



C-533-844

Administrative Review


POR: 01/01/2014 – 12/31/2014

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October 5, 2016

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 Preliminary Results of 2014
Countervailing Duty Administrative Review: Certain
Lined Paper Products from India

Summary

In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on certain lined paper products from India for the period of review (POR) January 1, 2014, through December 31, 2014. The Department preliminarily determines that Goldenpalm Manufacturers PVT Ltd. (Goldenpalm) received countervailable subsidies during the POR.

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries of subject merchandise entered during the POR. Interested parties are invited to comment on these preliminary results. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), we intend to issue the final results within 120 days after publication of these preliminary results.

Background

On September 28, 2006, the Department published in the *Federal Register* the *Lined Paper Order*.¹ On September 3, 2015, the Department published a notice of opportunity to request an administrative review of this CVD order.² In response, on September 30, 2015, Goldenpalm, Kokuyo Riddhi Paper Products Private Limited (Kokuyo) and Navneet Education Ltd. (Navneet)

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

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 78 FR 54235 (September 3, 2013).



filed timely requests for review.³ These were the only three parties that requested reviews. The Department published in the *Federal Register* the notice of initiation of this countervailing duty administrative review, which included Goldenpalm, Navneet and Kokuyo, for the period January 1, 2014, through December 31, 2014.⁴

On November 16, 2015, Navneet submitted a timely withdrawal of its review request.⁵ On December 8, 2015, Kokuyo submitted a timely withdrawal of its review request.⁶ Accordingly, we rescinded the review with respect to Navneet and Kokuyo.⁷

The Department issued initial and supplemental questionnaires, to Goldenpalm and the Government of India (GOI) between November 15, 2015, and September 12, 2016. Goldenpalm and the GOI each filed timely responses to the Department's questionnaires between December 18, 2015, and September 22, 2016.

Scope of the Order

The scope of this order includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for loose leaf filler paper) including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, loose leaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8-3/4 inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or "tear-out" size), and are measured as they appear in the product (*i.e.*, stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this order whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

³ See Kokuyo and Navneet's letters to the Department both dated September 30, 2015.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 69193 (November 9, 2015).

⁵ See Navneet's November 16, 2015, letter withdrawing its request for a countervailing duty administrative review.

⁶ See Kokuyo's December 8, 2015, letter withdrawing its request for a countervailing duty administrative review.

⁷ See *Certain Lined Paper Products from India: Notice of Partial Rescission of Countervailing Duty Administrative Review: 2014*, 81 FR 7082 (February 10, 2016).

Specifically excluded from the scope of this order are:

- unlined copy machine paper;
- writing pads with a backing (including but not limited to products commonly known as “tablets,” “note pads,” “legal pads,” and “quadrille pads”), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;
- three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- index cards;
- printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- newspapers;
- pictures and photographs;
- desk and wall calendars and organizers (including but not limited to such products generally known as “office planners,” “time books,” and “appointment books”);
- telephone logs;
- address books;
- columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- lined business or office forms, including but not limited to: pre-printed business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- lined continuous computer paper;
- boxed or packaged writing stationary (including but not limited to products commonly known as “fine business paper,” “parchment paper,” and “letterhead”), whether or not containing a lined header or decorative lines;
- Stenographic pads (“steno pads”), Gregg ruled (“Gregg ruling” consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book), measuring 6 inches by 9 inches;

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

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™ (products found to be bearing an invalidly licensed or used

trademark are not excluded from the scope).

- **FiveStar®Advance™:** A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1" wide elastic fabric band. This band is located 2-3/8" from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar®Advance™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- **FiveStar Flex™:** A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

Merchandise subject to this order is typically imported under headings 4810.22.5044, 4811.90.9050, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2050, 4820.10.2060, and 4820.10.4000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.⁸

⁸ See *Lined Paper Order*.

