



C-533-882
Investigation
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DATE: June 19, 2018

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Affirmative Preliminary
Determination: Countervailing Duty Investigation of Large Diameter
Welded Pipe from India

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of large diameter welded pipe (welded pipe) from India, as provided in section 703 of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

A. Case History

On January 17, 2018, Commerce received a countervailing duty (CVD) petition concerning imports of welded pipe from India filed in proper form on behalf of American Cast Iron Pipe Company, Berg Steel Pipe Corp./Berg Spiral Pipe Corp, Dura-Bond Industries, Skyline Steel, Stupp Corporation, Greens Bayou Pipe Mill, LP, JSW Steel (USA) Inc., and Trinity Products LLC (collectively, the petitioners).¹ We describe the supplements to the petition and our consultations with the Government of India (GOI) in the Initiation Checklist.² On February 20,

¹ See petitioners' letter, "Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Petitions for the Imposition of Antidumping and Countervailing Duties," dated January 17, 2018 (Petition).

² See CVD Initiation Checklist: Large Diameter Welded Pipe from India, dated February 9, 2018 (CVD Initiation



2018, we published the initiation of a CVD investigation on welded line pipe from India.³

On February 1, 2018, we released U.S. Customs and Border Protection (CBP) entry data under the Administrative Protective Order (APO), and requested comments regarding the data and respondent selection.⁴ We stated in the Initiation Notice that we intended to base our selection of mandatory respondents on CBP entry data for the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation. On February 26, 2018, the petitioners filed comments on respondent selection.⁵ No other interested party submitted comments regarding respondent selection.

On March 16, 2018, Commerce selected Bhushan Steel (Bhushan) and Welspun Trading Limited (Welspun), the two largest publicly identifiable exporters/producers of the subject merchandise by volume, for individual examination as mandatory respondents in this investigation.⁶ On March 19, 2018, Commerce issued the CVD questionnaire to the GOI.⁷ Commerce also requested the GOI to forward the questionnaire to the selected mandatory respondents.

Bhushan did not respond to any sections of the questionnaire. On April 9, 2018 Welspun submitted its initial response to the affiliated companies section of the CVD Initial Questionnaire.⁸ On May 2, 2018, Welspun officially notified Commerce of its withdrawal from participation in the investigation, and the GOI filed its responses to the CVD Initial Questionnaire.⁹

On March 7, 2018, the petitioners submitted a timely filed new subsidy allegation (NSA) for the provision of cut-to-length plate (CTL plate) for less than adequate remuneration (LTAR) from the Steel Authority of India (SAIL).¹⁰ On April 25, 2018, we initiated an investigation of CTL plate for LTAR from SAIL.¹¹

Checklist).

³ See *Large Diameter Welded Pipe from India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Initiation of Countervailing Duty Investigations*, 83 FR 7148 (February 20, 2018) (*Initiation Notice*).

⁴ See Memorandum, "Large Diameter Welded Pipe from the India Countervailing Duty Petition: Release of Customs Data from U.S. Customs and Border Protection," dated February 1, 2018.

⁵ See petitioners' letter, "Large Diameter Welded Pipe from India: Comments on CBP Data and Respondent Selection," dated February 23, 2018.

⁶ See Memorandum, "Countervailing Duty Investigation of Large Diameter Welded Pipe from India: Respondent Selection," dated March 16, 2018 (Respondent Selection Memorandum).

⁷ See Commerce's Letter, "Countervailing Duty Investigation of Large Diameter Welded Pipe from India: Countervailing Duty Questionnaire," dated November 19, 2018 (CVD Initial Questionnaire).

⁸ See Welspun's Letter, "Affiliation Response," dated April 9, 2018 (Welspun Affiliate Response).

⁹ See Welspun's Letter, "Withdrawal of Participation as a Mandatory Respondent, dated May 2, 2018 (Welspun Withdrawal); see also GOI's Letter, "Large Diameter Welded Pipe from India CVD Investigation: Initial Questionnaire Response," dated May 2, 2018 (GOI IQR).

¹⁰ See petitioners' Letter, "Large Diameter Welded Pipe from India: New Subsidy Allegation," dated March 6, 2018 (NSA Submission).

¹¹ See Memorandum, "Countervailing Duty Investigation: Large Diameter Welded Pipe from India," dated April 25, 2019.

B. *Postponement of Preliminary Determination*

On March 20, 2018, the petitioners requested that Commerce postpone the deadline for the preliminary determination.¹² Commerce granted the petitioners' request and, on April 2, 2018, published the notification of postponement of the preliminary determination, until June 19, 2018, in the *Federal Register*, in accordance with section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).¹³

C. *Period of Investigation*

The period of investigation (POI) is January 1, 2017, through December 31, 2017.

III. INJURY TEST

Because India is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the 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 March 6, 2018, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of welded pipe from India.¹⁴

IV. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

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

Where Commerce determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that Commerce will so inform the party submitting the response and will, to the extent practicable, provide that party with an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, Commerce may disregard all or part of the original and subsequent responses, as appropriate.

¹² See petitioners' letter, "Large Diameter Welded Pipe from the Republic of India: Petitioners' Request for Postponement of the Preliminary Determination," dated March 20, 2018.

¹³ See *Large Diameter Welded Pipe from India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 83 FR 13946 (April 2, 2018).

¹⁴ See *Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey Determinations: Investigation Nos. 701-TA-593-596 and 731-TA-1401-1406* (March 2018); *Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey Determinations*, 83 FR 10748 (March 12, 2018).

Section 776(b) of the Act provides that Commerce may use adverse facts available (AFA) when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, Commerce is not required to determine, or make any adjustments to, a countervailable subsidy rate based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.¹⁵ Furthermore, section 776(b)(2) of the Act states that AFA may include reliance on information derived from the petition, the final determination from the countervailing duty investigation, a previous administrative review, or other information placed on the record.¹⁶

Section 776(c) of the Act provides that, in general, when Commerce relies on secondary information rather than on information obtained in the course of an investigation, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.¹⁷ Secondary information is defined as information derived from the petition that gave rise to the investigation, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.¹⁸ Furthermore, Commerce is not required to corroborate any countervailing duty applied in a separate segment of the same proceeding.¹⁹

Finally, under the new section 776(d) of the Act, when applying AFA, Commerce may use a countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country or, if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that Commerce considers reasonable to use.²⁰ When selecting facts available with an adverse inference, Commerce is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.²¹

For purposes of this preliminary determination, we are applying AFA for the circumstances outlined below.

A. Application of Total AFA Non-Responsive Companies: Bhushan and Welspun

As noted in the “Case History” section above, Bhushan and Welspun were selected as mandatory respondents, but have failed to participate in this investigation. Therefore, under section 776(a) of the Act, we preliminarily find that by not responding to all sections of Commerce’s questionnaire, both companies withheld information that had been requested and failed to provide information within the deadlines established. Furthermore, because the companies did not respond to the questionnaire, these companies significantly impeded this proceeding. Thus, in reaching a preliminary determination, pursuant to sections 776(a)(2)(A)-(C) of the Act, we

¹⁵ See section 776(b)(1)(B) of the Act.

¹⁶ See 19 CFR 351.308(c).

¹⁷ See 19 CFR 351.308(d).

