foreign currencies provides a financial contribution and is specific, relying on AFA, for the reasons explained above in the "Use of Facts Available and Adverse Facts Available" section. MSL reported it used pre-shipment financing in foreign currency during the POI,¹⁰⁶ and Jindal SAW reported it used pre-shipment and post-shipment financing. We have used the reported information to calculate the amount of benefits received.¹⁰⁷

To measure the benefit conferred by the pre-shipment and post-shipment export financing in foreign currency, we compared what the companies paid for their loans to what they would have paid according to the short-term loan benchmarks described above. We divided the interest savings each company received during the POI by the company's exports during the POI.¹⁰⁸

On this basis, we determine GVN/MSL/JPL did not receive a benefit for pre-shipment financing denominated in U.S. dollars. For Jindal SAW, we determine a countervailable subsidy rate of 0.14 percent ad valorem for pre-shipment and post-shipment financing denominated in U.S. dollars.¹⁰⁹

We have previously found that the GOI terminated the foreign currency export financing program on May 5, 2012. Specifically, as of that date, the RBI is not involved in setting interest rates (caps or floors) for these loans.¹¹⁰ In Shrimp from India, the GOI supported its claim with a copy the "Master Circular - Rupee / Foreign Currency Export Credit & Customer Service To Exporters," issued by RBI, which specified that "banks are free to determine the interest rates on export credit in foreign currency with effect from May 5, 2012."¹¹¹

¹⁰³ See, e.g., PET Film from India and accompanying IDM at "Pre-Shipment and Post-Shipment Export Financing."

¹⁰⁴ See Shrimp from India and accompanying IDM at 17.

¹⁰⁵ See Shrimp from India and accompanying IDM at 17-18.

¹⁰⁶ See MSL initial questionnaire response at 43.

¹⁰⁷ See Jindal SAW second supplemental response at Exhibit 78c.

¹⁰⁸ See Preliminary Calculation Memoranda.

¹⁰⁹ Id.

¹¹⁰ See Shrimp from India and accompanying IDM at "Export Financing Program."

¹¹¹ Id.

As explained above, 19 CFR 351.526(a) permits the Department to take account of program-wide changes in setting the deposit rate in certain circumstances. When a subsidy program is terminated, 19 CFR 351.526(d) requires that there be no residual benefits and that if a replacement program has been implemented the benefits under the replacement program be calculable.

In Shrimp from India, the GOI reported that the maximum term for pre-shipment credits in foreign currencies was 360 days prior to shipment, and the maximum term for post-shipment credits in foreign currencies was six months from the date of shipment. Thus, the last day on which the respondents could have paid reduced interest on their foreign currency export financing was April 30, 2013 (360 days after May 5, 2012). Therefore, no residual benefits exist beyond that date. Moreover, the GOI has not implemented a replacement program. Consequently, in accordance with 19 CFR 351.526(a)(2) and (d), we will adjust the cash deposit rates as necessary to exclude the foreign currency denominated export financing benefits.

4. Provision of Hot-Rolled Steel by the Steel Authority of India, Ltd. at Less Than Adequate Remuneration

The Department has countervailed the provision of hot-rolled steel at LTAR by Steel Authority of India, Ltd. (SAIL) in past proceedings.¹¹² As explained above, the GOI failed to cooperate to the best of its ability in this investigation, and therefore we preliminarily determine, relying on AFA, that the provision of hot-rolled steel from SAIL constitutes a financial contribution and that there is specificity. MSL and JPL provided information on their use of this program and we have used that information to calculate the amount of benefits received.¹¹³ MSL and JPL reported purchasing hot-rolled coil from SAIL as well as from private suppliers.¹¹⁴ Jindal Saw reported no purchases of hot-rolled coil from SAIL.

In order to calculate the benefit to MSL and JPL, we compared each individual purchase from SAIL to a benchmark specific to the month of the purchase. The hierarchy of 19 CFR 351.511(a)(2)(i) requires the Department “to measure the adequacy of remuneration by comparing the government price to a market-determined price for the good or service resulting from actual transactions in the country in question. Such a price could include prices stemming from actual transactions between private parties” In accordance with that hierarchy, we determined each monthly benchmark by calculating the average price paid to private suppliers that month for hot-rolled coil, weighting each price by the quantity purchased. We summed the benefits for all transactions – ignoring transactions for which the price paid to SAIL exceeded the benchmark – to calculate the total benefit for the program. We divided the total benefit by the combined total sales in the POI of MSL and JPL to derive a countervailable subsidy rate of 0.42 percent ad valorem for GVN/MSL/JPL.¹¹⁵

¹¹² See Circular Welded Carbon-Quality Steel Pipe From India: Final Affirmative Countervailing Duty Determination, 77 FR 64468 (October 22, 2012) and accompanying IDM at “Use of Facts Otherwise Available and Adverse Facts Available.”

