




C-533-862  
Investigation  
01/01/2014-12/31/2014  
**Public Document**  
AD/CVD OPS, Office VI: DC

August 7, 2015

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 Polyethylene  
Terephthalate Resin from India

---

## I. SUMMARY

The Department of Commerce (Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain polyethylene terephthalate (PET) resin 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 March 10, 2015, the Department received a petition from DAK Americas, LLC; M&G Chemicals; and Nan Ya Plastics Corporation, America (collectively, Petitioners) seeking the imposition of countervailing duties (CVDs) on PET resin from, *inter alia*, India.<sup>1</sup> Supplements to the petition and our consultations with the Government of India (GOI) are described in the Initiation Checklist.<sup>2</sup> On March 30, 2015, the Department initiated a CVD investigation on PET resin from India.<sup>3</sup>

---

<sup>1</sup> See Letter from Petitioners, "Petitions for the Imposition of Antidumping Duties on Imports of Certain Polyethylene Terephthalate Resin from Canada, The People's Republic of China, India, and the Sultanate of Oman and Countervailing Duties on Imports from The People's Republic of China, India, and the Sultanate of Oman," dated March 10, 2015 (Petitions).

<sup>2</sup> See "Countervailing Duty Investigation Initiation Checklist: Certain Polyethylene Terephthalate Resin from India," April 6, 2015 (Initiation Checklist).

<sup>3</sup> See *Certain Polyethylene Terephthalate Resin From the People's Republic of China, India, and the Sultanate of Oman: Initiation of Countervailing Duty Investigations*, 80 FR 18369 (April 6, 2015) (Initiation Notice).



We stated in the *Initiation Notice* that we intended to base our selection of mandatory respondents on United States 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 April 2, 2015, the Department released the CBP entry data under administrative protective order.<sup>4</sup>

We received respondent selection comments from Ester Industries Limited and Petitioners.<sup>5</sup> On April 27, 2015, we selected Dhunseri Petrochem and Tea Ltd. and JBF Industries Limited as the mandatory respondents.<sup>6</sup> We sent our countervailing duty questionnaire to both companies and the GOI, seeking information regarding the alleged subsidies, on April 28, 2015.<sup>7</sup>

On May 4, 2015, Petitioners requested that the deadline for the preliminary determination be postponed until no later than 130 days after the initiation of the investigation. The Department granted Petitioners' request and on May 7, 2014, postponed the preliminary determination until August 7, 2015, in accordance with section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).<sup>8</sup>

We received responses to our questionnaires and supplemental questionnaires from Dhunseri between May 18 and July 30, 2015; and from the GOI between June 15 and July 27, 2015.<sup>9</sup> We

---

<sup>4</sup> See Letter from the Department to All Interested Parties, regarding the release of CBP data, dated April 2, 2015.

<sup>5</sup> See Letter to the Department from Ester Industries Limited, "Certain Polyethylene Terephthalate Resin From the People's Republic of China, India, and the Sultanate of Oman: Initiation of Countervailing Duty Investigations," dated April 11, 2015. See also Letter to the Department from Petitioners, "Certain Polyethylene Terephthalate Resin: Respondent Selection comments," dated April 13, 2015.

<sup>6</sup> See the Department's Memorandum, "Countervailing Duty Investigation of Certain Polyethylene Terephthalate Resin from India: Respondent Selection Memorandum," dated April 27, 2015. We note that the company name Dhunseri Petrochem and Tea Ltd. was changed to Dhunseri Petrochem Ltd., after a structural reorganization that occurred during the POI. Thus, we will refer to Dhunseri Petrochem Ltd. (Dhunseri) throughout this document and proceeding.

<sup>7</sup> See Letter from the Department to the GOI, "Countervailing Duty Investigation of Polyethylene Terephthalate Resin From India: Countervailing Duty Questionnaire," dated April 28, 2015 (CVD Questionnaire). See also the Department's Memorandum to the File, "Countervailing Duty Questionnaire Delivery to Mandatory Respondent JBF Industries Limited," dated May 5, 2015.

<sup>8</sup> See *Certain Polyethylene Terephthalate Resin From the People's Republic of China, India and the Sultanate of Oman: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 80 FR 27635 (May 14, 2015).

<sup>9</sup> See Letter from Dhunseri, "Polyethylene Terephthalate Resin from India: Initial Response to Section III of Initial Questionnaire – Identification of Affiliated Companies," dated May 18, 2015 (Dhunseri Affiliates response); see also Letter from Dhunseri, "Polyethylene Terephthalate Resin from India: Response to Supplemental Questionnaire on Affiliation Response," dated June 4, 2015 (Dhunseri Affiliates Sup Response); Letter from Dhunseri, "Polyethylene Terephthalate Resin from India: Questionnaire Response to Section III," dated June 15, 2015 (Dhunseri Section III Response ); and Letter from Dhunseri, "Polyethylene Terephthalate Resin from India: Questionnaire Response to Section III Regarding the Export Promotion of Capital Goods and West Bengal Programs," dated June 22, 2015 (Dhunseri 2<sup>nd</sup> Section III Response); Letter from Dhunseri, "Polyethylene Terephthalate Resin from India: Response to Supplemental Section III Questionnaire," dated July 14, 2015 (First Supplemental Response) and Letter from Dhunseri, "Polyethylene Terephthalate Resin from India: Response to Supplemental Section III Questionnaire," dated July 21, 2015 (Second Supplemental Response). With regard to responses submitted by the GOI, see Letter from the GOI, "Countervailing Duty Investigation of Polyethylene Terephthalate Resin From India; Response to Questionnaire by Government of India," dated June 15, 2015 (GOI Response), and Letter from the GOI, "Countervailing Duty Investigation of Polyethylene Terephthalate Resin From India: Response to Supplemental Questionnaire by Government of India," dated July 14, 2015 and July 27, 2015 (GOI Sup Responses).

sent supplemental questionnaires to Dhunseri on May 27, July 1, 16, and 23, 2015; and to the GOI on July 1 and 23, 2015.<sup>10</sup> We did not receive any responses from mandatory respondent JFB Industries Limited.

On May 22, June 26, and July 21, 2015, Petitioners submitted comments on Dhunseri's and the GOI's questionnaire responses.<sup>11</sup> On June 29, 2015, Petitioners submitted new subsidy allegations to the Department.<sup>12</sup> On July 24, 2015 the Department initiated an investigation of these new subsidy allegations and on July 27, 2015 issued a new subsidy allegation questionnaire to Dhunseri and the GOI.<sup>13</sup>

## **B. Period of Investigation**

The period of investigation (POI) is January 1, 2014, through December 31, 2014.

## **III. ALIGNMENT**

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), and based on Petitioners' request,<sup>14</sup> we are aligning the final CVD determination in this investigation with the final determination in the companion antidumping (AD) investigation of PET resin from India. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be due no later than December 21, 2015,<sup>15</sup> unless postponed.

---

<sup>10</sup> See Letter from the Department to Dhunseri, "Supplemental Questionnaire - Dhunseri Petrochem Ltd. (Dhunseri)," dated May 27, 2015; and Letter from the Department to Dhunseri, "Countervailing Duty Investigation of Polyethylene Terephthalate Resin From India: Countervailing Duty Supplemental Questionnaire," dated July 1, July 16, 2015, and July 23, 2015; *see also* Letter from the Department to the GOI, "Countervailing Duty Investigation of Polyethylene Terephthalate Resin From India: Countervailing Duty Supplemental Questionnaire," dated July 1, 2015 (GOI Supplemental) and July 23, 2015 (GOI 2<sup>nd</sup> Supplemental).

