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MEMORANDUM TO: 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

FROM: James C. Doyle
Director, Office V
Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the
Countervailing Duty Administrative Review: Certain
Corrosion-Resistant Steel Products from India

I. Summary

In response to requests from interested parties, the Department of Commerce (Commerce) is conducting an administrative review of the countervailing duty (CVD) order on certain corrosion-resistant steel products (CORE) from India for the period of review (POR) November 6, 2015, through December 31, 2016. Commerce preliminarily determines that JSW Steel Limited (JSW) and Uttam Galva Steels Limited (UGSL) received above *de minimis* 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 during the POR. Interested parties are invited to comment on these preliminary results. We intend to issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).

II. Background

On July 25, 2016, Commerce published the *CORE Order* in the *Federal Register*.¹ On July 3, 2017, Commerce published a notice of opportunity to request an administrative review of the

¹ See *Certain Corrosion-Resistant Steel Products from India, Italy, Republic of Korea and the People's Republic of China: Countervailing Duty Order*, 81 FR 48387 (July 25, 2016) (*CORE Order*).

*CORE Order.*² On July 30 and 31, 2017, we received timely requests for review from JSW Steel Limited (JSW) and Uttam Galva Steels Limited (UGSL), respectively.³ On September 13, 2017, Commerce initiated a CVD review with regard to the producers for which interested parties requested individual review.⁴

On October 26, 2017, Commerce issued the Initial Questionnaire to the Government of India (GOI), JSW, and UGSL.⁵ JSW and UGSL submitted their affiliation questionnaire responses on November 9, 2017⁶ and November 13, 2017,⁷ respectively. On December 11, 2017, the GOI submitted its response to Section II of the Initial Questionnaire.⁸ On December 18, 2017, JSW submitted its response to Section III of the Initial Questionnaire on behalf of itself and four cross-owned companies: JSW Steel Coated Products Limited (JSCPL), Amba River Coke Limited (ARCL), JSW Steel (Salav) Limited (JSW Salav), and JSW Steel Processing Centers Limited (JSW Processing).⁹ UGSL filed its response to Section III of the Initial Questionnaire on December 19, 2017.¹⁰ On this same date, additional responses were also filed by affiliates of UGSL: Uttam Galva Metalics Limited (UGML) (a cross-owned input supplier),¹¹ and Uttam Value Steels Limited (UVSL) (a cross-owned producer of subject merchandise).¹² On December 22, 2017, Indrajit Power Pvt. Ltd. (IPPL) (an affiliated producer of electricity that supplies UVSL), provided a response to Section III of the Initial Questionnaire.¹³ In addition to these companies, Commerce requested full responses to Section III of the Initial Questionnaire from five additional affiliates of UGSL, the identities of which are business proprietary information. Commerce timely received two of the requested responses on December 22, 2017, with the remaining three responses being timely submitted on December 27, 2017.

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 82 FR 30833 (July 3, 2017).

³ See Letter from JSW, “Corrosion-Resistant Steel Products from India: Request for Countervailing Duty Administrative Review,” dated July 30, 2017; see also Letter from UGSL, “Certain Corrosion-Resistant Steel Products from India; Request for Administrative Review of Uttam Galva Steels Limited,” dated July 31, 2017.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 42974 (September 13, 2017).

⁵ See Commerce Letter, “Administrative Review/India/Corrosion-Resistant Steel: Countervailing Duty Questionnaire,” dated October 26, 2017.

⁶ See Letter from JSW, “Corrosion-Resistant Steel Products from India: Response to Section III – Affiliated Parties,” dated November 9, 2017 (JSW Affiliates Response).

⁷ See Letter from UGSL, “Certain Corrosion-Resistant Steel Products from India; Uttam Galva Steels Limited’s Questionnaire Response to Section III Identifying Affiliated Companies,” dated November 13, 2017.

⁸ See Letter from the GOI, “Administrative review/India/Corrosion-Resistant Steel: Countervailing Duty Questionnaire; Responses to initial GOI questionnaire,” dated December 11, 2017 (GOI IQR).

⁹ See Letter from JSW, “Corrosion-Resistant Steel Products from India: Response to Section III – Initial Questionnaire Response,” dated December 18, 2017 (JSW Initial Response). We refer to JSW and these cross-owned companies collectively as the JSW Group. JSW also responded on behalf of other cross-owned additional affiliates, but none of those companies reported using any subsidy programs.

¹⁰ See Letter from UGSL, “*Certain Corrosion-Resistant Steel Products from India*; Uttam Galva Steels Limited’s Section III Questionnaire Response,” dated December 19, 2017 (UGSL IQR).

¹¹ See Letter from UGML, “*Certain Corrosion-Resistant Steel Products from India*; Uttam Galva Metalics Limited’s Section III Questionnaire Response,” dated December 19, 2017 (UGML IQR).

¹² See Letter from UVSL, “*Certain Corrosion-Resistant Steel Products from India*; Uttam Value Steels Limited’s Section III Questionnaire Response,” dated December 19, 2017 (UGVL IQR).

¹³ See Letter from Indrajit Power, “*Certain Corrosion-Resistant Steel Products from India*; Indrajit Power Pvt. Ltd.’s Section III Questionnaire Response,” dated December 22, 2017.

On January 23, 2018, Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government on January 20-22, 2018.¹⁴ On April 5, 2018, Commerce extended the due date of the preliminary results of this administrative review until August 3, 2018.¹⁵

On January 5, 2018, the petitioners¹⁶ timely filed new subsidy allegations with regard to the company respondents.¹⁷ UGSL filed comments regarding the petitioners' new subsidy allegations on January 16, 2018.¹⁸ Commerce issued its analysis of the new subsidy allegations on June 22, 2018.¹⁹

On June 27, 2018, Commerce issued a supplemental questionnaire to the GOI.²⁰ NSA questionnaires were issued to the GOI, UGSL, and JSW on June 29, 2018.²¹ Supplemental questionnaires were issued to JSW and UGSL on July 2, 2018.²² The GOI responded to the NSA questionnaire and to the supplemental questionnaire on July 16 and 19, 2018, respectively.²³ JSW responded to the NSA questionnaire on July 16, 2018,²⁴ and to the supplemental

¹⁴ See Commerce Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated January 23, 2018.