¹¹³ See MSL initial questionnaire response at 65-67 and Jindal SAW initial questionnaire response at 52.

¹¹⁴ See MSL initial questionnaire response at 65-67 and JPL initial questionnaire response at 40 and Exhibit J-8(b).

¹¹⁵ See Preliminary Calculation Memoranda.

Programs by State Government of Maharashtra (SGOM)

5. SGOM Sales Tax Program

In prior investigations, the Department has determined that sales tax exemptions, deferrals, and sales tax loans provided under the SGOM Sales Tax program are countervailable export subsidies.¹¹⁶ In Hot-Rolled Steel, the Department found that sales tax exemptions, deferrals, and sales tax loans, in the form of interest-free loans, were provided under the SGOM's sales tax program. As explained above, we preliminarily determine on the basis of AFA, that the GOI provided a financial contribution under this program and that the program is specific. MSL and Jindal SAW provided information on their use of this program and we have used that information to calculate the amount of benefits received.¹¹⁷ We then divided the benefit amounts received by the relevant total sales amounts during the POI. We calculated countervailable subsidy rates of 0.44 percent ad valorem for GVN/MSL/JPL and of 0.19 percent ad valorem for Jindal SAW.¹¹⁸

B. Programs for Which No Benefits Were Received During the POI

SGOM Provision of Land for LTAR

MSL reported entering a long-term lease with the Maharashtra Industrial Development Corporation (MIDC) that was still in effect during the POI. In addressing allegations that land is provided at LTAR, the Department examines, in accordance with 19 CFR 351.511(a), evidence of whether the price paid by the respondent is consistent with prices charged for similar land on similar terms, assuming such prices are available. For example, in Steel Wire Rod from Germany, the Department determined that a land lease in the port area, issued by the Government of the Free and Hanseatic City of Hamburg (GOH), was not countervailable because we found that the respondent in that investigation paid a standard rate charged by the GOH to all enterprises leasing similar land, and that the lease contained the same terms as all other similar lease agreements signed with enterprises in the port area.¹¹⁹

In this investigation, the record demonstrates that the price paid by MSL reflects prevailing market conditions. In particular, MSL submitted a sale deed for land it purchased for itself from a private party in the vicinity of the land leased from MIDC (the tract it purchased from the private party is located in "village Bhagad" and the tract it leased from the MIDC is located in the "Bhagad Industrial Area;" both are in "Taluka – Mangaon, District Raigad").¹²⁰ Comparing the lump sum payment for the 95-year lease to MIDC to the purchase price paid to the private

¹¹⁶ 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) and accompanying IDM at "State Government of Maharashtra Programs (SGOM), Sales Tax Program."

¹¹⁷ See MSL initial questionnaire response at 23; and Jindal SAW initial questionnaire response at 57-58 and first supplemental response at Exhibit 66.

¹¹⁸ See Preliminary Calculation Memoranda.

¹¹⁹ See Final Affirmative Countervailing Duty Determination: Steel Wire Rod From Germany, 62 FR 54990, 55003 (October 22, 1997) (Steel Wire Rod from Germany).

¹²⁰ See MSL initial questionnaire response at Exhibits M-22(b)-(d).

party indicates the per-unit price cost of land paid to MIDC was significantly higher. While the price difference might be attributable to the fact that the MIDC lease is for property in an “industrial area” and the land purchased from the private party is in a “village,” the other differences – insofar as they are significant – indicate the price paid to MIDC should be lower, not higher, than the price paid to the private party. In particular, the MIDC transaction is a lease encumbered by significant restrictions regarding what the lessee may do with the land; the purchase from the private party means MSL holds the land free and clear of such encumbrances. There is no other information on the record concerning the “market-determined price” for the land leased from the MIDC. Because there is no benefit under 19 CFR 351.511 there is no need to consider whether the provision of land by the MIDC constitutes a financial contribution or whether it is specific.