<sup>11</sup> See Letter to the Department from Petitioners, "Certain Polyethylene Terephthalate Resin from India: Petitioner's Comments on Dhunseri's Affiliation Response," dated May 22, 2015; Letter to the Department from Petitioners, "Countervailing Duty Investigation of Certain Polyethylene Terephthalate Resin from India: - Petitioner's Deficiency Comments on Respondent's Questionnaire Response," dated June 26, 2015; and Letter to the Department from Petitioners, "Countervailing Duty Investigation of Certain Polyethylene Terephthalate Resin from India - Petitioners' Deficiency Comments on Respondents' Supplemental Questionnaire Responses," dated July 21, 2015.

<sup>12</sup> See Letter to the Department from Petitioners, "Countervailing Duty Investigation of Certain Polyethylene Terephthalate Resin from the India - New Subsidy Allegations," dated June 29, 2015 (NSA Submission).

<sup>13</sup> See Memorandum to Scot Fullerton entitled "Countervailing Duty Investigation: Certain Polyethylene Terephthalate Resin from India New Subsidy Allegations," dated July 24, 2015 and New Subsidy Allegations Questionnaire dated July 27, 2015.

<sup>14</sup> See Letter from the Petitioners dated July 31, 2015.

<sup>15</sup> We note that the current deadline for the final AD determination is December 20, 2015, which is a Sunday. Pursuant to Department practice, the signature date will be the next business day, which is Monday, December 21, 2015. *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

#### **IV. 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 encouraged all parties to submit comments within 20 calendar days of publication of that notice.<sup>16</sup> We did not receive any scope comments from interested parties on the scope itself although we note Ester Industries referenced the scope in its respondent selection comments submitted on April 11, 2015.

#### **V. SCOPE OF THE INVESTIGATION**

The merchandise covered by this investigation is polyethylene terephthalate (PET) resin having an intrinsic viscosity of at least 0.70, but not more than 0.88, deciliters per gram. The scope includes blends of virgin PET resin and recycled PET resin containing 50 percent or more virgin PET resin content by weight, provided such blends meet the intrinsic viscosity requirements above. The scope includes all PET resin meeting the above specifications regardless of additives introduced in the manufacturing process.

The merchandise subject to this investigation is properly classified under subheading 3907.60.00.30 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

#### **VI. 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 April 24, 2015, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of PET resin from, *inter alia*, India.<sup>17</sup>

#### **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 9.5 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation

---

<sup>16</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997); see also *Initiation Notice*, 80 FR at 18370.

<sup>17</sup> See *Certain Polyethylene Terephthalate Resin From Canada, China, India, and Oman: Inv. Nos. 701-TA-531-533 and 731-TA-1270-1273 (Preliminary)* (April 2015); *Certain Polyethylene Terephthalate Resin From Canada, China, India, and Oman*, 80 FR 24276 (April 30, 2015).

Range System.<sup>18</sup> The Department notified the respondents of the 9.5-year AUL in the initial questionnaire and requested data accordingly.<sup>19</sup> No party in this proceeding has disputed the allocation period.

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**

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:

the 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

---

<sup>18</sup> See U.S. Internal Revenue Service Publication 946 (2008), “How to Depreciate Property,” at Table B-2: Table of Class Lives and Recovery Periods.

<sup>19</sup> We note that consistent with past practice, in order to appropriately measure any allocated subsidies, the Department requested and used a 10-year AUL in this investigation. See CVD Questionnaire at II-2. See also *Issues and Decision Memorandum: Final Results of Countervailing Duty Administrative Reviews: Low Enriched Uranium from Germany, the Netherlands, and the United Kingdom*, 70 FR 40000 (July 12, 2005) at Comment 4. Although the POI is a recent period, we are investigating alleged subsidies received over a time period corresponding to the AUL.

large minority voting interest (for example, 40 percent) or a “golden share” may also result in cross-ownership.<sup>20</sup>

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.<sup>21</sup>

To determine whether firms are cross-owned, we turn to the definition of cross-ownership as provided under 19 CFR 351.525(b)(6)(vi). The regulation states that 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 regulation states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations.

Dhunseri identified one cross-owned India company that produced subject merchandise during the AUL and received subsidies, through its shareholding (and later merger) of South Asian Petrochem Limited (SAPL).<sup>22</sup> Therefore, for purposes of this preliminary determination, we are only examining subsidies provided to Dhunseri and to SAPL.

### **C. Denominators**

In accordance with 19 CFR 351.525(b)(1)-(5), the Department considers the basis for the respondent’s receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondent’s 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 Memorandum” prepared for this investigation.<sup>23</sup>

### **D. Benchmarks and Discount Rates**

We are investigating unfulfilled export obligations under the Export Promotion Capital Goods program that the Department treats as loans, and non-recurring, allocable duty waivers under the same program (*see* 19 CFR 351.524(b)(1)). In the section below, we discuss the derivation of the benchmarks and discount rates for measuring the benefit from the loans and non-recurring, allocable grants.

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) stipulates that

---

<sup>20</sup> See *Countervailing Duty Regulations*, 63 FR 65348, 65401 (November 25, 1998) (*Countervailing Duties*).

<sup>21</sup> See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

<sup>22</sup> See Dhunseri Affiliates response at 3 to 4.

<sup>23</sup> See “Countervailing Duty Investigation of Certain Polyethylene Terephthalate from India: Dhunseri Petrochem Ltd. Preliminary Calculation Memorandum,” dated concurrently with this memorandum (Dhunseri Preliminary Calculation Memorandum).

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 the Department will not consider a loan provided by a government-owned special purpose bank for purposes of calculating benchmark rates.<sup>24</sup>

### **Short-Term and Long-Term Rupee Denominated Loans**

Based on Dhunseri's responses, we preliminarily determine that Dhunseri took out comparable rupee-denominated short-term or long-term loans from commercial banks in the years for which we must calculate benchmark and discount rates.<sup>25</sup> However, we are not using these long-term rates for loans, as such loans did not originate in the year the subsidy was provided. As such loan rates were not available, we are preliminarily using national average interest rates pursuant to 19 CFR 351.505(a)(3)(ii). Specifically, we used national average interest rates from the International Monetary Fund's International Financial Statistics (IFS) as benchmark rates for rupee-denominated short-term and long-term loans. We preliminarily find that the IFS rates provide a reasonable representation of both short-term and long-term interest rates for rupee-denominated loans.

### **Discount Rates**

For allocating the benefit from non-recurring grants under the Export Promotion Capital Goods program, we have used the long-term rupee-denominated interest rates described above for the year in which the government agreed to provide the subsidy, consistent with 19 CFR 351.524(d)(3)(i)(A).<sup>26</sup>

## **VIII. Use of Facts Otherwise Available**

Sections 776(a)(1) and (2) of the Act provide that the Department shall 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 when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the

---

<sup>24</sup> 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 Issues and Decision Memorandum, at "Benchmark and Discount Rates" section.

<sup>25</sup> See Dhunseri's Second Supplemental Response dated July 21, 2015 at Revised Exhibit 8.

<sup>26</sup> See Dhunseri Preliminary Calculation Memorandum.