¹⁵ See Commerce Memorandum, "First Antidumping Duty Administrative Review of Corrosion Resistant Steel Products from India: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review," dated April 5, 2018.

¹⁶ The petitioners are Nucor Corporation, Steel Dynamics Inc., California Steel Industries, ArcelorMittal USA LLC, and AK Steel Corporation. California Steel Industries, Inc. and Steel Dynamics, Inc. are the two petitioners who have actively participated in this review.

¹⁷ See Letter from the petitioners, "Certain Corrosion-Resistant Steel Products from India: New Subsidy Allegations," dated January 5, 2018.

¹⁸ See Letter from UGSL, "Certain Corrosion-Resistant Steel from India: Uttam Galva Steels Limited's Response to Petitioners' New Subsidy Allegation," dated January 16, 2018.

¹⁹ See Commerce Memorandum, "Administrative Review of the Countervailing Duty Order on Certain Corrosion-Resistant Steel Products from India: Analysis of New Subsidy Allegations" (NSA Memorandum), dated June 22, 2018.

²⁰ See Letter from Commerce, "Administrative Review of the Countervailing Duty Order on Corrosion-Resistant Steel from India: Supplemental Questionnaire," dated June 27, 2018.

²¹ See Letters from Commerce, "Administrative Review of the Countervailing Duty Order on Certain Corrosion-Resistant Steel from India: New Subsidy Allegations Questionnaire," "Administrative Review of the Countervailing Duty Order on Certain Corrosion-Resistant Steel Products from India: New Subsidy Allegations Questionnaire," and "Administrative Review of the Countervailing Duty Order on Certain Corrosion-Resistant Steel from India: New Subsidy Allegations Questionnaire," dated June 29, 2018.

²² See Letter from Commerce, "Administrative Review of the Countervailing Duty Order on Certain Corrosion-Resistant Steel Products from India: Supplemental Questionnaire," dated July 2, 2018; *see also* Letter from Commerce, "Administrative Review of the Countervailing Duty Order on Corrosion-Resistant Steel from India: Supplemental Questionnaire," dated July 2, 2018.

²³ See Letter from the GOI, "Administrative Review of Countervailing Duty into Corrosion Resistant Steel from India (Case No. C-533-864) – Response to Supplemental Questionnaire on behalf of Government of India," dated July 16, 2018 (GOI SQR); *see also* Letter from the GOI, "Administrative Review of Countervailing Duty into Corrosion Resistant Steel from India (Case No. C-533-864) – Response to New Subsidy Allegations (NSA) Questionnaire on behalf of Government of India," dated July 19, 2018 (GOI NSA Submission).

²⁴ See Letter from JSW, "Corrosion-Resistant Steel Products from India: New Subsidies Allegation Questionnaire Response," dated July 16, 2018 (JSW NSA Response).

questionnaire on July 19, 2018.²⁵ UGSL responded to the NSA questionnaire in two parts, on July 16 and 19, 2018.²⁶ UGSL responded to the supplemental questionnaire on July 19, 2018.²⁷

III. Scope of the Order

The products covered by this order are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, *etc.*). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

- (1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and
- (2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this order are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or

²⁵ See Letter from JSW, “Corrosion-Resistant Steel Products from India: Supplemental CVD Questionnaire Response,” dated July 19, 2018 (JSW Supplemental Response).

²⁶ See Letters from UGSL, “*Certain Corrosion-Resistant Steel Products from India*; Uttam Galva Steels Limited New Subsidy Allegations Questionnaire Response,” dated July 16, 2018 (UGSL’s First NSA QR) and “*Certain Corrosion-Resistant Steel Products from India*; Uttam Galva Steels Limited New Subsidy Allegations Questionnaire Response, Question C & D,” dated July 19, 2018 (UGSL’s Second NSA QR).

²⁷ See Letter from UGSL, “*Certain Corrosion-Resistant Steel Products from India*; Uttam Galva Steels Limited Supplemental Questionnaire Response,” dated July 19, 2018 (UGSL SQR).

- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels and high strength low alloy (HSLA) steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (AHSS) and Ultra High Strength Steels (UHSS), both of which are considered high tensile strength and high elongation steels.

Subject merchandise also includes corrosion-resistant steel that has been further processed in a third country, including but not limited to annealing, tempering painting, varnishing, trimming, cutting, punching and/or slitting or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the in-scope corrosion resistant steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this order unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this order:

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (terne plate), or both chromium and chromium oxides (tin free steel), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;
- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion-resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%-60%-20% ratio.

The products subject to the order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.

The products subject to the order may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

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

IV. Subsidies Valuation Information

A. Allocation Period

For non-recurring subsidies, we 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 average useful life (AUL). In the instant review, we are relying on a 15-year AUL.

B. Attribution of Subsidies

Commerce’s regulations at 19 CFR 351.525(b)(6)(i) state that Commerce 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) provides that Commerce will attribute subsidies received by certain other companies to the combined sales of those companies when: (1) two or more corporations with cross-ownership produce the subject merchandise; (2) a firm that received a subsidy is a holding or parent company of the subject company; (3) there is cross-ownership between an input supplier and a downstream producer and production of the input is primarily dedicated to the production of the downstream product; or (4) a corporation producing non-subject merchandise received a subsidy and transferred the subsidy to a corporation with cross-ownership with the subject 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 (CIT) upheld Commerce’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.²⁸

UGSL responded to the Initial Questionnaire on behalf of itself, while also submitting responses for UGML, an input producer, and UVSL, a producer of subject merchandise. In the original investigation, Commerce found that these companies were cross-owned, and that inputs provided by UGML were primarily dedicated to the production of downstream products, and there is no new information to contradict that finding.²⁹ Therefore, because UGSL and UVSL are cross-owned producers of subject merchandise, we are continuing to attribute subsidies received by UGSL and UVSL to their combined sales, in accordance with 19 CFR 351.525(b)(6)(ii). Further, because UGML is an input producer that supplied an input to UVSL that is primarily dedicated to the production of the downstream product, pursuant to 19 CFR 351.525(b)(6)(iv), we are attributing subsidies received by UGML to the combined sales of UGML, UVSL, and UGSL. In addition to UGML and UVSL, UGSL provided responses for IPPL as well as five additional companies, the identities of which are business proprietary information. However, none of these companies reported receiving any subsidies during the POR or during the AUL period. Therefore, we are not making a cross-ownership finding with regard to these companies, as there are no subsidies to attribute to UGSL.