C. Programs Preliminarily Found Not Be Used

GOI Programs

Duty Exemption/Remission Schemes

1. Duty Free Import Authorization (DFIA) Scheme

Subsidies for Export Oriented Units

2. Duty Free Import of Goods, Including Capital Goods and Raw Materials
3. Reimbursement of Central Sales Tax (CST) Paid on Goods Manufactured in India
4. Duty Drawback on Fuel Procured from Domestic Oil Companies
5. Exemption from Payment of Central Excise Duty on Goods Manufactured in India and Procured from a Domestic Tariff Area (DTA)

Other Countervailable Subsidies Provided by the GOI

6. Market Development Assistance (MDA) Scheme
7. Market Access Initiative
8. Focus Product Scheme
9. GOI Loan Guarantees
10. Status Certificate Program
11. Income Tax Exemption Program Under Section 80-IB of Income Tax Act
12. Target Plus Scheme

Subsidies for Producers and Exporters Located in Special Economic Zones

13. Duty Free Importation of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material
14. Exemption from Payment of CST on Purchases of Capital Goods and Raw Materials, Components Consumables, Intermediates, Spare Parts and Packing Material
15. Exemption from Electricity Duty and Cess on Electricity Supplied to a SEZ Unit
16. SEZ Income Tax Exemption
17. SEZ Service Tax Exemption

18. Steel Development Fund
19. Provision of Captive Mining Rights for Iron Ore
20. Provision of Captive Mining Rights for Coal
21. Provision of High-Grade Iron Ore for LTAR

Programs by State Government of Andhra Pradesh (SGAP)

Subsidies under SGAP Industrial Investment Promotion Policy (IIPP)

22. Grant Under the SGAP IIPP: 25 percent Reimbursement of the Cost of Land in Industrial Estates and Development Areas
23. Grant Under the SGAP IIPP: Reimbursement of Power at the Rate of Rs.0.75 per Unit
24. Grant Under the SGAP IIPP: 50 percent Subsidy for Expenses Incurred for Quality Certification
25. Grant Under the SGAP IIPP: 50 percent Subsidy on Expenses Incurred in Patent Registration
26. Grant Under the SGAP IIPP: 25 percent Subsidy on Cleaner Production Measures
27. Tax Incentives Under the SGAP IIPP: 100 percent Reimbursement of Stamp Duty and Transfer Duty Paid for the Purchase of Land and Buildings and the Obtaining of Financial Deeds and Mortgages
28. Tax Incentives Under the SGAP IIPP: 25 percent Reimbursement on Value Added Tax, CST, and State Goods and Services Tax
29. Tax Incentives Under the SGAP IIPP: Exemption from the SGAP Non-agricultural Land Assessment
30. Provision of Goods and Services for LTAR Under the SGAP IIPP: Provision of Infrastructure for Industries Located More Than 10 Kilometers from Existing Industrial Estates or Development Areas
31. Provision of Goods and Services for LTAR Under the SGAP IIPP: Guaranteed Stable Prices and Reservation of Municipal Water

Subsidies Provided by the Andhra Pradesh Industrial Investment Corporation (APIIC)

32. APIIC's Allotment of Land for LTAR
33. APIIC's Provision of Infrastructure

Programs by State Government of Gujarat (SGOG)

34. SGOG's Exemptions and Deferrals on Sales Tax for Purchases of Goods
35. SGOG's VAT Remission Scheme Established on April 1, 2006
36. Provision of Land Use Rights for LTAR under the Gujarat Industrial Development Corporation Estate Scheme
37. SGOG's Critical Infrastructure Project Scheme
38. SGOG's Scheme for Assistance to Industrial Parks/Industrial Estates Set Up by Private Institutions
39. Gujarat Industrial Investment Corporation Financing

40. SGOG SEZ Act: Exemptions from Payment of Sales Tax, Stamp Duty and Registration Fees

Programs by State Government of Maharashtra (SGOM)

41. Electricity Duty Exemptions Under the Package Scheme Incentives 1993
42. Refunds of Octroi Under the Package Scheme of Incentives 1993 (Octroi Refund Scheme)
43. Octroi Loan Guarantees
44. Waiving of Loan Interest by SICOM
45. Investment Subsidies
46. Infrastructure Mega Projects Under the Maharashtra Industrial Policy 2006

Programs by State Government of Haryana

47. Reduced VAT Rates for Inputs and Raw Materials
48. Land and Infrastructure Provided in HSIIDC Industrial Estates for LTAR

D. Programs for Which More Information is Needed

1. Income Tax Exemption Program Under Section 80-IA of the Income Tax Act

The Department initiated an investigation of subsidies provided under section 80-IB of the Income Tax Act, a program the Department has countervailed previously. The respondents reported receiving benefits under section 80-IA, a separate program that we have not previously investigated, of which we did not initiate an investigation in the current proceeding, and which was not addressed in the original or supplemental questionnaires to the GOI. Additional information is required to determine whether benefits provided pursuant to the section 80-IA program are countervailable. Therefore, we intend to seek additional information and include this program in our post-preliminary determination if necessary.