Department to use as adverse facts available (AFA) information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

For the reasons explained below, the Department preliminarily determines that application of facts otherwise available with an adverse inference is warranted, pursuant to section 776(b) of the Act, because, by not responding to our requests for information, JBF Industries Limited failed to cooperate by not acting to the best of its ability.

### **JBF Industries Limited (JBF)**

JBF did not respond to the Department's April 28, 2015, CVD Questionnaire.<sup>27</sup> As a result, we have no information or the data necessary to calculate a subsidy rate for JBF. Accordingly, in reaching our preliminary determination, pursuant to sections 776(a)(2)(A) and (C) of the Act, we have based JBF's CVD rate on facts otherwise available.

The Department has determined that an adverse inference is warranted, pursuant to section 776(b) of the Act, because by not responding to our questionnaire, JBF failed to cooperate by not acting to the best of its ability.<sup>28</sup> Accordingly, our preliminary determination for JBF is based on AFA.

### **Selection of the Adverse Facts Available Rate**

In deciding on which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the rate is sufficiently adverse "as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner."<sup>29</sup> The Department's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."<sup>30</sup>

Because JBF failed to act to the best of its ability in this investigation, as discussed above, we made an adverse inference with respect to the programs on which the Department initiated this investigation, descriptions of which are contained in Attachment I.<sup>31</sup> A complete list of the

---

<sup>27</sup> See Letter from the Department to the GOI, "Countervailing Duty Investigation of Polyethylene Terephthalate Resin From India: Countervailing Duty Questionnaire," dated April 28, 2015 (CVD Questionnaire). See also the Department's Memorandum to the File, "Countervailing Duty Questionnaire Delivery to Mandatory Respondent JBF Industries Limited," dated May 5, 2015 in which the Department placed record evidence showing that the questionnaire was delivered to and received by JBF.

<sup>28</sup> See *Steel Threaded Rod From India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination (Steel Threaded Rod from India Prelim)* and Decision Memorandum at 8-11 (unchanged in Final).

<sup>29</sup> See *Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

<sup>30</sup> See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 316, 103d Cong., 2d Session (1994) ("SAA"), at 870.

<sup>31</sup> See Attachment 1, i.e., the Initiation Checklist.



programs we countervailed is included below at “D.” Preliminary AFA Rates Determined for Programs Used by JBF.” In assigning net subsidy rates for each of the programs for which specific information was required from JBF, we were guided by the Department’s approach in prior India CVD reviews as well as recent CVD investigations involving the People’s Republic of China.<sup>32</sup>

It is the Department’s practice in CVD proceedings to select, as AFA, the highest calculated program-specific rates determined in the instant investigation, or if not available, rates calculated in prior CVD cases involving the same country.<sup>33</sup>

For the alleged income tax programs pertaining to either the reduction of the income tax rates or the payment of no income tax, we have applied an adverse inference that the respondents paid no income tax during the POI.<sup>34</sup> The standard income tax rate for corporations in India is 30 percent.<sup>35</sup> Therefore, the highest possible benefit for the income tax rate programs is 30 percent. We are applying the 30 percent AFA rate on a combined basis (*i.e.*, the income tax programs combined provided a 30 percent benefit).

For programs other than those involving income tax exemptions and reductions, the Department applies the highest calculated rate for the identical program in the investigation if a responding company used the identical program, and the rate is not zero. If there is no identical program within the investigation, or if the rate is zero, the Department uses the highest non-*de minimis* rate calculated for the same or similar program (based on treatment of the benefit) in another India CVD proceeding. Absent an above-*de minimis* subsidy rate calculated for the same or similar program, the Department applies the highest calculated subsidy rate for any program otherwise listed that could conceivably be used by the non-cooperating companies.<sup>36</sup>

For a discussion of the application of the individual AFA rates for the programs under investigation, *see* the “Preliminary AFA Rates Determined for Programs Used by JBF” section, below.

## Corroboration of Secondary Information

---

<sup>32</sup> *See, e.g., Circular Welded Carbon-Quality Steel Pipe From India: Final Affirmative Countervailing Duty Determination*, 77 FR 64468 (October 22, 2012), and accompanying Issues and Decision Memorandum at “Use of Facts Otherwise Available and Adverse Facts Available” section; *see also Certain Hot-Rolled Carbon Steel Flat Products from India: Final Results and Partial Rescission of Countervailing Duty Administrative Review*, 74 FR 20923 (May 6, 2009), and accompanying Issues and Decision Memorandum at “SGOC Industrial Policy 2004-2009” section; *see also Circular Welded Austenitic Stainless Pressure Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 4936 (January 28, 2009), and accompanying Issues and Decision Memorandum at “Application of Facts Available and Use of Adverse Inferences” section.

<sup>33</sup> *See, e.g., Laminated Woven Sacks From the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination, in Part, of Critical Circumstances*, 73 FR 35639 (June 24, 2008), and accompanying Issues and Decision Memorandum at “Selection of the Adverse Facts Available.”

<sup>34</sup> *See Circular Welded Carbon-Quality Steel Pipe From India: Final Affirmative Countervailing Duty Determination*, 77 FR 64468, (October 22, 2012) and accompanying Issues and Decision Memorandum at 11

<sup>35</sup> *See* GOI Sup Response at 15 and SQ-4.

<sup>36</sup> *See, e.g., Lightweight Thermal Paper from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008), and accompanying Issues and Decision Memorandum at “Selection of the Adverse Facts Available Rate.”

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”<sup>37</sup> The SAA provides that to “corroborate” secondary information, the Department will satisfy itself that the secondary information to be used has probative value.<sup>38</sup> The Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information.<sup>39</sup>

With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. The Department will not use information where circumstances indicate that the information is not appropriate as AFA.<sup>40</sup> In the instant case, no evidence has been presented or obtained that contradicts the relevance of the information relied upon in a prior India CVD proceeding. Therefore, in the instant case, the Department preliminarily finds that the information used has been corroborated to the extent practicable.

## **IX. Critical Circumstances**

On July 16, 2015, Petitioners filed a timely critical circumstances allegation, pursuant to section 773(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of PET resin from India.<sup>41</sup> Petitioners submitted U.S. Census Bureau import data in support of its allegation.<sup>42</sup> On July 17, 2015, the Department requested from Dhunseri monthly shipment data of subject merchandise to the United States for the period September 2014 through the month of the preliminary determination.<sup>43</sup> On July 22, 2015, Dhunseri submitted the requested data.<sup>44</sup> On July 23, 2015, the Department sent Dhunseri a supplemental questionnaire regarding the data submitted, to which Dhunseri replied on July 27, 2015.<sup>45</sup>

---

<sup>37</sup> See SAA at 870.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*, at 869-870.

<sup>40</sup> See, e.g., *Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

<sup>41</sup> See Letter from Petitioners dated July 16, 2015.

<sup>42</sup> See Letter to the Department from Petitioners, “Certain Polyethylene Terephthalate Resin from India – Critical Circumstances Allegation,” dated July 16, 2015 (Critical Circumstances Allegation).

<sup>43</sup> See Letter Dhunseri from the Department, “Countervailing Duty Investigation of Polyethylene Terephthalate Resin from India: Request for Monthly Shipment Information,” dated July 17, 2015.

<sup>44</sup> See Letter to the Department from Dhunseri, “PET Resin from India: Critical Circumstances Response,” dated July 22, 2015.