As described above, JSW responded to the Initial Questionnaire on behalf of itself, as well as several other affiliated companies. In the original investigation, Commerce found that JSCPL (a subject merchandise producer and exporter) and ARCL (an input provider) were cross-owned, and JSW reported that its cross-ownership for these two companies was unchanged for this review.³⁰ Therefore, we are attributing subsidies received by JSW and JSCPL to their combined sales, in accordance with 19 CFR 351.525(b)(6)(ii), and we are attributing subsidies received by ARCL to the combined sales of ARCL, JSW, and JSCPL, pursuant to 19 CFR 351.525(b)(6)(iv).

In addition, for this review, JSW also responded for JSW Salav and JSW Processing, which it reported were cross-owned input suppliers.³¹ JSW Salav and JSW Processing supplied sponge iron and hot- or cold-rolled coils to the subject merchandise producers/exporters.³² We preliminarily find that the inputs JSW Salav and JSW Processing supplied to JSW and/or JSCPL are primarily dedicated to the production of CORE and other downstream steel products, pursuant to 19 CFR 351.525(b)(6)(iv). Regarding the attribution of subsidies that JSW Salav and JSW Processing received, 19 CFR 351.525(b)(6)(iv) states the following:

If there is cross-ownership between an input supplier and a downstream producer, and production of the input product is primarily dedicated to production of the downstream product, the Secretary will attribute subsidies received by the input

²⁸ See *Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001) (*Fabrique*).

²⁹ See *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from India: Preliminary Affirmative Determination*, 80 FR 68854 (November 6, 2015) (*Preliminary Determination*) and the accompanying Preliminary Determination Memorandum (PDM) at 7; see also *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products From India: Final Affirmative Determination*, 81 FR 35323 (June 2, 2016) (*Final Determination*) and the accompanying Issues and Decision Memorandum (IDM) at 6.

³⁰ See JSW Initial Response at 10-11.

³¹ *Id.* at 11-12.

³² See JSW Affiliates Response at Exhibit 1; see also JSW Initial Response at 11-12, 14.

producer to the combined sales of the input and downstream products produced by both corporations (excluding the sales between the two corporations).

JSW Salav and JSW Processing supplied inputs to JSW and/or JSCPL. Therefore, pursuant to 19 CFR 351.525(b)(6)(iv), we preliminarily attributed subsidies that each input supplier received to the combined sales of that input supplier, and the two subject merchandise producers (*i.e.*, JSW and JSCPL), net of intercompany sales.

Lastly, while JSW also provided information regarding other cross-owned affiliates, none of these companies reported receiving any subsidies during the POR or during the AUL period. Therefore, we are not making a cross-ownership finding with regard to these companies, as there are no subsidies to attribute to JSW.

C. Benchmarks for Long-Term Loans and Discount Rates

Section 771(5)(E)(ii) of the Act provides that the benefit for loans is the “difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market.” Normally, Commerce uses comparable commercial loans reported by the company as a benchmark. Section 351.505(a)(3)(i) of Commerce’s regulations stipulates that when selecting a comparable commercial loan that the recipient could actually obtain on the market, Commerce will normally rely on actual short-term and long-term loans obtained by the firm. If the firm did not have any comparable commercial loans during the period, 19 CFR 351.505(a)(3)(ii) provides that we “may use a national average interest rate for comparable commercial loans.” In addition, 19 CFR 351.505(a)(2)(ii) states that Commerce will not consider a loan provided by a government-owned special purpose bank for purposes of calculating benchmark rates.³³ Also, in the absence of reported long-term loan interest rates, we use the above-discussed interest rates as discount rates for purposes of allocating non-recurring benefits over time, pursuant to 19 CFR 351.524(d)(3)(i)(B).³⁴

1. Short-Term and Long-Term Rupee Denominated Loans

Based on JSW’s responses, we preliminarily determine that it took out comparable rupee-denominated short-term or long-term loans from commercial banks for certain years for which we must calculate benchmark and discount rates. Because these short- and long-term commercial loans originated in the year the subsidy was provided and have similar maturity periods, we will use these commercial loans pursuant to 19 CFR 351.505(a)(2). For UGSL, and for certain years for JSW, we do not have loan information from the companies in the year the subsidy was provided. As such loan rates were not available, we are preliminarily using national average interest rates, pursuant to 19 CFR 351.505(a)(3)(ii). Specifically, we used national average interest rates from the International Monetary Fund’s International Financial Statistics

³³ See, e.g., *Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination*, 78 FR 50385 (August 19, 2013) (“*Shrimp from India*”), and accompanying IDM at Section III.F. “Loan Benchmarks and Discount Rate Benchmarks for Allocating nonrecurring Subsidies.”

³⁴ See *Certain Pasta from Italy: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 11172 (March 2, 2015) and accompanying IDM at Section V.C. “Loan Benchmarks and Discount Rates.”

(IFS) as benchmark rates for rupee-denominated short-term and long-term loans. We preliminarily find that the IFS rates provide a reasonable representation of both short-term and long-term interest rates for rupee-denominated loans

2. Discount Rates

Consistent with 19 CFR 351.524(d)(3)(i)(A), we used, as our discount rate, the long-term interest rate calculated according to the methodology described above for the year in which the government provided non-recurring subsidies. The interest rate benchmarks and discount rates used in our preliminary calculations are provided in the Preliminary Calculation Memoranda.