2. SGOM Subsidies for Mega Projects Under the 2007 Package Scheme of Incentives
 - a. Exemption from Electricity Duty for up to 15 Years
 - b. Exemption from Stamp Duty

The respondents reported receiving benefits under these programs, which we have not previously investigated under the Mega Projects 2007 Scheme of Incentives. Additional information is required to determine whether benefits provided pursuant to these programs are countervailable. Therefore, we intend to seek additional information and include this program in our post-preliminary determination if necessary.

3. VAT Refunds Under the SGOM Package Scheme of Incentives

According to the GOI: “The program is ‘Package Scheme of Incentives 2007 (PSI-2007)’ as per the Government Resolution (GR) dated 30/03/2007. It was made effective from 1st April, 2007. The main objective of the Scheme is to encourage dispersal of industries to the industrially less

developed areas of the State so as to achieve higher and sustainable economic development with balanced regional development.”¹²¹

The Department has previously countervailed this program on the basis of AFA.¹²² In that previous investigation, the GOI failed to provide any information regarding this and other programs administered by the SGOM. In this investigation, the GOI stated “every buyer who is buying material and paying VAT is entitled to a credit of the VAT tax paid on purchases. Thus, in the State of Maharashtra also the buyer is also netting off the tax paid already.”¹²³ This statement appears to suggest that no benefit is conferred through the refund of VAT.¹²⁴ The GOI also provided what appears to be at least a portion of the relevant laws and regulations.¹²⁵ As noted, however, the GOI did not respond to any of the questions in our supplemental questionnaire, including nine questions regarding this program. Moreover, the Department is unable to locate any statement in the laws and regulations submitted in response to the original questionnaire supporting the statement that VAT paid to suppliers can be credited against VAT collected from customers. Therefore, we intend to seek additional information and include this program in our post-preliminary determination if necessary.

Other Subsidies Reported by Respondents

4. Duty Drawback

While the Department did not initiate an investigation of a duty drawback program, the respondents reported receiving duty drawback (DDB) under a program countervailed in a previous investigation.¹²⁶ Section 775 of the Act provides that if the Department “discovers a practice which appears to be a countervailable subsidy, but was not included in the matters alleged in a countervailing duty petition ... then the administering authority (1) shall include the practice, subsidy, or subsidy program in the proceeding if the practice, subsidy, or subsidy program appears to be a countervailable subsidy with respect to the merchandise which is the subject of the proceeding.” Accordingly, we are initiating an investigation of this program.

The DDB program provides rebates of duties or taxes chargeable on any (a) imported or excisable materials and (b) input services used in the manufacture of export goods.¹²⁷ Specifically, the duties and tax “neutralized” under the program are the (i) Customs and Union Excise Duties on inputs and (ii) Service Tax in respect of input services.¹²⁸ The DDB is generally fixed as a percentage of the FOB price of the exported product.¹²⁹

¹²¹ See GOI initial questionnaire response at 126.

¹²² See Hot-Rolled from India 2006 Review and accompanying IDM at “VAT Tax Refunds Under the SGOM Package Scheme of Incentives and the Maharashtra New Package Scheme of Incentives.”

¹²³ See GOI initial questionnaire response at 35.

¹²⁴ See Certain Frozen Warmwater Shrimp from Indonesia: Final Negative Countervailing Duty Determination, 78 FR 50383 (August 19, 2013) and accompanying IDM at 26-27 (explaining that no benefit arises from a typical VAT refund program “because the net VAT incidence to the producer is ultimately zero both under the program and in the absence of the program.”).

¹²⁵ See GOI initial questionnaire response at Annexure 14.

¹²⁶ See Shrimp from India IDM at 12 (“Duty Drawback”).

¹²⁷ Id.

¹²⁸ Id.

¹²⁹ Id.