¹⁸ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, Vol. 1 at 870, reprinted at 1994 U.S.C.C.A.N. 4040, 4199 (1994) (SAA).

¹⁹ See section 776(c)(2) of the Act.

²⁰ See section 776(d)(1) of the Act.

²¹ See section 776(d)(3) of the Act.

based the CVD rates for these companies on facts otherwise available.

Moreover, we preliminarily determine that AFA is warranted, pursuant to section 776(b) of the Act. By not responding to the CVD Initial Questionnaire, both mandatory respondents did not cooperate to the best of their abilities to comply with Commerce's request for information in this investigation. Accordingly, we preliminarily find that the use of AFA is warranted for Bhushan and Welspun to ensure that these companies do not obtain a more favorable result by failing to cooperate than if they had fully complied with our request for information.

In Welspun's response to the affiliated companies section of the CVD Initial Questionnaire, Welspun stated that Welspun Corp. produces and sells subject merchandise, and Welspun Trading Limited is a subsidiary of Welspun Corp. and an exporter of subject merchandise.²² Welspun further stated that it intended to submit its questionnaire responses for the following cross-owned and affiliated companies: MGN Agro Properties Private Limited, Welspun Pipes Limited, Welspun Group Master Trust, Welspun Captive Power Generation Limited India, Welspun Wasco Coating Private Limited, and Welspun Anjar SEZ Limited.²³ On May 2, 2018, Welspun ceased its participation in the investigation and provided no additional information on affiliated companies.²⁴ As noted above, Bhushan did not respond to Commerce's questionnaire.

Accordingly, as AFA, Commerce preliminarily finds that Bhushan and Welspun did, in fact, use all the programs Commerce initiated on during the POI. As such, we selected an AFA rate for each of these programs pursuant to the hierarchy set out below and included them in the determination of the AFA rate applied to each of these companies.²⁵ We note that Commerce has previously countervailed identical or similar programs.²⁶ Additionally, we find that current record information provides additional bases to infer, as AFA, that these programs constitute financial contributions and meet the specificity requirements of the Act.²⁷

B. *Government of India*

In its May 2, 2018, IQR, the GOI stated that for certain programs, one or both respondents did not use those programs. We note that the GOI response only covered the companies identified in the Respondent Selection Memorandum (*i.e.*, Bhushan and Welspun).²⁸ The GOI's questionnaire response also failed to provide information regarding key program procedures and guidelines necessary to conduct our analysis regarding financial contribution and specificity with respect to most of the programs under investigation. Specifically, the GOI provided insufficient information for the following programs: Duty Free Import Authorization Scheme, Focus Product Scheme, Income Deduction Program (80-IB Tax Program), Status Holders Incentive Scheme (SHIS), Incremental Exports Incentive Scheme, seven Special Economic Zones (SEZs) programs, four Subsidies for Export Oriented Units programs, Market Development Assistance Scheme (MAIS), Market Access Initiative, Interest Equalization Scheme, Government of India

²² See Welspun Affiliate Response at 9-10.

²³ *Id.* at 1, 6-10 and Exhibit 1.

²⁴ See Welspun Withdrawal at 1.

²⁵ See Appendix I.

²⁶ *Id.*

²⁷ See CVD Initiation Checklist.

²⁸ See GOI IQR at 11.

Loan Guarantees, Steel Development Fund Loans (SDF), Provision of High-Grade Iron Ore for Less Than Adequate Remuneration (LTAR), Provision of Hot-Rolled Steel by the Steel Authority of India (SAIL) for LTAR, Provision of Captive Mining Rights for Coal and Iron Ore, Provision of Cut-To-Length (CTL) Plate for LTAR, three State Government of Uttar Pradesh (SGUP) programs, eleven State Government of Maharashtra (SGOM) programs, ten State Government of Andhra Pradesh (SGAP) Subsidy programs, two Andhra Pradesh Industrial Investment Corporation programs, five State Government of Gujarat (SGOG) programs, and eight State Government of Karnataka (SGOK) Industrial Policy Programs (KIP).²⁹

For the Duty-Free Import Authorization Scheme and Focus Product Scheme, we requested that the GOI provide a response to the Standard Questions Appendix, however the GOI did not provide a response for this appendix.³⁰ Thus, the record contains limited information regarding specificity and financial contribution for this program.³¹

For the Income Deduction Program (80-IB Tax Program), although we requested that the GOI provide a response to the Standard Questions Appendix, the GOI did not provide a response for this appendix.³² Thus, the record contains limited information regarding specificity and financial contribution for this program.³³

For the Status Holder Incentive Scheme, the GOI failed to provide necessary information requested by Commerce. Specifically, we requested that the GOI identify all forms of assistance provided under the program, as well as which of the respondents and cross-owned companies utilized the programs.³⁴ Commerce also directed the GOI to provide a completed application and approval package, information regarding the number of companies and industries receiving assistance under the program, a response to the Tax Programs Appendix, and detailed information on currency repatriation and conversion requirements.³⁵ The GOI failed to provide this information, and thus the record contains limited information regarding specificity and financial contribution.³⁶

With regard to the Incremental Exports Incentive Scheme, the GOI did not provide any response to the Standard Questions Appendix, Allocation Appendix, or the Tax Appendix.³⁷ Thus, the record contains limited information with regard to specificity and financial contribution.³⁸

Regarding the seven Special Economic Zones (SEZs) programs and four Subsidies for Export Oriented Units programs, the GOI did not provide responses to the Standard Questions Appendix, Allocation Appendix or the Tax Appendix.³⁹ Thus, the record contains limited

²⁹ See generally GOI IQR.

³⁰ See GOI IQR at 39-40 and 50-51.

³¹ See Petition at 234-235.

³² *Id.* at 63.

³³ *Id.* at 258-259.

³⁴ See GOI IQR at 72 and CVD Initial Questionnaire at 26-27.

³⁵ *Id.*

³⁶ See Petition at 246-248.

³⁷ See GOI IQR at 72-73.

³⁸ See Petition at 279-281.

³⁹ See GOI IQR at 88.

information with regard to specificity and financial contribution.⁴⁰

For the Market Development Assistance Scheme (MAIS) and Market Access Initiative programs, the GOI responded that it was providing only limited information and did not need to complete any other appendices.⁴¹ Because the GOI did not provide responses to the Standard Questions Appendix, Allocation Appendix or the Grant Appendix, the record contains limited information with regard to specificity and financial contribution.⁴²

For the Interest Equalization Scheme, the GOI did not provide a response to the Standard Questions Appendix, Allocation Appendix or the Tax Appendix as requested.⁴³ Thus, the record contains limited information with regard to specificity and financial contribution.⁴⁴

For the GOI Loan Guarantees program, although we requested that the GOI provide a response to the Standard Questions Appendix and the Loan Benchmark and Loan Guarantee Appendix, the GOI did not provide a response for either appendix.⁴⁵ Thus, the record contains limited information regarding specificity and financial contribution for this program.⁴⁶

For Steel Development Fund Loans, the GOI provided only a short description of the program and did not provide any response to the Standard Questions Appendix or the Loan Benchmark and Loan Guarantee Appendix.⁴⁷ Although the GOI indicated that the program is limited to a specific industry, thus satisfying the specificity requirement, the record contains limited information regarding financial contribution.⁴⁸

Regarding the Provision of Hot-Rolled Steel by SAIL for LTAR, the GOI failed to provide a variety of necessary information. In the petition, the petitioner asserted that SAIL is a government authority which provides a benefit by providing hot-rolled steel at LTAR.⁴⁹ In its initial response, the GOI provided only a brief statement that it was not involved in the decisions of SAIL, and did not submit any of the requested appendices.⁵⁰ Additionally, the GOI failed to provide complete information related to domestic production and consumption of steel inputs, the industries that purchase such inputs, or trade publications specifying the price of such inputs.⁵¹ Without this information, Commerce lacks the evidence necessary to analyze SAIL's operations and evaluate the GOI's argument that the Provision of Steel Inputs by SAIL for LTAR is not a program that confers a benefit from the GOI because SAIL neither possesses governmental authority nor discharges any government function.⁵²

⁴⁰ See Petition at 260-269 and 232-239.