<sup>45</sup> See supplemental questionnaire to Dhunseri and Dhunseri’s response dated July 27, 2015.

In its critical circumstances allegation, Petitioners allege that there is a reasonable basis to believe that there are subsidies in this investigation which are inconsistent with the WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement), including export subsidies and domestic substitution subsidies.<sup>46</sup> In particular, Petitioners cite to allegations including pre- and post-shipment export financing; export promotion of capital goods scheme; duty-drawback (DDE) program; status holder incentive scrip; advance licenses program (aka “advance authorization scheme”); focus market scheme; focus product scheme; special economic zones (various programs); export oriented units (EOU) program; duty drawback on furnace oil procurement from domestic oil companies; and market development assistance program for which the Department initiated an investigation as evidence that this criteria is met.<sup>47</sup> Petitioners also claim that there have been massive imports of PET resin over a relatively short period.<sup>48</sup> Petitioners provided data which it contends demonstrate that imports of subject merchandise in the three months following the filing of the petition increased by more than 15 percent, as compared to the three month period before the filing of the petition, which is considered “massive” under 19 CFR 351.206(h)(2).<sup>49</sup>

*Analysis:* Section 703(e)(1) of the Act provides that the Department will determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A) the alleged countervailable subsidy is inconsistent with the Subsidies Agreement, and (B) there have been massive imports of the subject merchandise over a relatively short period. When determining whether an alleged countervailable subsidy is inconsistent with the Subsidies Agreement, the Department limits its findings to those subsidies contingent on export performance or use of domestic over imported goods (*i.e.*, those prohibited under Article 3 of the Subsidies Agreement).<sup>50</sup> In determining whether imports of the subject merchandise have been “massive,” 19 CFR 351.206(h)(1) provides that the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, the Department will not consider imports to be massive unless imports during the “relatively short period” (comparison period) have increased by at least 15 percent compared to imports during an “immediately preceding period of comparable duration” (base period).<sup>51</sup> 19 CFR 351.206(i) defines “relatively short period” as normally being the period beginning on the date the proceeding commences (*i.e.*, the date the petition is filed) and ending at least three months later. For consideration of this allegation, we have used a three-month base period (*i.e.*, December 2014 through February 2015) and a three-month comparison period (*i.e.*, March 2015 through May 2015).

### *Dhunseri*

As discussed below, under “Analysis of Programs,” the Department finds that, during the POI, Dhunseri received countervailable benefits under a number of programs that are contingent upon

---

<sup>46</sup> See section 703(e)(1)(A) of the Act. See also Critical Circumstances Allegation at 5-7.

<sup>47</sup> See Critical Circumstances Allegation at 6 to 7.

<sup>48</sup> See section 703(e)(1)(B) of the Act. See also Critical Circumstances Allegation at 7 to 9.

<sup>49</sup> See Critical Circumstances Allegation at Attachment 1.

<sup>50</sup> See, *e.g.*, *Steel Threaded Rod from India: Preliminary Affirmative Determination of Critical Circumstances for the Countervailing Duty Investigation*, 79 FR 9162 (February 18, 2014) (*Steel Threaded Rod from India*).

<sup>51</sup> See 19 CFR 351.206(h)(2).

export performance, *e.g.*, Export Promotion of Capital Goods Scheme (EPCGS); Duty Drawback Scheme; and the Focus Product Scheme. Therefore, we preliminarily determine that there is a reasonable basis to believe or suspect that there is a program in this investigation which is inconsistent with the Subsidies Agreement. In determining whether there were massive imports from Dhunseri, we analyzed Dhunseri's monthly shipment data for the period December 2014 through May 2015. These data indicate that there was not a massive increase, as defined in 19 CFR 351.206(h)(2), in shipments of subject merchandise to the United States by Dhunseri during the three-month period immediately following the filing of the petition on March 10, 2015.<sup>52</sup>

#### *JBF*

Because JBF is not participating in this investigation,<sup>53</sup> consistent with Department practice, we have based our critical circumstances determination for JBF on AFA, in accordance with sections 776(a) and (b) of the Act and 19 CFR 351.308(c).<sup>54</sup> As AFA, we preliminarily determine that JBF received countervailable benefits under programs that are contingent upon export performance. Also, as AFA, we preliminarily determine that JBF made massive imports of subject merchandise over a relatively short period of time.

#### *All Other Exporters/Producers*

With regard to whether imports of subject merchandise by the "all other" producers/exporters of PET resin in India were massive, we preliminarily determine that because there is evidence of the existence of countervailable subsidies that are inconsistent with the Subsidies Agreement, an analysis is warranted as to whether there was a massive increase in shipments by the "all other" companies, in accordance with section 703(e)(1)(B) of the Act and 19 CFR 351.206(h). Therefore, we analyzed, in accordance with 19 CFR 351.206(i), monthly shipment data for the period December 2014 through May 2015, using shipment data from Global Trade Services (GTS), adjusted to remove shipments reported by the only exporter actively participating in this investigation, Dhunseri.<sup>55</sup> The resulting data indicate there was a massive increase in shipments, as defined by 19 CFR 351.206(h).<sup>56</sup>

---

<sup>52</sup> See Department Memorandum, "Monthly Shipment Q&V Analysis for Critical Circumstances," dated concurrently with this memorandum (Critical Circumstances Memorandum).

<sup>53</sup> JBF did not respond to the Department's CVD Questionnaire; thus for the *Preliminary Determination*, we based JBF's CVD rate upon facts other available and made an adverse inference in selecting from among the facts available.

<sup>54</sup> See, *e.g.*, *Steel Threaded Rod from India*.

<sup>55</sup> See, *e.g.*, *Steel Wire Garment Hangers From the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Critical Circumstances*, 77 FR 73430, 73432 (December 10, 2012), unchanged in *Certain Steel Wire Garment Hangers From the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 75973, 75974 (December 26, 2012); see also *Certain Oil Country Tubular Goods From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Negative Critical Circumstances Determination*, 74 FR 47210, 47212 (September 15, 2009), unchanged in *Certain Oil Country Tubular Goods From the People's Republic of China: Final Affirmative Countervailing Duty Determination: Final Negative Critical Circumstances Determination*, 74 FR 64045, 64047 (December 7, 2009).

<sup>56</sup> See Critical Circumstances Memorandum.

As a result of an affirmative preliminary determination of critical circumstances, in accordance with section 703(e)(2)(A) of the Act, we are directing CBP to suspend liquidation, with regards to all exporters of PET resin, other than Dhunseri, of any unliquidated entries of subject merchandise from India entered, or withdrawn from warehouse for consumption 90 days prior to the date of publication of the Preliminary Determination in the *Federal Register*.

## **X. ANALYSIS OF PROGRAMS**

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

### **A. Program Preliminarily Determined To Be Countervailable**

#### *1. Export Promotion of Capital Goods Scheme (EPCG)*

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.<sup>57</sup> Once a company has met its export obligations, the GOI will formally waive the exempted duties on the imported goods.<sup>58</sup>

The Department has previously determined that import duty reductions or exemptions provided under the EPCG program are countervailable export subsidies because the scheme: (1) provides a financial contribution pursuant to section 771(5)(D)(ii) of the Act; (2) provides two different benefits under section 771(5)(E) of the Act; and (3) is specific pursuant to sections 771(5A)(A) and (B) of the Act because the program is contingent upon export performance.<sup>59</sup> Because the above-cited evidence with respect to this program is consistent with the findings in, *inter alia*, *PET Film Final Determination* and *Shrimp from India*, we preliminarily determine that this program is countervailable.