Subsidies Valuation

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.⁹ The Department finds the AUL in this proceeding to be 13 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System, as revised.¹⁰ The Department notified the respondents of the 13-year AUL in the initial questionnaire and requested data accordingly.¹¹ No party in this proceeding has disputed this allocation period.

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

Cross-Ownership

The Department's regulations at 19 CFR 351.525(b)(6)(i) state that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) directs that the Department will attribute subsidies received by certain other companies to the combined sales of those companies if (1) cross-ownership exists between the companies, and (2) the cross-owned companies produce the subject merchandise, are a holding or parent company of the subject company, produce an input that is primarily dedicated to the production of the downstream product, or transfer a subsidy to a cross-owned company.

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 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. The Court of International Trade 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.¹²

⁹ See 19 CFR 351.524(b).

¹⁰ See U.S. Internal Revenue Service Publication 946 (2008), "How to Depreciate Property," at Table B-2: Table of Class Lives and Recovery Periods.

¹¹ See Goldenpalm's December 24, 2015, Questionnaire Response (QR) at II-2 and III-3.

¹² See *Fabrique de Fer de Charleroi SA v. United States*, 66 F. Supp. 2d 593, 603 (CIT 2001).

Goldenpalm filed its response on behalf of itself as a producer of subject merchandise.¹³ According to Goldenpalm, export sales of subject merchandise are done through GMC International Limited (GMC) located in Hong Kong. Goldenpalm states that it is related to GMC by cross-ownership.¹⁴ Goldenpalm further states that although GMC is not an affiliated input supplier, it is involved in the sale of subject merchandise and assists in funding Goldenpalm.¹⁵ Therefore, based on the foregoing reasons, we preliminarily find that Goldenpalm and GMC are cross-owned with one another within the meaning of 19 CFR 351.525(b)(6)(vi). However, GMC does not produce the subject merchandise or produce an input that is primarily dedicated to the production of the downstream product. Nor is GMC a holding or parent company of Goldenpalm and we have not found that Goldenpalm transferred a subsidy to GMC. Therefore, we are not attributing subsidies to companies other than Goldenpalm.

Denominator

In accordance with 19 CFR 351.525(b)(1)-(5), when selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, the Department considers the basis for the respondent's receipt of benefits under each program at issue *e.g.*, to the respondents' export or total sales. As discussed in further detail below in the "Program Preliminarily Determined to be Countervailable" section, where a program is determined to be countervailable as a domestic subsidy, we use the recipient's total sales as the denominator (or the total combined sales of the cross-owned affiliates). Similarly, where a program is determined to be countervailable as an export subsidy, we use the recipient's total export sales as the denominator (or the total export sales of the cross-owned affiliates).

As noted above, during the POR, Goldenpalm reported that it made its exports sales through the Hong Kong-based GMC. On each sale, GMC included a mark-up of approximately eight to ten percent of the total value of the shipment in order to cover administrative costs.¹⁶ The Department has established criteria to determine whether to adjust a respondent's sales denominator to account for price mark-ups charged by third-country trading companies or by cross-owned entities located in third countries. Under this practice, the Department examines the following criteria: 1) whether the price on which the alleged subsidy is based differs from the U.S. invoiced price; 2) whether the exporters and the party that invoices the customer are affiliated; 3) whether the U.S. invoice establishes the customs value to which countervailing duties are applied; 4) whether there is a one-to-one correlation between the invoice that reflects the price on which subsidies are received and the invoice with the mark-up that accompanies the shipment; 5) whether the merchandise is shipped directly to the United States; and 6) whether the invoices can be tracked as back-to-back invoices that are identical except for price.¹⁷

¹³ Goldenpalm submitted an affiliated response for GMC in its QR at Exhibit I and provided data for all of Goldenpalm's export sales, which are only through GMC, in its June 17, 2016, Supplemental Questionnaire at Exhibit CVSD5-1.