⁴¹ See GOI IQR at 89-90.

⁴² See Petition at 250-253.

⁴³ See GOI IQR at 90.

⁴⁴ See Petition at 244-246.

⁴⁵ See GOI IQR at 90-91.

⁴⁶ See Petition at 255-256.

⁴⁷ See GOI IQR at 91.

⁴⁸ See Petition at 269-270.

⁴⁹ *Id.*

⁵⁰ See GOI IQR at 92.

⁵¹ *Id.*

⁵² See Petition at 271.

For the Provision of High-Grade Iron Ore for LTAR and the Provision of Captive Mining Rights for Coal and Iron Ore, the GOI did not provide the Standard Questions Appendix or answer the questions provided in the CVD Initial Questionnaire.⁵³ Thus, the record contains limited information regarding specificity and financial contribution for this program.⁵⁴

Regarding the Provision of CTL Plate for LTAR, the GOI did not provide the Input Producer Appendix or the information requested in the NSA Questionnaire.⁵⁵ Therefore, the record contains limited information regarding specificity and financial contribution for this program.⁵⁶

With respect to SGOM Subsidies Under the Package Scheme of Incentives and SGOG's VAT Remission Scheme Established on April 1, 2006, the GOI reports that these two programs were used during the POI⁵⁷ and that Bhushan applied for benefits under these programs.⁵⁸ While the GOI provided minimal information in the Standard Questions Appendix, it did not provide a response to the Allocation Appendix or Tax Appendix as requested.⁵⁹ Thus, the record contains limited information regarding specificity and financial contribution for these programs.⁶⁰

Finally, for three SGUP programs, ten SGOM programs, ten SGAP programs, two Andhra Pradesh Industrial Investment Corporation programs, four SGOG programs, and eight SGOK KIP, the GOI failed to provide any substantive response.⁶¹ Thus, the record contains limited information regarding specificity and financial contribution for these programs.⁶²

Therefore, we preliminarily determine that the GOI withheld information that was requested of it, thereby significantly impeding the conduct of the investigation. Thus, we must rely on "facts available" in making our preliminary determination in accordance with sections 776(a)(2)(A), (B) and (C) of the Act. Moreover, we preliminarily determine that the GOI failed to cooperate by not acting to the best of its ability in failing to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available, pursuant to section 776(b) of the Act. In applying AFA, we find based on the available record information that the programs outlined above constitute a financial contribution within the meaning of section 771(5)(D) of the Act and are specific within the meaning of sections 771(5A)(B) and (D) of the Act. Similarly, based on AFA, we determine that SAIL is a governmental authority providing a financial contribution.⁶³ While most of these programs have been countervailed in prior cases, in this instance, we are preliminarily relying on AFA for the programs identified above because the GOI has not cooperated to the best of its ability.⁶⁴

⁵³ See GOI IQR at 91-92.

⁵⁴ See Petition at 277-279.

⁵⁵ See Letter from GOI, "Response to NSA Questionnaire," dated May 10, 2018.

⁵⁶ See Petition at 273-274.

⁵⁷ See GOI IQR at 306-308.

⁵⁸ *Id.* at Annexure 18.

⁵⁹ *Id.* at 89-90, 91-97, 100, and 104.

⁶⁰ See Petition at 273-274 and 316-317.

⁶¹ See GOI IQR at 93, 94-102, and 110.

⁶² See Petition at 281-332.

⁶³ *Id.* at 55 and Exhibit CVD-IN-28.

⁶⁴ See Petition at Exhibit CVD-IN-1, 2, 5, 9(Bhushan Steel Limited, 10, 12, 13, 14, 27, 29, 31, 60, and 62).

C. Calculation of AFA Rates for Bhushan and Welspun

Commerce is determining the subsidy rate of Bhushan and Welspun in accordance with its CVD AFA hierarchy under section 776(d) of the Act as described above⁶⁵. Specifically, when selecting rates, where there is no cooperating mandatory respondent in the investigation, Commerce will apply the established CVD AFA hierarchy as follows. Because in this investigation both respondents are not participating, there is no calculated subsidy rate for the identical program in this investigation. Therefore, where there is no subsidy rate for the identical program above zero calculated for a cooperating respondent in the investigation, we then determine if an identical program was used in another CVD proceeding involving the same country, and apply the highest calculated rate for the identical program (excluding *de minimis* rates).⁶⁶ If no such rate exists, we then determine if there is a similar/comparable program (based on the treatment of the benefit) in another CVD proceeding involving the same country and apply the highest calculated above-*de minimis* rate for the similar/comparable program. Finally, where no such rate is available, we apply the highest calculated above-*de minimis* rate from any program that could conceivably be used by the non-cooperating companies.⁶⁷

In applying AFA to Bhushan and Welspun, we are guided by Commerce's methodology detailed above. As there are no program-specific above-zero rates determined for cooperating respondents in the investigation, we are applying the highest non-*de minimis* subsidy rate calculated for the same or, if lacking such rate, for a similar program in an India CVD investigation or administrative review. For this preliminary determination, we are able to match, based on program name, description, and treatment of the benefit, the following programs to identical or similar programs from other India CVD proceedings:

1. Advance License Program
2. Advance Authorization Program
3. Duty Free Import Authorization Scheme
4. Duty Drawback Program
5. Duty-Free Importation of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Square Parts, and Packing Materials
6. Reimbursements of Central Sales Tax (CST) Paid on Goods Manufactured in India

⁶⁵ See, e.g., *Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013), and accompanying IDM at 13-14; see also *Essar Steel Ltd. v. United States*, 753 F.3d 1368, 1373-1374 (Fed. Cir. 2014) (upholding "hierarchical methodology for selecting an AFA rate" prior to the TPEA).

⁶⁶ For purposes of selecting AFA program rates, we normally treat rates less than 0.5 percent to be *de minimis*. See, e.g., *Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010), and accompanying IDM at "1. Grant Under the Tertiary Technological Renovation Grants for Discounts Program" and "2. Grant Under the Elimination of Backward Production Capacity Award Fund."

⁶⁷ See *Aluminum Extrusions From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521 (April 4, 2011) (*Aluminum Extrusions from the PRC*), and IDM at "Application of Adverse Inferences: Non-Cooperative Companies" section; see also *Thermal Paper from the PRC*, and Thermal Paper IDM at "Selection of the Adverse Facts Available Rate" section, and *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 IDM at "SGOC Industrial Policy 2004-2009."