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).<sup>60</sup> 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

---

<sup>57</sup> See GOI Response at 22 – 25.

<sup>58</sup> *Id.*

<sup>59</sup> See, e.g., *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 Final Determination*), and accompanying Issues and Decision Memorandum at “EPCGS” section; see also *Shrimp from India*, and accompanying Issues and Decision Memorandum at 14.

<sup>60</sup> *Id.*

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 of the Department's 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...".<sup>61</sup> In accordance with 19 CFR 351.524(c)(2)(iii) and past practice, we are treating these import duty exemptions on capital equipment as non-recurring benefits.<sup>62</sup>

Dhunseri reported that it imported capital goods at reduced import duty rates under the EPCG program. Information provided by Dhunseri indicates that their EPCG licenses were issued for the purchase of capital goods used for the production of subject and non-subject merchandise<sup>63</sup> so we are attributing the EPCG benefits received by Dhunseri to their total exports consistent with 19 CFR 351.525(b)(5).

Dhunseri met the export requirements for certain EPCG licenses prior to December 31, 2014 (the last day of the POI), and the GOI has formally waived the relevant import duties. For a number of their licenses, however, Dhunseri had not yet met its export obligation as required under the program. Therefore, although Dhunseri received a deferral from paying import duties for the capital goods that were imported, the final waiver of the obligation to pay the duties was not demonstrated for a number of these imports.<sup>64</sup>

Dhunseri reported that although SAPL was originally established as an Export Oriented Unit (EOU), it "de-bonded" from being an EOU unit on October 15, 2009 and opted for conversion to the EPCG program. Dhunseri claims that all exempted import duty liability on capital goods from the EOU program (calculated after taking into account the rate of depreciation set by the Indian government) ended up being transferred and therefore exempted under the EPCG license. Dhunseri reported these exempted import duties under the EPCG section.<sup>65</sup> Dhunseri later confirmed that the export obligation for all imports of capital goods under this scheme were fulfilled.<sup>66</sup>

To calculate the benefit received from the GOI's formal waiver of import duties on Dhunseri's capital equipment where the export obligations were met prior to December 31, 2014 (the last day of the POI), we used the total amounts of duties waived. We treated these amounts as grants pursuant to 19 CFR 351.504. Further, consistent with the approach followed in the *PET Film Final Determination*, we preliminarily determined the year of receipt of the benefit to be the year

---

<sup>61</sup> See *Countervailing Duties*, 63 FR 65348, 65393 (November 25, 1998).

<sup>62</sup> See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 75 FR 6634 (February 10, 2010), and accompanying Issues and Decision Memorandum at Comment 9; see also *Shrimp from India Prelim* and accompanying Decision Memorandum at "Duty Incentives under the Export Promotion Capital Goods ("EPCG") Program," unchanged in *Shrimp from India*.

<sup>63</sup> See Dhunseri 2<sup>nd</sup> Section III Response at 1.

<sup>64</sup> See Dhunseri 2<sup>nd</sup> Section III Response at 5-6.

<sup>65</sup> See Dhunseri Section III Response at 35 to 35 and Dhunseri 2<sup>nd</sup> Section III Response at 5-6.

<sup>66</sup> See First Supplemental Response at 6.

in which the GOI formally waived the respondents' outstanding import duties.<sup>67</sup> Next, we performed the "0.5 percent" test," as prescribed under 19 CFR 351.524(b)(2), for the total value of duties waived, for each year in which the GOI granted Dhunseri 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 amount of the waived duties 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 waived duty amount using the allocation period of 10 years for nonrecurring subsidies, in accordance with 19 CFR 351.524(d)(2). *See* the "Allocation Period" section, above. 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. *See* "Benchmarks and Discount Rates" section, above.

As noted above, import duty reductions or exemptions that the respondents received on the imports of capital equipment for which they had not yet met export obligations may have to be repaid to the GOI if the obligations under the licenses are not met. Consistent with our practice and prior determinations, we are treating the unpaid import duty liability as an interest-free loan.<sup>68</sup>

The amount of the unpaid duty liabilities to be treated as an interest-free loan is the amount of the import duty reduction or exemption for which the respondent applied, but 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 respondent would have paid during the POI had it borrowed the full amount of the duty reduction or exemption at the time of importation.<sup>69</sup>

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 then divided the total benefit received by the respondent under the EPCG program by Dhunseri's total exports of subject merchandise during the POI.

---

<sup>67</sup> *See PET Film Final Determination*, and accompanying Issues and Decision Memorandum at Comment 5.

<sup>68</sup> *See* 19 CFR 351.505(d)(1); *see also Shrimp India Prelim*, and accompanying Decision Memorandum at EPCG Program (unchanged in *Shrimp from India*).

<sup>69</sup> *Id.*

On this basis, we preliminarily determine a countervailable subsidy of 0.16 percent *ad valorem* for Dhunseri.

## 2. *Duty Drawback (DDB)*

Dhunseri reported receiving duty rebates under this program.<sup>70</sup> The GOI explained that the DDB program provides rebates for duty or tax chargeable on any (a) imported or excisable materials and (b) input services used in the manufacture of export goods.<sup>71</sup> Specifically, the duties and tax “neutralized” under the program are the (i) Customs and Union Excise Duties in respect of inputs and (ii) Service Tax in respect of input services.<sup>72</sup> The duty drawback is generally fixed as a percentage of the FOB price of the exported product.<sup>73</sup>

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.<sup>74</sup> 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.<sup>75</sup> This system must be reasonable, effective for the purposes intended, and based on generally accepted commercial practices in the country of export.<sup>76</sup> 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.<sup>77</sup>

Regarding its establishment of applicable duty drawback rates, the GOI stated the following:

The rates are determined following a specified procedure that is undertaken by an independent committee by the GOI. The committee makes its recommendations after discussions with all stake holder{s} including Export Promotion Councils, Trade Associations, and individual exporters to solicit relevant data, which may include data on procurement prices of inputs, indigenous as well as imported, applicable duty rates, consumption ratios and FOB values of export products. Corroborating data may also be collected from Central Excise and Customs field formations. This data is analyzed and this information is used to form the basis for the rate of Duty Drawback.<sup>78</sup>

We requested that the GOI provide a copy of the recommendations and supporting documents for the drawback rates in effect during the POI;<sup>79</sup> the GOI did not provide the requested

---

<sup>70</sup> See Dhunseri Section III Response at 20.

<sup>71</sup> See GOI Response at 35.

<sup>72</sup> *Id.*, at 35 – 36.

<sup>73</sup> *Id.*, at 36.

<sup>74</sup> See 19 CFR 351.519(a)(1)(ii).

<sup>75</sup> See *Shrimp from India*, and accompanying Issues and Decision Memorandum at “Duty Drawback (DDB).”

<sup>76</sup> *Id.*

<sup>77</sup> See 19 CFR 351.519(a)(4)(i)-(ii).

<sup>78</sup> See GOI Response at 51 – 52.