¹⁴ See QR at I and furthermore, GMC only sold subject merchandise produced by Goldenpalm during the POR. See Goldenpalm's April 8, 2016 Supplemental Questionnaire Response (Goldenpalm's April 8, 2016 SQR) at 2.

¹⁵ *Id.*; see also Goldenpalm's February 12, 2016, Supplemental Questionnaire Response (Goldenpalm's February 12, 2016 SQR) at 4.

¹⁶ See Goldenpalm's February 12, 2016 SQR at 5.

¹⁷ See, *e.g.*, *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 59212 (September 27,

In this review, Goldenpalm has provided a range of mark-ups charged by GMC, but has not indicated the exact mark-up that applies on each shipment.¹⁸ Further, we find that Goldenpalm has not provided information indicating a one-to-one correlation between the invoice that reflects the price on which subsidies are received and the invoice with the mark-up that accompanies the shipment and has not provided information indicating that the sales invoices can be tracked on a back-to-back basis and that they are identical except for price.¹⁹ Thus, for purposes of the sales denominator used in the net subsidy rate calculation, we have used sales values for Goldenpalm that do not reflect a mark-up charged by GMC. Our approach in this regard is consistent with the Department's practice.²⁰

Benchmark Interest Rates

For programs requiring the application of a benchmark interest rate, 19 CFR 351.505(a)(1) states a preference for using an interest rate that the company would pay on a comparable commercial loan that the company could obtain on the market. Also, 19 CFR 351.505(a)(3)(i) states that when selecting a comparable commercial loan that the recipient "could actually obtain on the market" the Department will normally rely on actual short-term and long-term loans obtained by the firm. However, when there are no comparable commercial loans, the Department may use a national average interest rate, pursuant to 19 CFR 351.505(a)(3)(ii).

Goldenpalm received exemptions from import duties under the Export Promotion Capital Goods Scheme (EPCGS), which we preliminarily find to be non-recurring benefits in accordance with 19 CFR 351.524(c). Thus, unless an exception applies, the Department must identify an appropriate discount rate for purposes of allocating the non-recurring benefits over time.

Pursuant to 19 CFR 351.505(a)(2)(iii), in selecting a comparable loan if a program under review is a government-provided, long-term loan program, the preference would be to use a loan for which the terms were established during, or immediately before, the year in which the terms of the government-provided loan were established. Pursuant to 19 CFR 351.505(a)(2)(ii), the Department will not consider a loan provided by a government-owned special purpose bank to be a commercial loan for purposes of selecting a loan to compare with a government-provided loan. The Department has previously determined that the Industrial Development Bank of India (IDBI), the Industrial Finance Corporation of India (IFCI), and the Export-Import Bank of India (EXIM) are government-owned special purpose banks.²¹ As such, the Department does not use loans from the IDBI, the IFCI, or the EXIM as a basis for a commercial loan benchmark.

2010) and accompanying Issues and Decision Memorandum (IDM) at Comment 32.

¹⁸ See Goldenpalm's February 12, 2016 SQR at 4-5 and Goldenpalm's April 8, 2016 SQR at 1 and 2.

¹⁹ See Goldenpalm's February 12, 2016 SQR at Exhibit CVDS-1.

²⁰ See, e.g., *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products From the Russian Federation: Preliminary Affirmative Countervailing Duty Determination, Preliminary Negative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 80 FR 79564 (December 22, 2015) and accompanying Decision Memorandum at 11-12; unchanged in *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products From the Russian Federation: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 81 FR 49935 (July 29, 2016) and accompanying IDM at 11-12.