7. Duty Drawback on Fuel Procured from Domestic Oil Companies
8. Exemption from Payment of Central Excise Duty on Goods Manufactured in India and Procured from a Domestic Tariff Area
9. Export Promotion of Capital Goods Scheme
10. Merchandise Export from India Scheme
11. Interest Equalization Scheme for Export Financing
12. Status Holders Incentive Scheme
13. Pre-Shipment and Post-Shipment Export Financing
14. Market Development Assistance Scheme
15. Market Access Initiative
16. Focus Product Scheme
17. GOI Loan Guarantees
18. Status Certificate Program
19. Income Deduction Program (80-IB Tax Program)
20. SEZ Income Tax Exemption
21. Duty-Free Importation of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts, and Packing Material
22. Exemption from Payment of Central Sales Tax on Purchases of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts, and Packing Material
23. Exemption from Electricity Duty and Cess (a tax or levy) on Electricity Supplied to a SEZ Unit
24. Special Economic Zone - Service Tax Exemption
25. Exemption from Payment of Local Government Taxes and Duties, Such as Sales Tax and Stamp Duties
26. Steel Development Fund Loans
27. Provision of Hot-Rolled Steel by the Steel Authority of India for LTAR
28. Provision of Captive Mining Rights for Iron Ore
29. Provision of Captive Mining Rights for Coal
30. Provision of High-Grade Iron Ore for LTAR
31. Provision of Cut-to-Length Plate
32. Incremental Exports Incentive Scheme
33. State Government of Andhra Pradesh (SGAP) Grant Under the Industrial Investment Promotion Policy: 25 Percent Reimbursement of the Cost of Land in Industrial Estates and Development Areas
34. SGAP Grant Under the Industrial Investment Promotion Policy: Reimbursement of Power at the Rate of Rs. 0.75 per Unit
35. SGAP Grant under the Industrial Investment Promotion Policy: 50 Percent Subsidy for Expenses Incurred for Quality Certification
36. SGAP Grant under the Industrial Investment Promotion Policy: 50 Percent Subsidy on Expenses Incurred in Patent Registration
37. SGAP Grant under the Industrial Investment Promotion Policy: 25- or 35-Percent Subsidy in Cleaner Production Measures
38. SGAP Tax Incentives under the Industrial Investment Promotion Policy: 100 Percent Reimbursement of Stamp Duty and Transfer Duty Paid for the Purchase of Land and Buildings and the Obtaining of Financial Deeds and Mortgages
39. SGAP Tax Incentives under the Industrial Investment Promotion Policy:

- Reimbursement on VAT, CST, and State Goods and Services Tax
40. SGAP Tax Incentives under the Industrial Investment Promotion Policy: Exemption from SGAP Non-Agricultural Land Assessment
 41. SGAP Provision of Goods and Services for LTAR under the Industrial Investment Promotion Policy: Provision of Infrastructure for Industries Located More than 10 Kilometers from Existing Industrial Estates or Development Areas
 42. SGAP Provision of Goods and Services for LTAR under the Industrial Investment Promotion Policy: Guaranteed Stable Water Prices and Reservation of Municipal Water
 43. Andhra Pradesh Industrial Investment Corporation's Allotment of Land for LTAR
 44. Andhra Pradesh Industrial Investment Corporation's Provision of Infrastructure
 45. State Government of Maharashtra (SGOM) Sales Tax Program
 46. SGOM Infrastructure Assistance for Mega Projects under the Maharashtra Industrial Policy of 2013 and Other SGOM Industrial Promotion Policies to Support Mega Projects
 47. SGOM Subsidies for Mega Projects under the Package Scheme of Incentives
 48. SGOM VAT Refunds under the SGOM Package Scheme of Incentives –
 49. SGOM Electricity Duty Exemptions
 50. SGOM Waiving of Loan Interest by the State Industrial and Investment Corporation of Maharashtra Ltd.
 51. SGOM Investment Subsidies
 52. SGOM Royalty Refund on Purchase of Minerals from Mine Owners with in the SGOM for a Period of Five Years
 53. SGOM Micro, Small and Medium Manufacturing Enterprise Subsidies
 54. SGOM Waiver of Stamp Duty
 55. SGOM Provision of Land for LTAR
 56. State Government of Gujarat's (SGOG's) Exemptions and Deferrals on Sales Tax for Purchases of Goods
 57. SGOG's VAT Remission Scheme Established on April 1, 2006
 58. SGOG's Special Economic Zone Act (SGOG SEZ Act): Stamp Duty and Registration Fees for Land Transfers, Loan Agreements, Credit Deeds, and Mortgages
 59. SGOG SEZ Act: Sales Tax, Purchase Tax, and Other Taxes Payable on Sales and Transactions
 60. SGOG SEZ Act: Sales and Other State Taxes on Purchases of Inputs (Both Goods and Services) for the SEZ or a Unit within the SEZ
 61. State Government of Karnataka (SGOK) Industrial Policy (KIP) Tax Incentives
 62. KIP Provision of Land for LTAR
 63. KIP Provision of Iron Ore for LTAR
 64. KIP Provision of Power/Electricity for LTAR
 65. KIP Provision of Water for LTAR
 66. KIP Provision of Roads and Port Facility Infrastructure for LTAR
 67. KIP Loans
 68. KIP Grants
 69. State Government of Uttar Pradesh (SGUP) Exemption from Entry Tax for the Iron and Steel Industry
 70. SGUP Long-Term Interest Free Loans Equivalent to the Amount of VAT and CST Paid

71. SGUP's Interest Free Loans Under the SGUP Industrial Development Promotion Rules 2003

Accordingly, we preliminarily determine the AFA countervailable subsidy rate for Bhushan and Welspun to be 541.15 percent *ad valorem*. The appendix to this memorandum contains a chart summarizing our calculation of this rate.

C. *Corroboration of AFA Rate*

Section 776(c) of the Act provides that, when Commerce 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.”⁶⁸ The SAA provides that to “corroborate” secondary information, Commerce will satisfy itself that the secondary information to be used has probative value.⁶⁹

Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that Commerce need not prove that the selected facts available are the best alternative information.⁷⁰ Furthermore, Commerce is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.⁷¹

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, Commerce will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. Commerce will not use information where circumstances indicate that the information is not appropriate as AFA.⁷²

In the absence of responses from Bhushan and Welspun concerning the alleged programs, due to their decision not to participate in this investigation, Commerce reviewed the information concerning Indian subsidy programs in this and other cases.⁷³ Where we have a program-type match, we find that, because these are the same or similar programs, they are relevant to the programs in this case. Additionally, the relevance of the rates applied is that they are actual calculated CVD rates for the GOI programs, from which Bhushan and Welspun could actually

⁶⁸ See SAA at 870.

⁶⁹ *Id.*

⁷⁰ *Id.* at 869-870.

⁷¹ See section 776(d) of the Act.

⁷² See, e.g., *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

⁷³ Specifically, Commerce examined information in the Petition regarding each alleged program and compared its description with that of programs examined in other cases. See Petition and CVD Initiation Checklist.

receive a benefit. Due to the lack of participation by Bhushan and Welspun and their failure to provide a response concerning each of these programs, Commerce has corroborated the rates it selected to use as AFA to the extent practicable for this preliminary determination.