<sup>79</sup> See GOI Supplemental at 2.



documentation.<sup>80</sup> Thus, consistent with *Shrimp from India*, based on the GOI's questionnaire response that lacks the documentation to support that the GOI has a system in place to confirm which inputs are consumed in the production of the exported products, and in what amounts, we preliminarily conclude that the GOI has not supported its claim that its system is reasonable or effective for the purposes intended.<sup>81</sup>

Accordingly, we preliminarily determine that the DDB confers a countervailable subsidy. Under the DDB, a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided because rebated duties represent revenue forgone by the GOI. Moreover, as explained above, the GOI has not supported its claim that the DDB system is reasonable and effective in confirming which inputs, and in what amounts, are consumed in the production of the exported product. Therefore, under 19 CFR 351.519(a)(4), the entire amount of the import duty rebate earned during the POI constitutes a benefit. Finally, this program is only available to exporters; therefore, it is specific under sections 771(5A)(A) and (B) of the Act.

Pursuant to 19 CFR 351.519(b)(1), we find that benefits from the DDB program are conferred as of the date of exportation of the shipment for which the pertinent drawbacks are earned. We calculated the benefit on an as-earned basis upon export because drawback under the program is provided as a percentage of the value of the exported merchandise on a shipment-by-shipment basis. As such, it is at this point that recipients know the exact amount of the benefit (*i.e.*, the value of the drawback).

We calculated the subsidy rate using the value of all DDB duty rebates that Dhunseri earned on U.S. sales during the POI. We divided the total amount of the benefit received by Dhunseri by the company's total sales of U.S. exports during the POI.

On this basis, we preliminarily determine a countervailable subsidy rate of 2.97 percent *ad valorem* for Dhunseri.

### 3. Focus Product Scheme (FPS)

Dhunseri reported receiving an incentive from the GOI under the FPS.<sup>82</sup> The FPS is an incentive on select export of products.<sup>83</sup> The incentives are paid to offset infrastructure inefficiencies and other associated costs involved in the marketing of these products.<sup>84</sup> The FPS incentive rate for PET resin is two percent of the FOB value of the export and provides for duty-free imports of inputs and capital goods.

We preliminarily determine that this program provides a financial contribution in the form of revenue forgone under section 771(5)(D)(ii) of the Act. Further, we determine that the FPS program is specific under sections 771(5A)(A) and (B) of the Act because it is limited to

---

<sup>80</sup> See GOI Supplemental Response at 3-10.

<sup>81</sup> See *Shrimp from India*, and accompanying Issues and Decision Memorandum at 12-14.

<sup>82</sup> See Dhunseri Section III Response at 30.

<sup>83</sup> See GOI Response at 88, and Exhibits 23, 24, and 27.

<sup>84</sup> *Id.*

exporters. Furthermore, the entire amount of the FPS constitutes a benefit under section 771(5)(E) of the Act.

Consistent with 19 CFR 351.519(b)(2), we find that the benefits from the FPS program are conferred as of the date of exportation of the shipment for which the FPS is earned. This is because the FPS credits are provided as a percentage of the value of the exported merchandise on a shipment-by-shipment basis. As such, the recipients know the exact amount of the benefit when exportation occurs. We calculated the subsidy rate thus by summing the reported benefit provided to Dhunseri and by dividing the total benefit incurred on U.S. sales by the total value of exports to the United States.

On this basis, we preliminarily determine a countervailable subsidy rate of 2.00 percent *ad valorem* for Dhunseri for this program.

#### 4. Income Tax Exemption Scheme (ITES)

According to the GOI, under Section 80-IA of the Income Tax Act, 1961, a company may deduct 100 percent of the profits derived from a specified eligible business undertaking from its taxable income.<sup>85</sup> The deduction may be claimed for any ten consecutive years out of a period of fifteen years from the first year of operation. Dhunseri explained that “[t]o receive the deduction in its tax return, a company identifies itself as having an ‘undertaking’ or ‘infrastructure facility’ and furnishes with its tax return an audited report of the ‘undertaking’ or ‘infrastructure facility’ on a Form 10CCB.”<sup>86</sup> Furthermore, “Dhunseri’s captive power plant at Haldia is an eligible ‘undertaking’ under Section 80 IA(4)(iv)(a) of the Income Tax Act. Thus, profits from this project are entitled to a deduction under Section 80 IA.”<sup>87</sup>

A company claiming a benefit under section 80-IA is required to submit an audited return with supporting documents to an agency of the Ministry of Finance, which assesses the documents and approves or denies the claim.<sup>88</sup> The GOI did not provide data on program use by industrial classification and stated it does not maintain usage information at an aggregate level.<sup>89</sup>

Because information provided by the GOI indicates that financial assistance under this program is expressly limited by law to enterprises engaging in five specific activities, we find this program to be *de jure* specific under section 771(5A)(D)(i) of the Act. The tax deductions are financial contributions in the form of revenue foregone by the government under section 771(5)(D)(ii) of the Act. Under 19 CFR 351.509(a), the benefit is equal to the difference between the income tax actually paid and the income tax that would have paid absent the program. To calculate the subsidy rate, we divided the benefit by the total sales of Dhunseri during the POI.

---

<sup>85</sup> *Id.*, at 100 – 101.

<sup>86</sup> See Dhunseri Section III Response at 42.

<sup>87</sup> *Id.*

<sup>88</sup> See GOI Response at 110.

<sup>89</sup> *Id.*, at 111.

On this basis, we preliminarily determine the countervailable subsidy rate for Dhunseri under this program to be 0.35 percent *ad valorem*.

#### 5. *Incentive Under The West Bengal State Support for Industries Scheme*

The objective of this scheme is to assist in the growth of large and medium-scale units through Industrial Projects.<sup>90</sup> It came into effect on and from the April 1, 2008 in the whole West Bengal and remains valid for the period ending on March 31, 2013.<sup>91</sup> Dhunseri also reported earlier schemes such as the West Bengal Incentive Scheme, 1999, the Bengal Incentive Scheme, 2004 and the West Bengal State Support for Industries Scheme, 2008.

The programs offer various incentives and tax concessions to industrial units to assist them in the construction of new units or expansion of existing units, and the building of infrastructure in the backward areas of West Bengal. The amount of financial assistance an industrial unit is eligible to receive is determined by its location in West Bengal. Under the scheme, West Bengal is divided into four regions: Group A (i.e., Calcutta) is classified as developed, while Groups B through D are categorized as less developed, with Group D deemed the most backward. Industrial units located in the more backward areas receive greater monetary assistance than those units located in the more developed areas.

Dhunseri claims that upon a review of its participation in all three schemes, Dhunseri has found it did not receive a benefit from almost all of the incentives provided by these ‘schemes.’<sup>92</sup> In particular, Dhunseri claims that the only program it received a benefit from was remission of sales tax on the sale of finished goods. Dhunseri claims, and reported a benefit for, the program with regard to sales within West Bengal, for which Dhunseri collected VAT on its sales during the POI, but was not required to pay VAT to tax authorities under WBIS 1999.<sup>93</sup> Dhunseri claims it did not receive any benefit from any of the other programs.

We find that the assistance granted to Dhunseri under Scheme 1993 is specific within the meaning of section 771(5A)(D)(iv) of the Act, because the benefits are limited to companies located in specific regions within West Bengal.<sup>94</sup> The sales tax exemption which Dhunseri received is revenue foregone, and therefore a financial contribution in accordance with section 771(5)(D)(ii) of the Act. Both forms of assistance provide benefits in accordance with section 771(5)(E) of the Act.