Import duty exemptions on inputs for exported products are not countervailable so long as the exemption extends only to inputs consumed in the production of the exported product, making normal allowances for waste.¹³⁰ However, the government in question must have in place and apply a system to confirm which inputs are consumed in the production of the exported products, and in what amounts.¹³¹ This system must be reasonable, effective for the purposes intended, and based on generally accepted commercial practices in the country of export.¹³² If such a system does not exist, or if it is not applied effectively, and the government in question does not carry out an examination of actual inputs involved to confirm which inputs are consumed in the production of the exported product, the entire amount of any exemption, deferral, remission or drawback is countervailable.¹³³

Regarding its establishment of applicable DDB rates, the GOI stated the following in Shrimp from India:

The rates are determined following a specified procedure that is undertaken by an independent committee appointed by the Government. The committee makes its recommendations after discussions with all stake holders including Export Promotion Councils, Trade Associations, and individual exporters to solicit relevant data, which includes the data on procurement prices of inputs, indigenous as well as imported, applicable duty rates, consumption ratios and FOB values of export products. Corroborating data is also collected from Central Excise and Customs field formations. This data is analysed and this information is used to form the basis for the rate of Duty Drawback.¹³⁴

However, “based on the GOI’s questionnaire responses and lacking the documentation to support that the GOI has a system in place,” we concluded in that investigation that “the GOI had not supported its claim that its system is reasonable or effective for the purposes intended.”¹³⁵

As explained above, in this investigation, the GOI failed to respond to our supplemental questionnaire, including several questions regarding the DDB reported by the respondents. Since the Department did not initially initiate on this program in this investigation, we will provide the GOI an additional opportunity to demonstrate that it has a system in place to confirm which inputs are consumed in the production of the exported products, and in what amounts; and that the system is reasonable and effective for the purposes intended, based on generally accepted commercial practices in India. We will include our analysis in the post-preliminary determination, if necessary.

¹³⁰ See 19 CFR 351.519(a)(1)(ii).

¹³¹ See, e.g., PET Film from India and accompanying IDM at “DEPS.”

¹³² Id.

¹³³ See 19 CFR 351.519(a)(4)(i)-(ii).

¹³⁴ See Shrimp from India and accompanying IDM at 12-13.

¹³⁵ Id.

5. SGOM Capital Subsidy – Wind Energy Generation

The respondents reported receiving benefits under this program, which we have not previously investigated, of which we did not initiate an investigation in the current proceeding, and which was not addressed in the original or supplemental questionnaires to the GOI. Additional information is required to determine whether benefits provided pursuant to this program are countervailable. Therefore, we intend to seek additional information and include this program in our post-preliminary determination if necessary.

6. SGOM Subsidies for Mega Projects Under the 2007 Package Scheme of Incentives -- CST Refunds

Jindal SAW reported receiving benefits under this program, which we have not previously investigated. We did not initiate an investigation of this program in the current proceeding and it was not addressed in the original questionnaires or supplemental questionnaire to the GOI. Therefore, we intend to seek additional information and include this program in our post-preliminary determination if necessary.

E. Programs Preliminarily Determined To Be Terminated

Duty Entitlement Passbook Scheme (DEPS) and Successor Programs

The GOI reported that the DEPS program was terminated effective October 1, 2011. Although Petitioners' comments suggest the program was still supplying benefits subsequent to the termination,¹³⁶ we preliminarily determine that there could have been no residual benefits during the POI because the DEPS benefit is earned at the time of export.¹³⁷

IX. DISCLOSURE AND PUBLIC COMMENT

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.¹³⁸ Case briefs or other written comments for all non-scope issues may be submitted to Enforcement and Compliance's APO/Dockets Unit no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹³⁹ Case briefs or other written comments on scope issues may be submitted no later than 30 days after the publication of this preliminary determination in the Federal Register, and rebuttal briefs, limited to issues raised in the case briefs, maybe submitted no later than five days after the deadline for the case briefs. For any briefs filed on scope issues, parties must file separate and identical documents on each of the records for the eleven concurrent investigations.

¹³⁶ See Letter from Petitioners (November 14, 2013) at 9.

¹³⁷ See PET Film Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review, 74 FR 7708 (February 11, 2008) and IDM at "Duty Entitlement Passbook Scheme (DEPS/DEPB).

¹³⁸ See 19 CFR 351.224(b).

¹³⁹ See 19 CFR 351.309.

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁴⁰ This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing, or to participate if one is requested, must do so in writing within 30 days after the publication of this preliminary determination in the Federal Register.¹⁴¹ Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date, time and location to be determined. Parties will be notified of the date, time and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using the Department's electronic records system, IA ACCESS.¹⁴² Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,¹⁴³ on the due dates established above.

X. VERIFICATION

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted in response to the Department's questionnaires.


XI. CONCLUSION

We recommend that you approve the preliminary findings described above.

✓

Agree

Disagree



Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

December 16, 2013

(Date)

¹⁴⁰ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁴¹ See 19 CFR 351.310(c).

¹⁴² See 19 CFR 351.303(b)(2)(i).

¹⁴³ See 19 CFR 351.03(b)(1).