



C-533-884
Investigation
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DATE: August 27, 2018

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

FROM: James Maeder
Associated 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 Glycine from
India

I. SUMMARY

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

II. BACKGROUND

A. Case History

On March 28, 2018, Commerce received a countervailing duty (CVD) petition concerning imports of glycine from India filed in proper form on behalf of GEO Specialty Chemicals, Inc. and Chattem Chemicals, Inc. (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 April 17, 2018, we initiated a CVD investigation on glycine from India.³

¹ See Petitioners' Letter, "Glycine from the People's Republic of China, India, Japan and Thailand: Petitions for the Imposition of Antidumping and Countervailing Duties," dated March 28, 2018 (Petition).

² See CVD Initiation Checklist: Glycine from India, dated April 7, 2018 (CVD Initiation Checklist).

³ See *Glycine from India, the People's Republic of China, and Thailand: Initiation of Countervailing Duty Investigations*, 83 FR 18002 (April 25, 2018) (*Initiation Notice*) and accompanying CVD Initiation Checklist.

We stated in the *Initiation Notice* that, if appropriate, we intended to base the selection of mandatory respondents on U.S. Customs and Border Protection (CBP) entry data for the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.⁴ We released the CBP entry data under administrative protective order (APO) on April 11, 2018.⁵ We received comments from the petitioners on April 30, 2018.⁶ No other party filed comments on the CBP entry data.

On May 15, 2018, we selected Kumar Industries (India) (Kumar) and Paras Intermediates Private Limited (Paras), the two companies with the largest volume of exports of the subject merchandise from India, for individual examination as mandatory respondents in this investigation.⁷ On May 16, 2018, we issued the CVD questionnaire to the GOI.⁸ In that letter, Commerce instructed the GOI to forward the questionnaire to the selected mandatory respondents.⁹

Between May 30, 2018, and August 7, 2018, we received timely questionnaire responses from the GOI and the company respondents regarding our initial and supplemental CVD questionnaires.¹⁰ Between June 6, 2018, and June 16, 2018, the petitioners filed comments in

⁴ See *Initiation Notice*, 83 FR at 18005.

⁵ See Commerce's letter, "Glycine from India Countervailing Duty Petition: Release of Customs Data from U.S. Customs and Border Protection," dated April 11, 2018.

⁶ See Petitioners' letter, "Glycine from India: Comments on CBP Data and Respondent Selection," dated April 30, 2018.

⁷ See Memorandum, "Respondent Selection for the Countervailing Duty Investigation of Glycine from India," dated 15, 2018 (Respondent Selection Memorandum).

⁸ See Letter, "Countervailing Duty Investigation of Glycine from India: Countervailing Duty Questionnaire," dated May 16, 2018 (Commerce Initial Questionnaire).

⁹ *Id.*

¹⁰ See Letter from Paras, "Glycine from India: Initial Response to Section III of Initial Questionnaire – Identification of Affiliated Companies," dated May 30, 2018 (Paras Affiliation Response); see also Letter from Kumar, "Certain Glycine from India (C-533-884) Affiliated Companies Questionnaire Response, dated June 1, 2018 (Kumar Affiliation Response); Letter from Kumar, "Certain Glycine from India (C-533-884) Supplementary Questionnaire Response - Affiliated Companies, dated June 13, 2018 (Kumar Supplemental Affiliation Response); Letter from Paras, "Glycine from India: Initial Response to Supplemental Questionnaire Related to Affiliated Companies," dated June 13, 2018 (Paras Supplemental Affiliation Response); Letter from GOI, "Countervailing Duty Investigation into Glycine from India (Case No. C-533-884) – Response to Initial Questionnaire on Behalf of Government of India," dated June 25, 2018 (GOI IQR); Letter from Kumar, "Certain Glycine from India (C-533-844) Program Specific Questionnaire Response," June 28, 2018 (Kumar IQR); Letter from Paras, "Glycine from India: Initial Response to Section III of Countervailing Duty Questionnaire," dated June 28, 2018 (Paras IQR); Letter from Avid Organics Pvt. Ltd. (Avid), "Certain Glycine from India (C-533-884): Initial Questionnaire Response," dated June 28, 2018 (Avid IQR); Letter from Paras, "Glycine from India: 2nd Supplemental Response to Section III of CVD Questionnaire," dated July 30, 2018 (Paras SQR); letter from Kumar, "Certain Glycine from India (C-533-884) First Supplementary Questionnaire Response," dated July 31, 2018 (Kumar SQR); Letter from Avid, "Glycine from India (C-533-884): Supplemental Questions for Avid Organics Pvt. Ltd.," dated August 3, 2018 (Avid SQR); Letter from Kumar, "Certain Glycine from India (C-533-884) 2nd and 3rd Supplementary Questionnaire Response of CVD Investigation," dated August 10, 2018 (Kumar Second SQR); Letter from GOI, "Countervailing Duty Investigation into Glycine from India (Case No. C-533-884) – Response to Supplemental Questionnaire on Behalf of Government of India," dated August 13, 2018 (GOI SQ); Letter from Avid, "Certain Glycine from India (C-533-884): 2nd Supplemental Response for Avid Organics Pvt. Ltd.," dated August 14, 2018 (Avid Second SQR); Letter from Paras, "Glycine from India: 3rd Supplemental Response to Section III of CVD Questionnaire," dated August 16, 2018 (Paras Second