To calculate the countervailable subsidy for Dhunseri we divided the total sales (VAT) tax exemptions received by Dhunseri during the POI by Dhunseri’s total sales.

On this basis, we preliminarily determine the countervailable subsidy to be 0.02 percent *ad valorem* for Dhunseri.

---

<sup>90</sup> See GOI Response at 117.

<sup>91</sup> *Id.*

<sup>92</sup> See Dhunseri Response dated June 22, 2015 at 14.

<sup>93</sup> *Id.* at 15.

<sup>94</sup> See Dhunseri June 22, 2015 response at 14.

## **B. Programs Preliminarily Determined To Be Not Used or Not To Confer a Benefit During the POI by Dhunseri**

### *Pre- and Post-Shipment Export Financing*

During the POI, the GOI provided pre- and post-export financing to make short-term working capital available to exporters at internationally comparable interest rates.<sup>95</sup> The financing was denominated in rupees and in foreign currencies.<sup>96</sup>

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. However, beginning on July 1, 2010, the RBI eliminated the interest rate cap and allowed participating commercial banks to set the interest rates for these export loans based on the bank's own operating and lending costs.<sup>97</sup> The RBI also instituted an interest subvention program for certain exporting sectors and companies, and for small and medium sized companies, valid up to March 31, 2014.<sup>98</sup> However, Dhunseri states that it did not qualify for these programs.<sup>99</sup> We preliminarily determine that rupee-denominated pre- and post- shipment export loans that were eligible for the interest rate subvention confer countervailable subsidies on the subject merchandise 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) these loans give rise to a benefit, as described further below, because the interest rates are lower than the interest rates on comparable commercial loans (*see* section 771(5)(E)(ii) of the Act); and (3) these loans are specific under sections 771(5A)(A) and (B) of the Act because they are contingent upon export performance. However, because Dhunseri reported not utilizing this program, we preliminarily determine that it was not used.

With respect to export financing denominated in foreign currencies, Dhunseri reported it did not receive any pre- and post-shipment export financing during the POI.<sup>100</sup> The GOI explained that the RBI required banks up to May 4, 2012, to fix the rates of interest with reference to ruling LIBOR, EURO LIBOR or EURIBOR, and these rates were subject to caps, with the size of the cap varying depending on the duration of the loan. However, the government changed the manner in which the foreign currency-denominated export loan program operated and effective May 5, 2012, banks were free to determine the interest rate on export loans provided in foreign currencies and now provide export credit to exporters at internationally competitive rates under the programs of "Pre-shipment Credit in Foreign Currency" and "Rediscounting of Export Bills Abroad."<sup>101</sup> As a result, we have previously found that the GOI terminated the foreign currency export financing program on May 5, 2012.<sup>102</sup>

---

<sup>95</sup> See GOI Response at 5.

<sup>96</sup> *Id.*, at 6 – 9 and Exhibit 1.

<sup>97</sup> *Id.*, at 6.

<sup>98</sup> *Id.*, at 8 – 9 and Exhibit 2.

<sup>99</sup> See Dhunseri Supplemental Response dated July 14, 2015 (Dhunseri First Supplemental Response) at 4 to 5.

<sup>100</sup> See Dhunseri Section III Response at 16.

<sup>101</sup> See GOI Response at 9.

<sup>102</sup> See GOI Response at 8, 18, and 20 – 21. See also *Certain Frozen Warmwater Shrimp From India: Preliminary Countervailing Duty Determination*, 78 FR 33344 (June 4, 2013) (*Shrimp India Prelim*), and accompanying Decision Memorandum at "Pre and Post-Shipment Export Financing," unchanged in *Shrimp from India*.

In *Shrimp from India*, the GOI supported its claim with a copy of the “Master Circular - Rupee / Foreign Currency Export Credit & Customer Service To Exporters,” issued by RBI, which was included also as part of Dhunseri’s response in the instant investigation.<sup>103</sup>

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

In *Shrimp from India*, as well as the instant investigation, 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.<sup>104</sup> Therefore, consistent with the Department’s determination in *Shrimp from India*, we are determining Dhunseri had no foreign currency denominated export loan benefit during the POI.

Dhunseri reported that it also did not use the following benefits during the POI or during the AUL period.

*Government of India Programs*

- a) Status Holder Incentive Scrip
- b) Advance Licenses Program
- c) Focus Market Scheme
- d) Special Economic Zones (SEZ) (6 programs)
- e) Export Oriented Units (EOUs) Program: Duty Drawback on Furnace Oil Procured from Domestic Oil Companies
- f) GOI Loan Guarantees
- g) Market Development Assistance Program

---

<sup>103</sup> *Id.* See also Dhunseri Section III Response at Exhibit 9.

<sup>104</sup> See *Shrimp from India* and accompanying Issues and Decision Memorandum at “Export Financing Program” section; see also GOI Response at 10, 18, and 20 – 21; and Dhunseri Section III Response at 16 – 17.

## State Government Programs

- h) Maharashtra Market Development Assistance Program
- i) Maharashtra Industrial Promotion Subsidy
- j) Maharashtra Electricity Duty Exemption
- k) Maharashtra Waiver of Stamp Duty
- l) State Government of Maharashtra- Incentives to Strengthening Micro-, Small-, and Medium- Sized and Large Scale Industries
- m) State Government of Gujarat- Industrial Policy 2009 Scheme

### C. Programs For Which Additional Information Is Needed

On July 24, 2015, we initiated an investigation of three new subsidy allegations filed by Petitioners. We are awaiting questionnaire responses from the participating respondent and the GOI,<sup>105</sup> and intend to include these programs in a post-preliminary determination.

### D. Preliminary AFA Rates Determined for Programs Used by JBF

As explained above, we are making the preliminary determination using AFA that JBF received countervailable subsidies under each of the subsidy programs that the Department included in its initiation, other than those found to be terminated and not replaced. We also included programs self-identified by Dhunseri, as nothing in the description of the programs would limit them to Dhunseri; thus, we determine that JBF could benefit from the same programs. Listed below are the AFA rates applicable to each program.

Program	Ad Valorem Subsidy Rate (Percent)
Pre-Shipment and Post-Shipment Financing <sup>106</sup>	2.90
Export Promotion of Capital Goods Scheme (EPCGS) <sup>107</sup>	0.15
Duty Drawback Scheme <sup>108</sup>	2.97
Status Holder Incentive Scrip Scheme <sup>109</sup>	0.23
Advance Licenses Program <sup>110</sup>	6.82

<sup>105</sup> The responses are currently due August 10, 2015.

<sup>106</sup> See *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 Investigation*) and accompanying Issues and Decision Memorandum at the “Pre- and Post Shipment Export Financing” section where the Department calculated a rate for an identical program.

<sup>107</sup> Calculated Rate from Dhunseri for identical program in this proceeding.

<sup>108</sup> *Id.*

<sup>109</sup> See *Steel Threaded Rod from India: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*; 2012-2013 79 FR 40714 (July 14, 2014) (*Steel Threaded Rod*) and accompanying Issues and Decision Memorandum at “Advance Licenses Program” where the Department calculated a rate for the identical program.

<sup>110</sup> See *Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 71 FR 7534 (February 13, 2006), and accompanying Issues and Decision Memorandum at “Status Holder Incentive Scrip (“SHIS”)” where the Department calculated a rate for the identical program.