V. ANALYSIS OF PROGRAMS

Based on our analysis, the petition, the CVD Initiation Checklist and the GOI's response to our questionnaire, we are preliminarily finding that all of the 71 programs detailed above are countervailable and we are determining for 64 of these programs, as AFA, that these programs constitute financial contributions and are specific within the meaning of the Act. Additionally, the GOI provided information that supports a finding that the following six programs are specific and constitute a financial contribution: Advance Authorization Program, Duty Drawback Program, Merchandise Export from India Scheme, Pre-Shipment and Post-Shipment Export Financing, Status Certificate Program, and Export Promotion of Capital Goods Scheme (EPCGS).

As noted in the "Case History" section above, the GOI submitted a timely filed response to our initial CVD questionnaire, in which it asserted that 70 of the programs under investigation were not used by one or both mandatory respondents.⁷⁴ However, the GOI only provided some form of evidence of non-use with its response for certain programs.

As noted above, in *Lined Paper from India*,⁷⁵ as in this case, all of the mandatory company respondents were uncooperative, but the GOI provided a response to our CVD questionnaire. In that case, we stated that if the foreign government provides complete verifiable, positive evidence, we will consider certain types of information in determining a non-cooperating mandatory respondent's (including all facilities and cross-owned affiliates) usage of a subsidy program, and we issued a questionnaire after the preliminary determination asking the GOI to provide such information.⁷⁶ Therefore, for certain programs where the GOI asserted that there was non-use or ineligibility based on inconclusive evidence of termination or non-use of the programs, Commerce will issue a supplemental questionnaire to the GOI to request additional verifiable, positive evidentiary support regarding the alleged non-use of these programs, and will consider any additional information for the final determination.

A. Programs Determined to Be Countervailable

1. *Advance Authorization Program (AAP)/Advanced License Program (ALP)*

Under the AAP, exporters may import, duty free, specified quantities of materials required to manufacture products that are subsequently exported.⁷⁷ The quantities of imported materials and exported finished products are linked through standard input-output norms (SIONs) established by the GOI.⁷⁸

⁷⁴ See GOI IQR.

⁷⁵ See *Lined Paper from India*.

⁷⁶ *Id.* and accompanying PDM at 5-6.

⁷⁷ See GOI IQR at 10-11 and Exhibit 3-4.

⁷⁸ *Id.*

Import duty exemptions on inputs for exported products are not countervailable so long as the exemption extends only to inputs consumed in the production of the exported product, making normal allowances for waste.⁷⁹ 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.⁸⁰ This system must be reasonable, effective for the purposes intended, and based on generally accepted commercial practices in the country of export.⁸¹ 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.⁸²

In the *2003 Review of PET Film from India*, the GOI indicated that it had revised its Foreign Trade Policy and Handbook of Procedures for the AAP/ALP during 2005. Commerce acknowledged that certain improvements to the AAP/ALP system were made. However, Commerce found that, based on the information submitted by the GOI and examined during previous reviews of that proceeding, and no information having been submitted for that review demonstrating that the GOI had revised its laws or procedures governing this program since those earlier reviews, systemic issues continued to exist in the AAP/ALP system during that POR.⁸³ Specifically, in the 2003 review, Commerce stated that it continued to find the AAP/ALP countervailable based on:

the GOI's lack of a system or procedure to confirm which inputs are consumed in the production of the exported products and in what amounts that is reasonable and effective for the purposes intended, as required under 19 CFR 351.519. Specifically, we still have concerns with regard to several aspects of the ALP including (1) the GOI's inability to provide the SION calculations that reflect the production experience of the PET Film industry as a whole; (2) the lack of evidence regarding the implementation of penalties for companies not meeting the export requirements under the ALP or for claiming excessive credits; and, (3) the availability of ALP benefits for a broad category of "deemed" exports.⁸⁴

Since the *2003 Review of PET Film from India*, Commerce has in several other proceedings made determinations consistent with this treatment of the AAP/ALP.⁸⁵ In the current

⁷⁹ See 19 CFR 351.519(a)(1)(ii).

⁸⁰ See *Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination*, 78 FR 50385 (August 19, 2013) (*Shrimp from India Final Determination*), and accompanying Issues and Decision Memorandum (IDM) at "Duty Drawback (DDB)."

⁸¹ *Id.*

⁸² See 19 CFR 351.519(a)(4)(i)-(ii).

⁸³ See *Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 71 FR 7534 (February 13, 2006) (*2003 Review of PET Film from India*), and accompanying IDM at 3-5.

⁸⁴ *Id.*

⁸⁵ See, e.g., *Certain Oil Country Tubular Goods from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 41967 (July 18, 2014) (*Oil Country Tubular Goods from India Final*), and accompanying IDM; see also *Certain Lined Paper Products from India:*

investigation, record evidence does not show that there has been a change to the AAP/ALP program and therefore we preliminarily find that the program confers a countervailable subsidy because: (1) a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided under the program, as the GOI exempts the respondents from payment of import duties that would otherwise be due; (2) the GOI does not have in place, and does not apply, a system that is reasonable and effective for the purposes intended in accordance with 19 CFR 351.519(a)(4), to confirm which inputs, and in what amounts, are consumed in the production of the exported products, making normal allowance for waste, nor did the GOI carry out an examination of actual inputs involved to confirm which inputs are consumed in the production of the exported product, and in what amounts; thus, the entire amount of the import duty deferral or exemption provided to the respondent constitutes a benefit under section 771(5)(E) of the Act; and (3) this program is specific under section 771(5A)(B) of the Act because it is contingent upon exportation.

The GOI reports these programs were used during the POI.⁸⁶ However, the GOI further states that the actual amount used under the AAP license can be obtained from the mandatory respondents.⁸⁷ Based on these statements, and because Welspun and Bhushan did not respond to Commerce's initial questionnaire, we preliminarily find, based on AFA, that the respondents used and benefitted from these programs.

2. *Duty Drawback Program (DDP)*

The GOI explains 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.⁸⁸ 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.⁸⁹ The duty drawback is generally fixed as a percentage of the free on board (FOB) price of the exported product.⁹⁰

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.⁹¹ 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.⁹² This system must be reasonable, effective for the purposes intended, and based on generally accepted commercial practices in the country of export.⁹³ If such a system does not exist, or if it is not applied effectively, and the government in question does not carry

Final Results of Countervailing Duty Administrative Review; Calendar Year 2012, 80 FR 19637 (April 13, 2015), and accompanying IDM.

⁸⁶ See GOI Initial Questionnaire Response at 11.

⁸⁷ *Id.*

⁸⁸ *Id.* at 22-23.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ See 19 CFR 351.519(a)(1)(ii).

⁹² See *Shrimp from India Final Determination*, and accompanying IDM at "Duty Drawback (DDB)."

⁹³ *Id.*

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.⁹⁴ While the GOI provides a general explanation of how duty drawback on exported goods are claimed, the GOI does not provide a detailed explanation of how the GOI can examine the actual inputs consumed in the production of the exported good.⁹⁵ Accordingly, we preliminarily find that the GOI does not have a system in place to confirm which inputs are consumed in the production of the exported products, and in what amounts.