As part of our initiation on the petitioners' new subsidy allegations, Commerce is also investigating whether or not UGSL and UVSL were uncreditworthy during the POR. For years in which a company is found to be uncreditworthy, Commerce makes an adjustment to the long-term interest rate benchmarks for lending programs used in these years.³⁵ These adjusted long-term interest rate benchmarks are also used as discount rates for purposes of allocating non-recurring subsidies to the POR. Because Commerce does not have the information necessary to determine the creditworthiness of UGSL and UVSL during the POR at this point, we will continue to gather information related to the creditworthiness allegation following the issuance of these preliminary results.

D. Denominators

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, Commerce considers the basis for the respondent's receipt of benefits under each program. For programs tied to export performance, we used total export sales as the denominator for our calculation. For all other calculations, because they were not tied to export performance, we used total sales as the denominator for our rate calculations for both JSW and UGSL.

V. Analysis of Programs

A. Programs Preliminary Determined to Be Countervailable

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

Under the AAP, aka the ALP, exporters may import, duty free, specified quantities of materials required to manufacture products that are subsequently exported. The exporting companies, however, remain contingently liable for the unpaid duties until they have fulfilled their export requirement. The quantities of imported materials and exported finished products are linked through standard input-output norms (SIONs) established by the GOI.

Commerce determined in the original investigation that this program confers a countervailable subsidy, because 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

³⁵ See 19 CFR 351.505(a)(3)(iii). We note that the benefit from the SGOM Sales Tax Program is treated as a loan for these purposes.

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.³⁶ Thus, we determined that a financial contribution, in the form of revenue foregone, as defined under section 771(5)(D)(ii) of the Act, is provided under the program, and that 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. Furthermore, Commerce found that this program is specific under section 771(5A)(A) and (B) of the Act because it is contingent upon exportation.³⁷ There is no new information on the record for us to reconsider our prior determination. Therefore, we continue to find that this program provides a countervailable subsidy.

During the POR, UGSL, JSW, and JSCPL used advance licenses to import certain materials duty free.³⁸ To calculate the benefit from this program, we treated the duty exemptions as recurring benefits, consistent with 19 CFR 351.524(c)(1). To compute the applicable subsidy rate, we divided the benefit received by UGSL and JSW by their total export sales. On this basis, we preliminarily determine a countervailable *ad valorem* subsidy rate of 4.83 percent for UGSL, and 0.59 percent collectively for JSW and JSCPL.

2. Duty Free Import Authorization Program (DFIA Scheme)

The DFIA scheme allows duty free imports of input fuel, oil, energy sources, and catalysts which are required for production of export products. The quantities of imported materials and exported finished products are linked through standard input output norms (SIONs) established by the GOI.

Commerce determined in the original investigation that this program confers a countervailable subsidy, because 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.³⁹ Thus, we determined that a financial contribution, in the form of revenue foregone, 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, and that 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. Furthermore, Commerce found that this program is specific under section 771(5A)(A) and (B) of the Act because it is contingent upon exportation.⁴⁰ There is no new information on the record for us to reconsider our prior

³⁶ See *Final Determination* and the accompanying IDM at Comment 1.

³⁷ *Id.*

³⁸ See UGSL IQR at 9; see also *JSW Initial Response* at 23-31.

³⁹ See *Preliminary Determination* and the accompanying PDM at 11-12; see also *Final Determination* and the accompanying IDM at Comment 2.

⁴⁰ *Id.*

determination. Therefore, we continue to find that this program provides a countervailable subsidy.

UGSL reported benefitting from this program during the POR.⁴¹ To calculate the benefit from this program, we treated the duty exemptions as recurring benefits, consistent with 19 CFR 351.524(c)(1). To compute the applicable subsidy rate, we divided the benefit received by UGSL by its total export sales. On this basis, we preliminarily determine a countervailable *ad valorem* subsidy rate of 0.39 percent for UGSL.

3. Export Promotion of Capital Goods Scheme (EPCG Scheme)

The EPCG scheme provides for a reduction of, or exemption from, customs duties and excise taxes on imports of capital goods used in the production of exported products. Under this program, producers pay reduced duty rates on imported capital equipment by committing to earn convertible foreign currency equal to six times the duty saved within a period of six years. Once a company has met its export obligations, the GOI will formally waive the exempted duties on the imported goods.⁴² Under the EPCG scheme, the exempted import duties are owed to the GOI if the accompanying export obligations are not met.

Commerce determined in the original investigation that this program confers a countervailable subsidy because the scheme: (1) provides a financial contribution, in the form of revenue foregone, pursuant to section 771(5)(D)(ii) of the Act; (2) provides two different benefits under section 771(5)(E) of the Act; and (3) is specific pursuant to sections 771(5A)(A) and (B) of the Act because the program is contingent upon export performance.⁴³ There is no new information on the record for us to reconsider our prior determination. Therefore, we continue to find that this program provides a countervailable subsidy.

As we explained in the investigation, it is Commerce's practice to treat any balance on an unpaid liability that may be waived in the future as a contingent-liability interest-free loan pursuant to 19 CFR 351.505(d)(1).⁴⁴ Since the unpaid duties are a liability contingent on subsequent events, these interest-free contingent-liability loans constitute the first benefit under the EPCG program. The second benefit arises when the GOI waives the duty on imports of capital equipment covered by those EPCG licenses for which the export requirement has already been met. For those licenses for which the GOI has acknowledged that the company has completed its export obligation, we treat the import duty savings as grants received in the year in which the GOI waived the contingent liability on the import duty exemption pursuant to 19 CFR 351.505(d)(2).

UGSL, UGML, and UVSL, as well as JSW, JSCPL, ARCL, JSW Salav, and JSW Processing reported benefitting from this program during the POR.⁴⁵ To calculate the benefit from this program, we treated the duty exemptions as nonrecurring benefits, consistent with 19 CFR 351.524(c)(1). To compute the applicable subsidy rate, we attributed subsidies received by the

⁴¹ See UGSL IQR at 15.

⁴² See *Final Determination* and accompanying IDM at Comment 4.