²¹ See *Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and*

In this review, Goldenpalm did not have comparable commercial long-term rupee-denominated loans for all required years; therefore, for those years for which we did not have company-specific information, and where the relevant information was on the record, we relied on comparable long-term rupee-denominated benchmark interest rates from the immediately preceding year as directed by 19 CFR 351.505(a)(2)(iii). When there were no comparable long-term, rupee-denominated loans from commercial banks either during the year under consideration or the preceding year, we used national average long-term interest rates, pursuant to 19 CFR 351.505(a)(3)(ii), from the International Financial Statistics, a publication of the International Monetary Fund (IMF Statistics).²²

Finally, 19 CFR 351.524(d)(3) directs us regarding the selection of a discount rate for the purposes of allocating non-recurring benefits over time. The regulations provide several options in order of preference: (1) the cost of long-term, fixed-rate loans of the firm in question, excluding any loans, which have been determined to be countervailable, for each year in which non-recurring subsidies have been received; (2) the average cost of long-term, fixed-rate loans in the country in question; or (3) a rate that we consider to be most appropriate.²³ Goldenpalm provided us with the long-term, fixed rate commercial loans that it used during the POR,²⁴ but did not provide us with the long-term, fixed rate commercial loans for other years in the AUL. Thus, for those years for which Goldenpalm did not report any long-term fixed-rate commercial loans, we used the yearly average long-term lending rate in India from the IMF Statistics.

Analysis of Programs

Program Preliminarily Determined to be Countervailable

Export Promotion Capital Goods Scheme (EPCGS)

The EPCGS provides for a reduction or exemption of 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 four to five times the value of the capital goods within a period of eight 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 a penalty interest.²⁵

Strip from India, 71 FR 7534 (February 13, 2006), and accompanying IDM at Comment 3; *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”; see also *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products From India: Final Affirmative Determination*, 81 FR 49932 (July 29, 2016), and accompanying IDM at Comment 2.

²² See the Preliminary Calculations Memorandum for Goldenpalm, dated concurrently with this memorandum (Goldenpalm Preliminary Calculations Memorandum).

²³ See 19 CFR 351.524(d)(3)(A)-(C).

²⁴ See Goldenpalm’s February 19, 2016 Supplemental Questionnaire (Goldenpalm’s February 19, 2016 SQR) at 6.

²⁵ See the GOI’s February 8, 2016, Supplemental Questionnaire Response 5 through 15 for a description of the EPCGS program.

Consistent with previous determinations, the Department preliminarily find that import duty reductions provided under the EPCGS are countervailable export subsidies because: (1) the scheme provides a financial contribution pursuant to section 771(5)(D)(ii) of the Act in the form of revenue foregone for not collecting import duties; (2) the respondent receives two different benefits under section 771(5)(E) of the Act; and (3) the program is contingent upon export performance, and is specific under section 771(5A)(A) and (B) of the Act.²⁶ There is no new information or evidence of changed circumstances that would warrant reconsidering our previous determinations that this program is countervailable. Therefore, for these preliminary results, we continue to find this program countervailable.

The first benefit is the amount of unpaid import duties that would have to be paid to the GOI if the accompanying export obligations are not met. The repayment of this liability is contingent on subsequent events and, in such instances, it is the Department's practice to treat any balance on an unpaid liability as a contingent liability interest-free loan, pursuant to 19 CFR 351.505(d)(1).²⁷ The second benefit is the waiver of duty on imports of capital equipment covered by those EPCGS licenses for which the export requirement has already been met. For those licenses for which companies demonstrate that they have completed their 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 provided 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 . . .".²⁸ In accordance with 19 CFR 351.524(c)(2)(iii), we are treating these exemptions as non-recurring benefits.

Goldenpalm reported that it imported capital goods under the EPCGS in the years prior to and during the POR.²⁹ Goldenpalm received various EPCGS licenses, which it reported used for the production of: (1) subject merchandise, and (2) non-subject merchandise. However, as discussed above, participants in the EPCGS program receive import duty exemptions contingent upon to their commitment to earn convertible foreign currency equal to four to five times the value of the capital goods within a period of eight years. Thus, at the point at which the benefit is bestowed, the receipt of benefits under this program is contingent solely upon future export activity and is not tied to the sale of a particular type of merchandise, as described under 19 CFR 351.525(b)(5). Our finding in this regard is consistent with the principle set forth in our regulations.³⁰ Accordingly, in these preliminary results, we have included all duty exemptions received by Goldenpalm during the POR and the preceding years encompassed by the AUL.