Regarding its establishment of applicable duty drawback rates, the GOI explains that a committee is established to review data and recommend duty drawback rates. Specifically, the GOI stated the following:

The rates are determined following a specified procedure that is undertaken by an independent committee appointed by GOI. The committee makes its recommendations after discussions with all stake holders including Export Promotion Councils, Trade Associations, and individual exporters to solicit relevant data, which includes the data on procurement prices of inputs, indigenous as well as imported, applicable duty rates, consumption ratios and FOB values of exports products. Corroborating data is also 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 DDB.⁹⁶

As submitted by the GOI, Rule 3(2) of the Drawback Rules 1995, states that in determining the amount of drawback, “the Central Government shall have regard to” the average quantity and value of an input, component or intermediate product, whether produced in India or imported, the import duties or excise duties paid thereon, as well as account for waste, re-use or sale of a by-product, and packing and input services rendered.⁹⁷ We preliminarily determine that this program confers a financial contribution and we find the DDP program is specific within the meaning of sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively.

The GOI reports this program was used during the POI.⁹⁸ Based on this statement, and because Welspun and Bhushan did not respond to Commerce’s initial questionnaire, we preliminarily find, based on AFA, that the respondents used and benefitted from this program.

3. Merchandise Export from India Scheme (MEIS)

The GOI explains that the MEIS was introduced in the Foreign Trade Policy (FTP) 2015-2020.⁹⁹ Its purpose is to “promote the manufacture and export of notified goods and products.”¹⁰⁰ Under this program, the GOI issues a scrip that is calculated using the FOB value of “exports in free foreign exchange, or on FOB value of exports as given in the shipping bills in freely convertible

⁹⁴ See 19 CFR 351.519(a)(4)(i)-(ii).

⁹⁵ See GOI IQR at 19.

⁹⁶ *Id.* at 26.

⁹⁷ *Id.* at 26-27.

⁹⁸ *Id.* at 29.

⁹⁹ *Id.* at 40 and Exhibit 3-4.

¹⁰⁰ *Id.*

foreign currencies, whichever is less, unless otherwise specified.¹⁰¹ To receive the scrip, a recipient must file an electronic application and supporting shipping documentation for each port of export with the Director General of Foreign Trade (DGFT).¹⁰²

In *Steel Flanges from India*, Commerce found the MEIS program to be countervailable based on its similarities to India's Status Holder Incentive Scheme (SHIS), which Commerce has also found countervailable.¹⁰³ For that program, similar to the MEIS program, the GOI provides scrips to exporters worth a certain percentage of the FOB value of exports. The scrip could then be used as a credit for future import duties or could be transferred to other "Status Holders" to be used as a credit for future import duties.¹⁰⁴ We preliminarily determine that this program confers a financial contribution and we find the MEIS program specific within the meaning of sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively.

The GOI reports this program was used during the POI.¹⁰⁵ Based on this statement, and because Welspun and Bhushan did not respond to Commerce's initial questionnaire, we preliminary find, based on AFA, that the respondents used and benefitted from this program.

4. Status Certificate Program (SCP)

The GOI reports that status holders are business leaders who have excelled in international trade and successfully contributed to the country's foreign trade. Status holders are expected to contribute to India's exports and provide expertise and guidance to new companies. The scheme recognizes established exporters in the following categories:¹⁰⁶

Status Category	Export Performance FOB/FOR (as converted) Value (in US \$ Million)
One Star Export House	3 Million
Two Star Export House	25 Million
Three Star Export House	100 Million
Four Star Export House	500 Million
Five Star Export House	2000 Million

The GOI reports this program was used during the POI.¹⁰⁷ Under the GOI's Foreign Trade Policy Act 2015 – 2020 (FTP 15-20), status holders are eligible for certain privileges such as exemptions from furnishings of bank guarantees, exemption from compulsory negotiations of documents through banks, permits to establish export warehouses, and preferential treatment and

¹⁰¹ *Id.* at 47.

¹⁰² *Id.* at 43.

¹⁰³ See *Finished Carbon Steel Flanges from India: Preliminary Affirmative Countervailing Duty Determination*, 81 FR 85928 (November 29, 2016), and accompanying PDM (*Steel Flanges from India*) at 16; unchanged in *Finished Carbon Steel Flanges from India: Final Affirmative Countervailing Duty Determination*, 82 FR 29479 (June 29, 2017), and accompanying IDM.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.* at 41.

¹⁰⁶ See GOI IQR at 64-66 and Exhibit 3-4 at 57-58.

¹⁰⁷ *Id.* at 63 and Appendix 2.

priority in handling of consignments (*see* FTP 15-20 for full list of benefits).¹⁰⁸ Commerce has countervailed this program in previous investigations.¹⁰⁹ We preliminarily determine that the GOI confers a financial contribution and we find the SCP program specific within the meaning of sections 771(5)(D)(i) and 771(5A)(B) of the Act, respectively.

Based on the GOI's statement that the program was used, and because Welspun and Bhushan did not respond to Commerce's initial questionnaire, we preliminary find, based on AFA, that the respondents used and benefitted from this program.

5. *Export Promotion of Capital Goods Scheme (EPCG)*

The GOI reports that the objective of the EPCG scheme is to facilitate import of capital goods for producing quality goods and services and enhance India's manufacturing competitiveness.¹¹⁰ The EPCG scheme allows the import of capital goods for pre-production, production and post-production at zero customs duty.¹¹¹ Under this program the DGFT calculates the applicable duties allowed under the scheme.¹¹² The export obligation calculation is based on the exporter's last three years of export performance.¹¹³ Commerce has countervailed this program in previous investigations.¹¹⁴ We preliminarily determine that this program confers a financial contribution and we find the EPCG program specific within the meaning of sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively.

The GOI reports this program was used during the POI.¹¹⁵ Based on this statement, and because Welspun and Bhushan did not respond to Commerce's initial questionnaire, we preliminary find, based on AFA, that they used and benefitted from this program.

6. *Pre-Shipment and Post-Shipment Export Financing*

In previous cases, Commerce determined that the Reserve Bank of India sets the ceiling interest rate that banks may charge under this financing scheme and that the eligibility for export finance is contingent on export performance.¹¹⁶ In this case, we preliminarily determine that the GOI's issuance of financing at preferential rates constituted a financial contribution pursuant to section 771(5)(D)(i) of the Act. In addition, we preliminarily determine that the program is contingent upon export and, therefore, is specific within the meaning of section 771(5A)(B) of the Act.

¹⁰⁸ *Id.* at 64-67 and Exhibit 3-4 at 65-67.

¹⁰⁹ *See Circular Welded Carbon-Quality Steel Pipe from India: Final Affirmative Countervailing Duty Determination* 77 FR 64468 (October 22, 2012) and accompanying IDM (*Circular Welded Steel Pipe from India*) at 19-21.

¹¹⁰ *See* GOI IQR at 76 and Exhibit 3-4 at 91.

¹¹¹ *Id.*

¹¹² *Id.* at 74.

¹¹³ *Id.*

¹¹⁴ *See Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Final Affirmative Countervailing Duty Determination*, 82 FR 58172 (December 11, 2017) and accompanying IDM (*Cold-Drawn Mechanical Tubing from India*) at 13.

¹¹⁵ *Id.* at 29.