⁴³ *Id.*

⁴⁴ See *Final Determination* and the accompanying IDM at Comment 4.

⁴⁵ See UGSL IQR at 19; UGML IQR at 12; and UVSL IQR at 17; see also JSW Initial Response at 43-51.

aforementioned companies in accordance with 19 CFR 351.525(b)(6)(iv) and 19 CFR 351.525(b)(6)(ii), as described above in the “Attribution of Subsidies” section, and established the respective denominators using the companies’ total export sales. On this basis, we preliminary determine countervailable *ad valorem* subsidy rates of 4.71 percent for UGSL, and 6.07 percent collectively for the JSW companies.

4. Status Certificate Program

The Status Certificate program provides certain privileges to exporters depending on their export performance. These privileges include: authorizations and customs clearances for both imports and exports on a self-declaration basis; fixation of input-output norms on priority within 60 days; exemption from compulsory negotiation of documents through banks (the remittance, however, would continue to be received through banking channels); 100 percent retention of foreign exchange in EEEEC account; enhancement in normal repatriation period from 180 days to 360 days; and exemption from furnishing of bank guarantees in schemes under this policy.⁴⁶

The GOI has explained that since the investigation, the implementation of Foreign Trade Policy 2015-2020 has made slight changes to the nomenclature related to this program. The previous status categories of Export House, Star Export House, Trading House, Star Trading House, and Premier Trading House have been replaced by the designations indicating that a company is a One through Five Star Export House.⁴⁷ Moreover, the GOI has reported that Status Holder Incentive Scrips formerly issued to Status Holders have been discontinued.⁴⁸

Commerce determined in the investigation that this program provides a direct financial contribution, in the form of a direct transfer of funds, within the meaning of section 771(5)(D)(i) of the Act, and that because the program is contingent upon exports, the program is specific under sections 771(5A)(A) and (B) of the Act. A benefit is conferred in the amount of the grants received by respondents, in accordance with 19 CFR 351.504(a) of the Act.⁴⁹

UGSL reported benefitting from this program during the POR. To calculate the benefit from this program, we treated grants received under the program as nonrecurring grants, as we did in the investigation, consistent with 19 CFR 351.524(c)(1). To compute the applicable subsidy rate, we applied the 0.5 percent test in accordance with 19 CFR 351.524(b)(2), and for benefits allocated to the POR, divided the benefit received by UGSL by its total export sales. On this basis, we preliminary determine a countervailable *ad valorem* subsidy rate of 0.40 percent for UGSL.

⁴⁶ See *Preliminary Determination* and accompanying PDM at 16-17; unchanged in the *Final Determination*.

⁴⁷ See GOI SQR at 5-6.

⁴⁸ *Id.* at 5.

⁴⁹ See *Preliminary Determination* and accompanying PDM at 16-17; unchanged in the *Final Determination*.

5. Incremental Export Incentivization Scheme

The Incremental Export Incentivization Scheme was introduced pursuant to the Foreign Trade Policy 2009-2014 in order to incentivize incremental exports. Companies qualifying for the program are entitled to duty credit scrips of two percent on the incremental growth from year to year on the FOB value of exports. Such incentives are available only to companies that had achieved growth in the financial year 2013-2014 *vis-a-vis* financial year 2012-2013.⁵⁰

JSW and JSCPL reported receiving benefits under this program on a non-recurring basis during the POR.⁵¹ We preliminarily determine that this program provides a benefit in the amount of the grant, in accordance with 19 CFR 351.504(a). A financial contribution exists in the form of a direct transfer of funds under section 771(5)(D)(i), and because the program is contingent upon export performance, it is specific under section 771(5A)(B) of the Act. To calculate the benefit from this program, we used the maximum capped benefit amount reported by each company and divided the amounts by their combined total export sales. On this basis, we preliminarily determine a countervailable *ad valorem* subsidy rate of 0.02 percent collectively for JSW and JSCPL.

6. Duty Drawback Program (DDB)

The DDB program provides rebates for customs duty (a) drawback on re-exported goods, (b) drawback on raw materials used in the manufacture of export products, (c) drawback of service tax paid on input services used in the manufacture of export goods, (d) deemed export drawback as permitted under the Foreign Trade Policy in respect to certain supplies made under deemed export, and (e) reimbursement of excise duty paid on fuels by way of drawback notified by the Directorate General of Foreign Trade, a GOI entity that administers subsidy programs. The refund is the average amount of duty paid on materials of any particular class or description of goods used in the manufacture of export goods of specified goods.⁵²

Commerce determined in the investigation that this program is countervailable because 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, in accordance with 19 CFR 351.519(a)(1)(ii) and 19 CFR 351.519(a)(4). As there is no information on the record to cause us to reconsider this finding from the final determination, we continue to find that this program (1) provides a financial contribution, in the form of revenue foregone, pursuant to section 771(5)(D)(ii) of the Act; (2) provides a benefit in accordance with 19 CFR 351.519(a)(4); and (3) is specific pursuant to sections 771(5A)(A) and (B) of the Act because the program is contingent upon export performance.⁵³

⁵⁰ See GOI IQR at 108.

⁵¹ See JSW Initial Response at 69-73.

⁵² See *Preliminary Determination* and accompanying PDM at 12-14; unchanged in the *Final Determination* and accompanying IDM at Comment 3.

⁵³ See *Preliminary Determination* and accompanying PDM at 12-14; unchanged in the *Final Determination* and accompanying IDM at Comment 3.

JSW and JSCPL reported using this program during the POR.⁵⁴ To calculate the benefit from this program, we treated the entire amount of the import duty rebate as the benefit and divided these amounts by their combined total export sales to the U.S. market. On this basis, we preliminarily determine a countervailable *ad valorem* subsidy rate of 2.68 percent collectively for JSW and JSCPL. In addition, both UGSL and UGML reported using this program during the POR as well.⁵⁵ However, the record indicates that their use of the program was tied to exports to countries other than the United States, and as such, we are not calculating a subsidy rate in accordance with 19 CFR 351.525(b)(4).