Focus Market Scheme <sup>111</sup>	16.63
Focus Product Scheme <sup>112</sup>	2.00
SEZ-A) Duty-Free Importation of Capital Goods and Raw Materials, <i>etc.</i> <sup>113</sup>	1.23
SEZ-B) Exemption from Payment of Central Sales Tax (CST) on Purchases of Capital Goods and Raw Materials <sup>114</sup>	0.53
SEZ-C) Exemption from Stamp Duty <sup>115</sup>	3.09
SEZ-D) Exemption from Electricity Duty and Cess <sup>116</sup>	0.21
SEZ-E) Income Tax Exemptions (Section 10A) and Income Tax Exemption Scheme (80-IA) <sup>117</sup>	30.00
SEZ-F) Discounted Land Fees in an SEZ <sup>118</sup>	0.04
Export Oriented Units (EOU) Program: Duty Drawback on Furnace Oil Procured from Domestic Oil Companies <sup>119</sup>	0.34
Government of India Loan Guarantees <sup>120</sup>	2.90

<sup>111</sup> See *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From India*, 66 FR 49635 (September 28, 2001), (*HRS from India*) and accompanying Issues and Decision Memorandum (HRS from India I&D Memorandum) at Export Promotion Capital Goods Scheme where the Department calculated a subsidy rate for any program from any CVD proceeding involving India that JBF could have conceivably used.

<sup>112</sup> Calculated Rate from Dhunseri for identical program in this proceeding.

<sup>113</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review; 2012 80 FR 11163, (March 2, 2015)* and Memorandum at “Duty-Free Importation of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Materials” where the Department calculated a rate for the identical program.

<sup>114</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip From India: Final Results of Countervailing Duty New Shipper Review*, 76 FR 30910 (May 27, 2011), and accompanying Issues and Decision Memorandum at “Exemption from Payment of Central Sales Tax (CST) on Purchases of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material” where the Department calculated a rate for the identical program

<sup>115</sup> See *Final Results of Countervailing Duty Administrative Review: Certain Hot-Rolled Carbon Steel Flat Products from India*, 71 FR 28665 (May 17, 2006) and accompanying Issues and Decision Memorandum at the “State Government of Gujarat (SGOG) Tax Incentives” section where the Department calculated a rate for a similar program.

<sup>116</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review 2012-2013*, 80 FR 11163 (March 2, 2015) (*PET Film 2012-2013*) and accompanying Issues and Decision Memorandum at “Exemption from Electricity Duty and Cess (a tax or levy) Thereon on the Sale or Supply to the SEZ Unit” where the Department calculated a rate for the identical program.

<sup>117</sup> See *Circular Welded Carbon-Quality Steel Pipe From India: Final Affirmative Countervailing Duty Determination* 77FR 64468 (October 22, 2012) at 11.

<sup>118</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty New Shipper Review*, 76 FR 30910 (May 27, 2011) and accompanying Issues and Decision Memorandum at “Discounted Land Fees in an SEZ” where the Department calculated a rate for the identical program.

<sup>119</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Bottle-Grade Polyethylene Terephthalate (PET) Resin From India* 70 FR 13451, (March 21, 2005) and accompanying Issues and Decision Memorandum at the “Export-Oriented Unit (EOU) Program: Duty Drawback on Furnace Oil Procured from Domestic Oil Companies” where the Department calculated a rate for an identical program.

<sup>120</sup> See *PET Film; 2012–2013* at accompanying Issues and Decision Memorandum at “Government of India Loan Guarantees” where the Department calculated a rate for the identical program.

Market Development Assistance Program <sup>121</sup>	16.63
State and Union Territory Sales Tax Incentive Programs <sup>122</sup>	3.99
State Government of Maharashtra- Industrial Promotion Subsidy <sup>123</sup>	6.06
State Government of Maharashtra- Electricity Duty Exemption <sup>124</sup>	3.09
State Government of Maharashtra- Waiver of Stamp Duty <sup>125</sup>	3.09
State Government of Maharashtra- Incentives to Strengthen Micro-, Small-, and Medium- Sized Manufacturing Enterprises <sup>126</sup>	6.06
Incentives Under the West Bengal State Support for Industries Scheme – 2008 <sup>127</sup>	0.02
Subsidy Programs in the State of Gujarat <sup>128</sup>	6.06
<b>Total AFA Subsidy Rate</b>	<b>115.04</b>

## XI. CALCULATION OF THE ALL OTHERS RATE

Sections 703(d) and 705(c)(5)(A) of the Act state that for companies not investigated, we will determine an all-others rate by weighting the individual company subsidy rate of each of the companies investigated by each company's exports of subject merchandise to the United States excluding rates that are zero or *de minimis* or any rates determined entirely on the facts available. In this investigation, the only rate that is not zero or *de minimis* or based entirely on the facts available is the rate calculated for Dhunseri. Consequently, the rate calculated for Dhunseri is also assigned as the "all others" rate.

<sup>121</sup> See *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From India* 66 FR 49635 (September 28, 2001) (*HRS from India*), and accompanying Issues and Decision Memorandum (*HRS from India I&D Memorandum*) at Export Promotion Capital Goods Scheme, where the Department calculated a subsidy rate for any program from any CVD proceeding involving India that JBF could have conceivably used.

<sup>122</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 73 FR 7708 (February 11, 2008) and accompanying Issues and Decision Memorandum at "State Sales Tax Incentive Programs" where the Department calculated a rate for the identical program.

<sup>123</sup> See *HRS from India*, and accompanying Issues and Decision Memorandum at "GOI Forgiveness of SDF Loans Issued to SAIL" where the Department calculated a rate for a similar program.

<sup>124</sup> See *Final Results of Countervailing Duty Administrative Review: Certain Hot-Rolled Carbon Steel Flat Products from India*, 71 FR 28665 (May 17, 2006) and accompanying Issues and Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives," where the Department calculated a rate for a similar program.

<sup>125</sup> *Id.*

<sup>126</sup> See *HRS from India*, and accompanying Issues and Decision Memorandum at "GOI Forgiveness of SDF Loans Issued to SAIL" where the Department calculated a rate for a similar program.

<sup>127</sup> Calculated Rate from Dhunseri for identical program in this proceeding.

<sup>128</sup> See *HRS from India*, and accompanying Issues and Decision Memorandum at "GOI Forgiveness of SDF Loans Issued to SAIL" where the Department calculated a rate for a similar program.



## **XII. ITC NOTIFICATION**

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

## **XIII. 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.<sup>129</sup> Case briefs or other written comments for all non-scope issues may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) 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.<sup>130</sup> 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, may be 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 three concurrent countervailing duty investigations.

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.<sup>131</sup> This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*.<sup>132</sup> 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.

---

<sup>129</sup> See 19 CFR 351.224(b).

<sup>130</sup> See 19 CFR 351.309(c)-(d); *see also* 19 CFR 351.303 (for general filing requirements).

<sup>131</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>132</sup> See 19 CFR 351.310(c).

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using the Department's electronic records system, ACCESS.<sup>133</sup> Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,<sup>134</sup> on the due dates established above.

#### **XIV. 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.

#### **RECOMMENDATION**

We recommend that you approve the preliminary findings described above.

✓

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

Ronald K Lorentzen

Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

August 7, 2015  
Date

<sup>133</sup> See 19 CFR 351.303(b)(2)(i).

<sup>134</sup> See 19 CFR 351.303(b)(1).