¹¹⁶ *See Circular Welded Steel Pipe from India* and accompanying IDM at 18.

While the GOI provided some information regarding this program, the GOI made the unsubstantiated claim that this program was not used during the POR.¹¹⁷ Because this claim is unsubstantiated, and because Welspun and Bhushan did not respond to Commerce's initial questionnaire, we preliminary find, based on AFA, that they used and benefitted from this program.

VI. CONCLUSION

We recommend applying the above methodology for this preliminary determination.



Agree



Disagree

6/19/2018

X



Signed by: GARY TAVERMAN

Gary Taverman

Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

¹¹⁷ See GOI IQR at 47.

APPENDIX

AFA Rate Calculation

Program Name	AFA Rate
1. Advance License Program ¹¹⁸	6.82%
2. Advance Authorization Program ¹¹⁹	
3. Duty Drawback Program ¹²⁰	2.97%
4. Duty Free Import Authorization Scheme ¹²¹	14.61%
5. Duty-Free Import of Goods, Including Capital Goods and Raw Materials ¹²²	14.61%
6. Reimbursements of Central Sales Tax (CST) Paid on Goods Manufactured in India ¹²³	3.09%
7. Duty Drawback on Fuel Procured from Domestic Oil Companies ¹²⁴	14.61%
8. Exemption from Payment of Central Excise Duty on Goods Manufactured in India and Procured from a Domestic Tariff Area ¹²⁵	14.61%
9. Export Promotion of Capital Goods Scheme ¹²⁶	16.63%
10. Merchandise Exports from India Scheme ¹²⁷	1.48%
11. Interest Equalization Scheme ¹²⁸	0.27%
12. Status Holder Incentive Scheme ¹²⁹	0.39%
13. Pre-Shipment and Post-Shipment Export Financing ¹³⁰	2.90%
14. Market Development Assistance Scheme ¹³¹	16.63%
15. Market Access Initiative ¹³²	16.63%
16. Focus Product Scheme ¹³³	2.00%
17. GOI Loan Guarantees ¹³⁴	2.90%

¹¹⁸ See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review 2015*, 83 FR 5612 (February 8, 2018) and accompanying IDM (*PET Film from India*) at 5.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.* at 27.

¹²² See *Circular Welded Steel Pipe from India* at 12-13.

¹²³ *Id.* at 13.

¹²⁴ *Id.* at 13-14.

¹²⁵ *Id.*

¹²⁶ *Id.* at 16.

¹²⁷ See *Cold-Drawn Mechanical Tubing from India* at 12.

¹²⁸ *Id.* at 36.

¹²⁹ *Id.* at 13; see also *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review 2015*, 83 FR 5612 (February 8, 2018) and accompanying Issues and Decision Memorandum at 4 (*PET Film from India*). at 4.

¹³⁰ See *PET Film from India* at 4.

¹³¹ See *PET Resin from India* at 26.

¹³² See *Circular Welded Steel Pipe from India* at 19-20.

¹³³ See *PET Resin from India* at 18-19.

¹³⁴ *Id.* at 26.

18. Status Certificate Program ¹³⁵	2.90%
19. Income Deduction Program (80-IB Tax Program) ¹³⁶	35%
20. SEZ Income Tax Exemption ¹³⁷	
21. Duty-Free Importation of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts, and Packing Material ¹³⁸	14.61%
22. Exemption from Payment of Central Sales Tax on Purchases of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts, and Packing Material ¹³⁹	0.53%
23. Exemption from Electricity Duty and Cess on Electricity Supplied to a SEZ Unit ¹⁴⁰	3.09%
24. Special Economic Zones - Service Tax Exemption ¹⁴¹	3.09%
25. Exemption from Payment of Local Government Taxes and Duties, Such as Sales Tax and Stamp Duties ¹⁴²	3.09%
26. Steel Development Funds Loans ¹⁴³	0.99%
27. Provision of Hot-Rolled Steel by SAIL for LTAR ¹⁴⁴	16.14%
28. Provision for Captive Mining Rights for Iron Ore ¹⁴⁵	18.08%
29. Provisions of Captive Mining Rights for Coal ¹⁴⁶	3.09%
30. Provisions of High-Grade Iron Ore for LTAR ¹⁴⁷	16.14%
31. Provisions of CTL Plate for LTAR ¹⁴⁸	16.14%
32. Incremental Exports Incentive Scheme ¹⁴⁹	0.40%
33. SGAP Subsidy Programs - Grant Under the Industrial Investment Promotion Policy: 25 Percent Reimbursement of the Cost of Land in Industrial Estates and Development Areas ¹⁵⁰	6.06%

¹³⁵ See *Circular Welded Steel Pipe from India* at 20-21.

¹³⁶ *Id.* at 11.

¹³⁷ *Id.*

¹³⁸ *Id.* at 12-13.

¹³⁹ See *PET Resin from India* at 25.

¹⁴⁰ See *Circular Welded Steel Pipe from India* at 23.

¹⁴¹ See *Certain Hot-Rolled Carbon Steel Flat Products from India: Final Results of Countervailing Duty Administrative Review*, 75 FR 43488 (July 26, 2010) and accompanying IDM (*Hot-Rolled Carbon Steel Flat Products from India*) at 18-19.

¹⁴² See *PET Resin from India* at 25.

¹⁴³ See *Hot-Rolled Carbon Steel Flat Products from India* at 11.

¹⁴⁴ See *Circular Welded Steel Pipe from India* at 24-25.

¹⁴⁵ *Id.* at 25.

¹⁴⁶ *Id.* at 25-26.

¹⁴⁷ *Id.* at 26.

¹⁴⁸ *Id.* at 24-25. No rate exists for this program and, therefore, we are using the rate for the Provision of Hot-Rolled Steel by SAIL for LTAR as a similar/comparable program.

¹⁴⁹ See *Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from India: Final Affirmative Determination*, 83 FR 3122 (January 23, 2018) and accompanying IDM (*Fine Denier Polyester Staple from India*) at 11.

¹⁵⁰ See *Hot-Rolled Carbon Steel Flat Products from India* at 29-30.

34. SGAP Subsidy Programs - Grant Under the Industrial Investment Promotion Policy: Reimbursement of Power at the Rate of Rs. 0.75 per Unit ¹⁵¹	6.06%
35. SGAP Subsidy Programs - Grant under the Industrial Investment Promotion Policy: 50 Percent Subsidy for Expenses Incurred for Quality Certification ¹⁵²	6.06%
36. SGAP Subsidy Programs - Grant under the Industrial Investment Promotion Policy: 50 Percent Subsidy on Expenses Incurred in Patent Registration ¹⁵³	6.06%
37. SGAP Subsidy Programs - Grant under the Industrial Investment Promotion Policy: 25- or 35-Percent Subsidy in Cleaner Production Measures ¹⁵⁴	6.06%
38. SGAP Subsidy Programs - Tax Incentives under the Industrial Investment Promotion Policy: 100 Percent Reimbursement of Stamp Duty and Transfer Duty Paid for the Purchase of Land and Buildings and the Obtaining of Financial Deeds and Mortgages ¹⁵⁵	3.09%
39. SGAP Subsidy Programs - Tax Incentives under the Industrial Investment Promotion Policy: Reimbursement on VAT, CST, and State Goods and Services Tax ¹⁵⁶	3.09%
40. SGAP Subsidy Programs - Tax Incentives under the Industrial Investment Promotion Policy: Exemption from SGAP Non-Agricultural Land Assessment ¹⁵⁷	3.09%
41. SGAP Subsidy Programs - Provision of Goods and Services for LTAR under the Industrial Investment Promotion Policy: Provision of Infrastructure for Industries Located More than 10 Kilometers from Existing Industrial Estates or Development Areas ¹⁵⁸	18.08%
42. SGAP Subsidy Programs - Provision of Goods and Services for LTAR under the Industrial Investment Promotion Policy: Guaranteed Stable Water Prices and Reservation of Municipal Water ¹⁵⁹	18.08%
43. Andhra Pradesh Industrial Investment Corp.'s Allotment of Land for LTAR ¹⁶⁰	6.06%
44. Andhra Pradesh Industrial Investment Corp.'s Provision of Infrastructure ¹⁶¹	18.08%

¹⁵¹ *Id.* at 30.