7. Market-Linked Focus Product Scheme

This program incentivizes exports by providing scrips equal to two percent of the value of exports to certain counties for certain products.⁵⁶

JSW reported that it received benefits under this program during the POR.⁵⁷ UGSL also reported that it used this program during the POR, but that all of its exports were tied to markets other than the United States.⁵⁸ We preliminarily determine that this program provides a benefit in the amount of the reported grant, in accordance with 19 CFR 351.504(a). A financial contribution exists in the form of a direct transfer of funds under section 771(5)(D)(i), and, because the program is contingent upon export performance, it is specific under section 771(5A)(B) of the Act. To calculate the benefit for this program, we treated the entire amount of the duty credit scrips as the benefit and divided these amounts by JSW's and JSCPL's combined total export sales. On this basis, we preliminarily determine a countervailable *ad valorem* subsidy rate of 0.05 percent for JSW.

8. Focus Market Scheme

The Focus Market Scheme was introduced pursuant to the Foreign Trade Policy 2009-2014 in order to encourage exports to certain markets. Companies qualifying for the program are entitled to duty credit scrips of three percent on the FOB value of exports.⁵⁹

JSW and JSCPL reported that they received benefits under this program during the POR.⁶⁰ We preliminarily determine that this program provides a benefit in the amount of the reported grant, in accordance with 19 CFR 351.504(a). A financial contribution exists in the form of a direct transfer of funds under section 771(5)(D)(i), and because the program is contingent upon export performance, it is specific under section 771(5A)(B) of the Act. To calculate the benefit from this program, we treated the entire amount of the duty credit scrips as the benefit and divided these amounts by JSW's and JSCPL's combined total export sales. On this basis, we preliminarily

⁵⁴ See JSW Initial Response at 31-39.

⁵⁵ See UGSL IQR at 18 and UGML IQR at 11.

⁵⁶ See GOI IQR at 544.

⁵⁷ See JSW Initial Response at 111-115.

⁵⁸ See UGSL IQR at 24.

⁵⁹ See GOI IQR at 27.

⁶⁰ See JSW Initial Response at 56-59.

determine a countervailable *ad valorem* subsidy rate of 0.10 percent collectively for JSW and JSCPL.

9. Merchandise Exports from India Scheme (MEIS)

Under the terms of the India Foreign Trade Policy 2015-2020, the MEIS went into effect on April 1, 2015, the basic objective of which is to offset infrastructural inefficiencies and associated costs involved in the export of goods and products from India, particularly those having high export intensity and employment potential. The Director General of Foreign Trade, the GOI entity responsible for administering this program, calculates benefits under this program as the lesser of the realized FOB value of exports in free foreign exchange, or on the FOB value of exports as given in the shipping bills in free foreign exchange. Companies exporting eligible goods under this program receive duty credit scrips in the amount of two, three, or five percent of the exported goods that are freely transferable and can later be used for the payment of customs duties for imported inputs or goods, or for the payment of excise duties on domestically sourced inputs or goods.⁶¹

Commerce included this program in this review pursuant to our analysis in the NSA Memorandum, and thus, this is our first examination of this program with respect to the CVD order on CORE from India. We preliminarily find that this program provides a financial contribution in the form of revenue foregone, in accordance with section 771(5)(D)(ii) of the Act because the scrips provide exemptions for paying duties associated with the import of goods which represents revenue foregone by the GOI. Because this program is contingent upon the export of goods, it is specific under section 771(5A)(B) of the Act. A benefit is provided in the amount of the scrips received, in accordance with 19 CFR 351.519.

UGSL and UGML both reported using this program during the POR.⁶² JSW and JSCPL also reported using this program during the POR.⁶³ We treated the duty exemptions as recurring benefits, consistent with 19 CFR 351.524(c)(1), because the scrips provided under this program are not tied to capital assets. Furthermore, recipients can expect to receive additional subsidies under this same program on an ongoing basis from year to year under 19 CFR 351.524(c)(2)(i). To compute the applicable subsidy rate, we attributed subsidies received by UGML to UGSL in accordance with 19 CFR 351.525(b)(6)(iv), using the companies' total export sales. To calculate the benefit from this program, we treated the entire amount of the duty credit scrips as the benefit and divided these amounts by each respondent's combined total export sales. On this basis, we preliminarily determine a countervailable *ad valorem* subsidy rate of 0.55 percent for UGSL, and 1.03 percent collectively for JSW and JSCPL.

⁶¹ See GOI SQR at Exhibit 5.

⁶² See UGSL IQR at 45; see also UGML IQR at 21.

⁶³ See JSW Initial Response at 115-120; see also JSW NSA Response at 1-5.

10. Advance Authorization Exemption from Safeguard, Antidumping, and Countervailing Duties

Commerce initiated an investigation into this program pursuant to our analysis in the NSA Memorandum. Under paragraph 4.14 of the Foreign Trade Policy 2015-2020, the GOI has expanded the availability of exemptions from payment of basic customs duties, additional customs duties, and education cess, to include also antidumping duties, countervailing duties, and certain safeguard duties. The GOI has clarified that this program operates as part of the AAP, described above.⁶⁴

UGSL and JSW reported receiving exemptions from certain antidumping, countervailing, and/or safeguard duties during the POR.⁶⁵ Because this program operates as part of the AAP, we are following our original determination from the investigation that this program confers a countervailable subsidy, because 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.⁶⁶ Thus, we continue to determine that a financial contribution, in the form of revenue foregone, as defined under section 771(5)(D)(ii) of the Act, is provided under the program, and that the entire amount of the antidumping, countervailing, and/or safeguard duties exempted confers a benefit under section 771(5)(E) of the Act. Furthermore, because safeguard duty exemptions under this program are contingent on the export of goods, this program is specific under section 771(5A)(A) and (B) of the Act. We treated the safeguard duty exemptions as recurring benefits, consistent with 19 CFR 351.524(c)(1). Because exemptions from these duties are part of the AAP, the benefits for them have already been incorporated into the calculated *ad valorem* countervailable subsidy rates for the AAP program above.