²⁶ 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 Final Determination*), and accompanying IDM at "EPCGS."

²⁷ *Id.*

²⁸ See *Countervailing Duties; Final Rule*, 63 FR 65348, 65393 (November 25, 1998) (*Preamble*).

²⁹ See QR at 13 and Exhibit 5.

³⁰ See *Preamble*, 63 FR at 65361: "In analyzing whether a benefit exists, we are concerned with what goes into a company, such as enhanced revenues and reduced-cost inputs in the broad sense that we have used the term, not with what the company does with the subsidy."

Goldenpalm met the export requirements for certain EPCGS licenses prior to December 31, 2014, and the GOI formally waived payments of the relevant import duties.³¹ For other licenses, however, Goldenpalm has not yet met its export obligation as required under the program.³² Therefore, although Goldenpalm received a deferral from paying import duties when the capital goods were imported, the final waiver of the obligation to pay the duties has not yet been granted for many of these imports.

To calculate the benefit received from the GOI's formal waiver of import duties on Goldenpalm's capital equipment imports where its export obligation was met prior to December 31, 2014, we considered the total amount of duties waived (net of required application fees) to be the benefit, and treated these amounts as grants pursuant to 19 CFR 351.504. Further, consistent with the approach followed in other Indian countervailing duty reviews, we determine the year of receipt of the benefit to be the year in which the GOI formally waived Goldenpalm's outstanding import duties.³³ Next, we performed the "0.5 percent test," as prescribed under 19 CFR 351.524(b)(2), for each year in which the GOI granted Goldenpalm an import duty waiver. For Goldenpalm, for those licenses which were not expensed in the year of receipt, we then calculated the benefit from these allocable grants using the methodology set forth in 19 CFR 351.504 to determine the benefit in the POR from these grants. We summed the benefits from these grants to determine the total benefit for Goldenpalm of these waivers.³⁴

As noted above, import duty reductions that Goldenpalm received on the imports of capital equipment for which it has not yet met export obligations may have to be repaid to the GOI if the obligations under the licenses are not met.³⁵ Consistent with our practice and prior determinations, we will treat the unpaid import duty liability as an interest-free loan.³⁶ 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, as of the end of the POR, had not been finally waived by the GOI. Accordingly, we find the benefit to be the interest that Goldenpalm would have paid during the POR on the full amount of the duty reduction or exemption at the time of importation.³⁷ As stated above, under the EPCGS program, the time period for fulfilling the export commitment expires eight 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

³¹ See QR at Exhibit 5B for a listing of the fulfilment of some of the licenses.

³² See Goldenpalm's September 22, 2016, Supplemental Questionnaire at 1-2 for a listing of the EPCGS licenses that have been fulfilled and the ones that have not been fulfilled.

³³ See *PET Film Final Determination* and accompanying IDM at Comment 5.

³⁴ See Goldenpalm's Preliminary Calculations Memorandum.

³⁵ See 19 CFR 351.505(d)(1); *PET Film Final Determination*, and accompanying IDM at "EPCGS"; see also *Final Affirmative Countervailing Duty Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin From India*, 70 FR 13460 (March 21, 2005) (*Indian PET Resin Final Determination*), and accompanying IDM at "d. Export Promotion Capital Goods Scheme (EPCGS)."

³⁶ See *Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from India*, 71 FR 45034 (August 8, 2006) at Comment 1.