¹⁵² *Id.* at 30-31.

¹⁵³ *Id.* at 31-32.

¹⁵⁴ *Id.* at 31.

¹⁵⁵ *Id.* at 32.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.* at 33.

¹⁵⁸ *Id.* at 33-34.

¹⁵⁹ *Id.* at 34.

¹⁶⁰ See *Hot-Rolled Carbon Steel Flat Products from India* at 29-30. No rate exists for this program and, therefore, we are using the rate for the SGAP Grant Under the Industrial Investment Promotion Policy: 25 Percent Reimbursement of the Cost of Land in Industrial Estates and Development Areas as a similar/comparable program.

¹⁶¹ See *Hot-Rolled Carbon Steel Flat Products from India* at 33-34. No rate exists for this program and, therefore, we are using the rate for the SGAP Provision of Goods and Services for LTAR under the Industrial Investment Promotion Policy as a similar/comparable program.

45. State Government of Maharashtra (SGOM) Subsidy Programs - SGOM Sales Tax Program ¹⁶²	0.59%
46. SGOM Subsidy Programs - Infrastructure Assistance for Mega Projects under the Maharashtra Industrial Policy of 2013 and Other SGOM Industrial Promotion Policies to Support Mega Projects ¹⁶³	6.06%
47. SGOM Subsidy Programs - Subsidies for Mega Projects under the Package Scheme of Incentives ¹⁶⁴	0.95%
48. SGOG VAT Refunds under the SGOM Package Scheme of Incentives ¹⁶⁵	3.09%
49. SGOM Electricity Duty Exemptions ¹⁶⁶	3.09%
50. SGOM Waiving Loan Interest by State Industrial and Investment Corporation of Maharashtra Ltd. (SICOM) ¹⁶⁷	2.9%
51. SGOM Investment Subsidies ¹⁶⁸	6.06%
52. SGOM Royalty Refund on Purchase of Minerals from Mine Owners with in the State of Maharashtra for a Period of 5 years ¹⁶⁹	3.09%
53. SGOM Micro, Small and Medium Manufacturing Enterprise Subsidies ¹⁷⁰	6.06%
54. SGOM Waiver of Stamp Duty ¹⁷¹	3.09%
55. SGOM Provision of Land for LTAR ¹⁷²	18.08%
56. SGOG's Exemptions and Deferrals on Sales Tax for Purchases of Goods ¹⁷³	3.09%
57. SGOG's VAT Remission Scheme Established 4/1/06 ¹⁷⁴	3.09%
58. SGOG Special Economic Zone Act (SGOG SEZ Act): Stamp Duty and Registration Fees for Land Transfers, Loan Agreements, Credit Deeds, and Mortgages ¹⁷⁵	3.09%
59. SGOG SEZ Act: Sales Tax, Purchase Tax, and Other Taxes Payable on Sales and Transactions ¹⁷⁶	3.09%

¹⁶² See *Circular Welded Steel Pipe from India* at 26.

¹⁶³ *Id.* at 29.

¹⁶⁴ See *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from India: Final Affirmative Determination*, 81 FR 4992 (July 29, 2016) and accompanying IDM (*Certain Cold-Rolled Steel Flat Products from India*) at 11.

¹⁶⁵ See *Circular Welded Steel Pipe from India* at 27.

¹⁶⁶ *Id.* at 28.

¹⁶⁷ *Id.* 31-32.

¹⁶⁸ *Id.* at 30-31.

¹⁶⁹ See *Hot-Rolled Carbon Steel Flat Products from India* at 37. No rate exists for this program and, therefore, we are using the rate for the SGAP Grant Under the Industrial Investment Promotion Policy: SGOC Tax Incentives Under the Industrial Policy 2004-2009 as a similar/comparable program.

¹⁷⁰ See *PET Resin from India* at 27.

¹⁷¹ *Id.* at 26.

¹⁷² See *Circular Welded Steel Pipe from India* at 30.

¹⁷³ See *Hot-Rolled Carbon Steel Flat Products from India* at 22.

¹⁷⁴ *Id.* at 22-23.

¹⁷⁵ *Id.* at 23-24.

¹⁷⁶ *Id.* at 24.

60. SGOG SEZ Act: Sales and Other State Taxes on Purchases of Inputs (Both Goods and Services) for the SEZ or a Unit within the SEZ ¹⁷⁷	3.09%
61. State Government of Karnataka (SGOK) KIP Industrial Policy Tax Incentives ¹⁷⁸	3.09%
62. KIP Provision of Land for LTAR ¹⁷⁹	18.08%
63. KIP Provision of Iron Ore for LTAR ¹⁸⁰	18.08%
64. KIP Provision of Power/Electricity for LTAR ¹⁸¹	18.08%
65. KIP Provision of Water for LTAR ¹⁸²	18.08%
66. KIP Provision of Roads & Port Facility Infrastructure for LTAR ¹⁸³	18.08%
67. KIP Loans ¹⁸⁴	1.32%
68. KIP Grants ¹⁸⁵	6.06%
69. SGUP Exemption from Entry Tax for the Iron and Steel Industry ¹⁸⁶	3.05%
70. SGUP Long-term Interest Free Loans Equivalent to the Amount of VAT and CST Paid ¹⁸⁷	3.09%
71. SGUP's Interest Free Loans Under the SGUP Industrial Development Promotion Rules 2003 ¹⁸⁸	1.32%
TOTAL:	541.15%

¹⁷⁷ *Id.* at 24-25.

¹⁷⁸ *Id.* at 45.

¹⁷⁹ *Id.* at 46.

¹⁸⁰ *Id.*

¹⁸¹ *Id.* at 47.

¹⁸² *Id.*

¹⁸³ *Id.* at 47-48.

¹⁸⁴ *Id.* at 49.

¹⁸⁵ *Id.* at 48-49.

¹⁸⁶ *See Cold-Drawn Mechanical Tubing from India* at 14.

¹⁸⁷ *See Hot-Rolled Carbon Steel Flat Products from India* at 22-23. No rate exists for this program and, therefore, we are using the rate for the SGOG's VAT Remission Scheme as a similar/comparable program.

¹⁸⁸ *Id.* at 27. No rate exists for this program and therefore, we are using the rate for the SGOM Waiving Loan Interest by SICOM as a similar/comparable program.