11. State Government of Maharashtra (SGOM) Subsidy Programs

In the investigation, Commerce countervailed several programs provided to JSW and UGSL as part of their respective Package Schemes of Incentives, which encourages investments in new units and/or the expansion of existing production capacity located in specified underdeveloped areas in accordance with the terms and conditions specified by SGOM.⁶⁷

a. SGOM Electricity Duty Exemptions

In the investigation, Commerce found that the Government of Maharashtra has exempted from electricity duties certain industries and enterprises in certain less developed industrial regions in

⁶⁴ See GOI NSA Submission at 14-15.

⁶⁵ See UGSL's First NSA QR at 3; see also JSW NSA Response at 5-6.

⁶⁶ See *Final Determination* and the accompanying IDM at Comment 1.

⁶⁷ See *Preliminary Determination* and accompanying PDM at 17-20; unchanged in *Final Determination* and accompanying IDM at Comment 5.

the State of Maharashtra.⁶⁸ JSW and ARCL reported that their manufacturing facilities were exempted from the payment of electricity duty (under different provisions) during all or part of the POR, thus conferring a benefit pursuant to section 771(5)(E) of the Act.⁶⁹

There is no new information on the record that would cause us to reconsider our determination in the investigation regarding this program. Therefore, we find that this program constitutes a financial contribution, in the form of revenue forgone, and is regionally-specific, under sections 771(5)(D)(ii) and 771(5A)(D)(iv) of the Act, respectively. To calculate the subsidy rate, we divided the benefit by JSW's total sales, or by JSW's and ARCL's combined total sales during the POR, as appropriate.⁷⁰ On this basis, we preliminarily determine a countervailable subsidy of 0.10 percent *ad valorem* collectively for JSW and ARCL.

b. SGOM – Sales Tax Program

The SGOM maintains a package of incentives to encourage the development of certain regions within its authority. Among these incentives is the exemption or deferral of state sales taxes, allowing eligible companies to be exempt from paying state sales taxes on purchases, and from collecting state sales taxes on sales. This program provides a tax deferral of payable VAT and Central Sales Tax (CST) that is collected but not paid. This unpaid VAT and CST are deferred for a number of years after which the duty is required to be paid in five installments. However, a company using this program also may elect to make an early payment of the duty owed by paying the Net Present Value (NPV) of the liability that would accrue after the set number of years.

In the investigation Commerce determined that this program constituted a financial contribution, in the form of revenue forgone, and is regionally specific, under sections 771(5)(D)(ii) and 771(5A)(D)(iv) of the Act, respectively. Because the tax deferrals that the respondents received have to be repaid to the GOI, we treated the unpaid tax liability as an interest-free loan and thus found that the program provides a benefit pursuant to section 771(5)(E) of the Act.⁷¹ There is no new information on the record for us to reconsider our prior determination. Therefore, we continue to find that this program provides a countervailable subsidy. Accordingly, we find the benefit to be the interest that the respondents would have paid during the POI had they borrowed the full amount of the tax deferrals, in accordance with 19 CFR 351.510(a)(2). As noted above, the time period to repay the tax deferral is a certain number of years. As such, pursuant to 19 CFR 351.505(d)(1), the benchmark for measuring the benefit is a long-term interest rate because the event of repayment of the deferred taxes occurs at a point in time that is more than one year. As the benchmark interest rate, we used the long-term interest rates as discussed in the “Benchmarks for Long-Term Loans and Discount Rates” section, above.

On this basis, we preliminarily determine a countervailable subsidy of 0.07 percent *ad valorem* for UGSL, and 0.63 percent for JSW.

⁶⁸ See *Preliminary Determination* and accompanying PDM at 18-19; unchanged in *Final Determination*.

⁶⁹ See JSW Initial Response at 83-86.

⁷⁰ See 19 CFR 351.525(b)(6)(iv).

⁷¹ See *Preliminary Determination* and accompanying PDM at 17-18; unchanged in *Final Determination*.

c. Subsidies for Mega Projects under the Package Scheme of Incentives – Mega Incentive

UGSL, UGML, and UVSL reported being awarded Eligibility Certificates for Mega Projects under the Package Scheme of Incentives, 2007, for expansions made to its existing manufacturing facilities. Commerce countervailed benefits received by UVSL and UGML in the investigation, finding that the companies benefitted within the meaning of section 771(5)(E) of the Act because it reduced the cost of making the investment. In addition, UGSL reported receiving benefits under this program during the POR.⁷² We also find that these subsidies provide a benefit under section 771(5)(E) of the Act. As we did in the investigation, we continue to find that this program provides a financial contribution, in the form of a direct transfer of funds, within the meaning of section 771(5)(D)(i) of the Act in the form of a direct transfer of funds, and that the program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because the subsidies are expressly limited to select industries and enterprises as a matter of law.⁷³

To calculate the subsidy rate for this program for UGSL, we divided the amount received by UGSL's total POR sales. With respect to subsidies received by UVSL and UGML, we applied the 0.5 percent test pursuant to 19 CFR 351.524(b)(2). Any benefits provided to UVSL and UGML that are allocated to the POR were attributed to UGSL in accordance with 19 CFR 351.525(b)(6)(ii) and 19 CFR 351.525(b)(6)(iv), respectively. On this basis, we preliminarily determine a countervailable subsidy of 4.50 percent *ad valorem* for UGSL.

12. State Government of Karnataka Subsidy Programs

a. Industrial Policy (KIP) Tax Incentives

Commerce determined in the original investigation that this program confers a countervailable subsidy because the scheme: (1) conferred a benefit under section 771(5)(E) of the Act in the amount of tax not paid; and (2) constituted a financial contribution, in the form of revenue forgone, and is limited to enterprises of certain sizes and industries, under sections 771(5)(D)(ii) and 771(5A)(D)(i) of the Act, respectively.⁷⁴ JSW stated that it benefitted from entry tax exemptions under this program during the AUL period and during the POR.⁷⁵ JSW explained that the tax exemption from the State Government of Karnataka (SGOK) is an entry tax applied to certain goods, including capital goods. JSW also stated that the SGOK currently applies project-specific criteria to the allotted exemption from its entry tax to promote investment.⁷⁶

In accordance with 19 CFR 351.524(c)(2)(iii) and past practice, we are treating these tax exemptions on capital equipment as non-recurring benefits. Commerce normally allocates the

⁷² See UGSL IQR at 39.