³⁷ 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 (unchanged in *Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 71 FR 7534 (February 13, 2006)); see also *Indian PET Resin Final Determination*, and accompanying IDM at "d. Export Promotion Capital Goods Scheme (EPCGS)."

long-term interest rate because the event upon which repayment of the duties depends occurs at a point in time that is more than one year after the date of importation of the capital goods (*i.e.*, under the EPCGS program, the time period for fulfilling the export commitment is more than one year after importation of the capital good). As the benchmark interest rate, we used the weighted-average interest rate from the International Monetary Fund for long-term, rupee-denominated loans for the year in which the capital good was imported.³⁸ 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 license was approved and summed these amounts to determine the total benefit to Goldenpalm from these interest-free loans.

Thus, the total benefit received under the EPCGS is the sum of: (1) the benefit attributable to the POR from the formally waived duties for imports of capital equipment for which Goldenpalm met export requirements by December 31, 2014, and (2) interest that would be due on the contingent liability loans for imports of capital equipment that have not met export requirements. We then divided the total benefit by Goldenpalm's total exports to determine a subsidy of 0.92 percent *ad valorem*.³⁹

Programs Requiring Additional Information

Duty Drawback and Annex 45

During our review of Goldenpalm's initial and supplemental questionnaire responses, we discovered that the company received import duty drawback rebates and exemptions under the GOI's Duty Drawback program, as well as a program that Goldenpalm refers to as the Annex 45 program.⁴⁰ At this time, we lack the necessary information to determine whether the receipt of import duty rebates and exemptions under the Duty Drawback and Annex 45 programs conferred countervailable benefits. We intend to continue to examine these programs and address them in a post-preliminary analysis.

Program Preliminarily Determined to be Not Countervailable

Central Value Added Tax (CENVAT) Reimbursements

In its questionnaire response, Goldenpalm indicated that it received CENVAT reimbursements during the POR.⁴¹ In prior CVD proceedings involving India, including a proceeding whose investigation period matches the POR of the instant review, the Department has determined that CENVAT reimbursements are not countervailable.⁴² We find there is no information on our record that warrants reconsideration of the Department's prior findings regarding CENVAT reimbursements. Thus, consistent with the Department's past practice, we preliminarily determine that the CENVAT reimbursements received by Goldenpalm are not countervailable.

³⁸ See "Benchmark Interest Rates" section above for a discussion of the applicable benchmark.

³⁹ See Goldenpalm's Preliminary Calculations Memorandum.

⁴⁰ See Goldenpalm's February 19, 2016 SQR at 4-6, Goldenpalm's April 8, 2016 SQR at 4-5, and Goldenpalm's April 22, 2016, Supplemental Questionnaire Response at 2-3.

⁴¹ See Goldenpalm's April 8, 2016, SQR at 4.

⁴² See *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products From India: Final Affirmative Determination*, 81 FR 49932 (July 29, 2016) and accompanying Decision Memorandum at Comment 2.

Programs Preliminarily Determined to be Not Used During the POR

1. Formulation of Standard Input/Output Norm
2. Advance License Program /Advance Authorization Program
3. Duty Entitlement Passbook Scheme
4. Pre-and Post-Shipment Export Financing
5. Export Oriented Units
6. Export Processing Zones
7. Market Development Assistance
8. Status Certificate Program
9. Market Access Initiative
10. Loan Guarantees from the GOI
11. Income Deduction Program, (801B Tax Program)
12. State Government of Gujrat Provided Tax Incentives
13. Sales Tax Program from Maharashtra
14. Electricity Duty Exemptions Under the State Government of Maharashtra (SGM) Package Scheme of Incentives of 1993
15. Refunds of Octroi Under the PSI of 1993, Maharashtra Industrial Policy and Maharashtra Industrial Policy
16. Infrastructure Subsidies to Mega Projects
17. Land for Less than Adequate Remuneration
18. Loan Guarantees Based on Octroi Refunds by the SGM

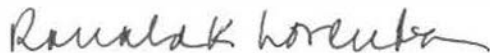
Recommendation

We recommend that you approve the preliminary findings described above. If these recommendations are accepted, we will publish the preliminary results of the review in the *Federal Register*.

✓

Agree

Disagree



Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance



Date