advance of this preliminary determination.¹¹ To the extent practicable, we have considered these comments in making this preliminary determination.

B. Postponement of Preliminary Determination

On May 22, 2018, the petitioners requested that Commerce postpone the deadline for the preliminary determination.¹² Commerce granted the petitioners' request and, on June 7, 2018, we published in the *Federal Register* the notification of postponement of the preliminary determination, until August 27, 2018, 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 May 14, 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 glycine from India.¹⁴

SQR); Letter from GOI, "Countervailing Duty Investigation into Glycine from India (Case No. C-533-884) – Response to 2nd Supplemental Questionnaire on Behalf of Government of India," dated August 21, 2018 (GOI August 21, 2018 Second SQR).

¹¹ See Petitioners' Letter, "Glycine from India: Comments on the Government of India's Initial CVD Questionnaire Response," dated July 6, 2018; see also Petitioners' Letter, "Glycine from India: Comments on Paras Intermediates Private Limited's June 28, 2018 Questionnaire Response," dated July 11, 2018; Petitioners' Letter, "Glycine from India: Comments on Kumar Industries, India's June 28, 2018 Questionnaire Response," dated July 11, 2018; Petitioners' Letter, "Glycine from India: Comments on Avid Organics Pvt. Ltd.'s Initial Questionnaire Response," dated July 16, 2018; Petitioners' Letter, "Glycine from India: Pre-preliminary Determination Comments," dated August 2, 2018; Petitioners' Letter, "Glycine from India: Comments on Paras Intermediates Private Limited's July 30, 2018 Questionnaire Response," dated August 9, 2018; Petitioners' Letter, "Glycine from India: Petitioners' Rebuttal Benchmark Comments," dated August 13, 2018; Petitioners' Letter, "Glycine from India: Comments on Kumar Industries, India's August 10, 2018 Supplemental Questionnaire Response," dated August 16, 2018; Petitioners' Letter, "Glycine from India: Comments on Avid Organics Pvt. Ltd.'s 2nd Supplemental Questionnaire Response," dated August 16, 2018; Petitioners' Letter, "Glycine from India: Comments on Government of India's August 13, 2018 Supplemental Questionnaire Response," dated August 17, 2018; see also Letter, "Glycine from India: Comments on Paras Intermediate Pvt. Ltd.'s August 16, 2018 Supplemental Questionnaire Response," dated August 22, 2018.

¹² See Petitioners' Letter, "Glycine from the People's Republic of China, India and Thailand: Request to Extend Deadline for Preliminary Determinations," dated May 22, 2018.

¹³ See *Glycine from India, the People's Republic of China, and Thailand: Postponement of Countervailing Duty Investigations*, 83 FR 26415 (June 7, 2018).

¹⁴ See *Glycine from China, India, Japan, and Thailand: Investigation Nos. 701-TA-603-605 and 731-TA-1413-1415 (Preliminary)*, Publication 4786 (May 11, 2018); see also *Glycine from China, India, Japan, and Thailand*, 83 FR 23300 (May 18, 2018).