⁷³ See *Preliminary Determination* and accompanying PDM at 19-20; see also *Final Determination* and accompanying IDM at Comment 5.

⁷⁴ *Final Determination* and accompanying IDM at 10; see also *Certain Hot-Rolled Carbon Steel Flat Products from India: Final Results of Countervailing Administrative Review*, 73 FR 40295, 40297 (July 14, 2008) and accompanying IDM at 24.

⁷⁵ See JSW Initial Response at 125-127.

⁷⁶ *Id.*

benefits from non-recurring subsidies over the AUL of renewable physical assets used in the production of subject merchandise. Furthermore, for non-recurring subsidies, we have applied the “0.5 percent test,” as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (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. On this basis, we preliminarily determine that JSW received a benefit of 0.03 percent *ad valorem*.

B. Programs Preliminarily Determined to Be Not Used or Not to Confer a Measurable Benefit During the POR

Government of India Programs

1. Export Oriented Units
2. Market Development Assistance Program
3. Market Access Initiative
4. Focus Product Scheme
5. GOI Loan Guarantees
6. 80-IB Tax Program
7. Special Economic Zones
8. Steel Development Fund Loans
9. Captive Mining Rights for Iron Ore for LTAR
10. Captive Mining Rights for Coal for LTAR
11. Provision of High-Grade Iron Ore for LTAR
12. Provision of Flat-Rolled Steel for LTAR
13. Provision of Steel for LTAR through Rashtriya Ispat
14. Pre- and Post-Shipment Export Financing
15. Preferential Long-Term Loans from State-Owned Banks under the 5/25 Scheme

*State Government Programs*⁷⁷

1. State Government of Andhra Pradesh Programs
2. State Government Gujarat Programs
3. Waiving of Loan Interest by the State Industrial and Investment Corporation of Maharashtra Ltd (SICOM)
4. SGOM Investment Subsidies
5. SGOM Infrastructure Assistance for Mega Projects
6. SGOM Other Subsidies under the Package Scheme of Incentives⁷⁸
7. SGOM State Electric Power Discounts
8. SGOM Package Scheme of Incentives
 - a. The provision of water for less than adequate remuneration (LTAR) under the SGOM Package Scheme of Incentives

⁷⁷ JSW also self-reported a state government program upon which we did not initiate, the State Government of Tamil Nadu Sales Tax Deferral Program. JSW stated, and the record evidence reflects, that it only benefitted from this program prior to the POR. See JSW Initial Response at 123-125.

⁷⁸ This includes the stamp duty waiver reported by JSW. See JSW Initial Response at 99, 107.

- b. The provision power for LTAR under the SGOM Package Scheme of Incentives
- c. The provision of iron ore allotments for LTAR under the SGOM Package Scheme of Incentives
- d. The provision of coal mine allotments for LTAR under the SGOM Package Scheme of Incentives
- e. The provision of lime/dolomite mine allotments under the SGOM Package Scheme of Incentives
- f. 100 percent reimbursement of stamp duty and registration charges
- g. on purchases/leases of land
- h. Exemption/deferment of sales tax/value-added tax on the sale of finished products
- i. 100 percent freight subsidy towards freight payments on iron ore, coke, and coal
- j. Inputs
- k. 50 percent power subsidy during project installation
- l. Clearance of forests
- 9. KIP Provision of Land for LTAR
- 10. KIP Provision of Iron Ore, Limestone and Dolomite for LTAR
- 11. KIP Provision of Power/Electricity for LTAR
- 12. KIP Provision of Water for LTAR
- 13. KIP Provision of Roads and Port Facility Infrastructure for LTAR
- 14. KIP Loans

C. Programs for Which Commerce Requires Additional Information

Debt-for-Equity Swaps and Other Assistance for Sick Industrial Companies

As discussed in the NSA Memorandum, Commerce is investigating debt-to-equity swaps involving Lloyds Steel Industries Ltd. (Lloyds Steel), which in 2012 was acquired by UGSL and renamed UVSL. We are also investigating whether Lloyds Steel was unequityworthy at the time that any such assistance was provided.⁷⁹ The record indicates that in 2006, the Board for Industrial and Financial Reconstruction declared Lloyds Steel a “sick industrial company” under the auspices of the Sick Industrial Companies (Special Provisions) Act of 1985. Companies qualify as sick industrial companies when their accumulated losses exceed their net worth. In 2010, Lloyds Steel entered into a debt rehabilitation scheme with its creditors, which included GOI entities such as Asset Recovery Corporation (India) Ltd. (ARCIL), an entity established under the Securitisation Act of 2002 and in which the State Bank of India is a major shareholder. As part of this debt rehabilitation scheme, in 2011 ARCIL converted the debt owed to it by Lloyds Steel into equity in the company. Subsequent to this debt-to-equity swap, from May through December 2012, Ultimate Logistics Solutions Pvt. Ltd. and Mettallurgical Engineering and Equipment Ltd., two companies controlled by the same Miglani family that controls UGSL, acquired a majority shareholding in Lloyds Steel, and changed the name of the company to UVSL.

Commerce will continue to gather information related to this program following these preliminary results and will issue a post-preliminary analysis regarding the countervailability of

⁷⁹ See NSA Memorandum.

this program. We will address any subsidies provided to Lloyds Steel prior to the company's change in ownership in the post-preliminary analysis.

VI. Verification

Pursuant to 19 CFR 351.307(b)(1)(iv), Commerce is currently determining whether "good cause" exists in this review for verification of the questionnaire responses submitted by the interested parties.

VII. Conclusion

We recommend that you approve the preliminary findings described above.



Agree

Disagree

8/3/2018

X 

Signed by: JAMES MAEDER

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