IV. SUBSIDIES VALUATION

A. Allocation Period

Commerce normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise.¹⁵ We notified the respondents that we considered the AUL in this proceeding to be 9.5 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System.¹⁶ Consistent with past practice, in order to appropriately measure any allocated subsidies, we used a 10-year AUL in this investigation.¹⁷ No parties submitted comments challenging the proposed AUL period, and we, therefore, preliminarily determine that a 10-year period is appropriate to allocate benefits from non-recurring benefits.

Furthermore, 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 the subsidy 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 subsidy is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL.

B. Attribution of Subsidies

Kumar

In its questionnaire response, Kumar stated that it is both a producer and exporter of subject merchandise.¹⁸ Kumar also reported that Company B, whose name is proprietary, exported subject merchandise manufactured by Kumar during the AUL period.¹⁹ According to Kumar, Based on information on the record provided by Kumar, we preliminarily determine that Company B served as a trading company under 351.525(c).²⁰

Kumar also reported that, during the AUL period, it exported subject merchandise produced by an unaffiliated trading company, Avid Organics Pvt. Ltd. (Avid), which Avid confirmed in its own questionnaire response that it submitted to Commerce on behalf of itself.²¹ During the POI, Kumar exported a significant amount of subject merchandise produced by Avid.²² In its

¹⁵ See 19 CFR 351.524(b).

¹⁶ See Commerce Initial Questionnaire.

¹⁷ See *Final Results of Countervailing Duty Administrative Reviews: Low Enriched Uranium from Germany, the Netherlands, and the United Kingdom* 70 FR 40000 (July 12, 2005) and accompanying Issues and Decision Memorandum at Comment 4.

¹⁸ See Kumar June 28, 2018 IQR at 2.

¹⁹ *Id.*; see also Kumar June 28, 2018 IQR at 9.

²⁰ See Kumar Preliminary Calculation Memorandum for additional proprietary analysis. Also, because the name of Company B is proprietary in nature, a full discussion of the attribution of subsidies can be found in the proprietary version of the calculation memorandum.

²¹ *Id.* at 4; see also Kumar Affiliation Supplemental Response at 6 and Avid June 28, 2018 IQR at 3.

²² See Avid IQR at 3.

questionnaire response, Avid reported that it availed itself of benefits under certain subsidy programs.²³

Pursuant to 19 CFR 351.525(c), benefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm which is producing the subject merchandise that is sold through the trading company, regardless of whether the trading company and the producing firm are affiliated. Thus, for this preliminary determination, we cumulated those subsidies received by Kumar with benefits from subsidies to Avid, pursuant to 19 CFR 351.525(c).

Paras

Paras is both a producer and exporter of subject merchandise. Paras is affiliated with several companies via shared owners and managers; however, according to Paras, none of these affiliated companies are involved with the production, sale or export of subject merchandise.²⁴ Paras reported that it did not export subject merchandise produced by other companies during the AUL, including the POI. Paras reported further that while it sold subject merchandise to one affiliated company in the home market, Pasco Traders (Pasco), that company sold to only unaffiliated customers in the home market.²⁵ Paras reported in its questionnaire response that during the POI, one affiliated company, Sagar Chemicals, which manufactures non-subject merchandise, supplied inputs to Paras.²⁶ Based on our review of the information provided in its questionnaire responses, we preliminarily find these companies not to be cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi).²⁷

C. Denominators

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, Commerce considers the basis for the respondents' receipt of benefits under each program at issue.²⁸ Where the program has been found to be countervailable as a domestic subsidy, we used the recipient's total sales as the denominator. Similarly, for those programs tied to export performance, we used as the denominator for our calculations export sales or export sales of subject merchandise to the United States, including deemed exports, where applicable. Also, where the respondent was able to tie exports of subject merchandise to the United States, we used the recipient's total export sales of subject merchandise to the United States as the denominator, in accordance with 19 CFR 351.525(b)(4). In the sections below, we describe the denominators we used to calculate the countervailable subsidy rates for the various subsidy programs.

²³ See, e.g., Avid June 28, 2018 IQR at 8, 17 and 27.

²⁴ See Letter from Paras, "Glycine from India: Initial Response to Section III of Initial Questionnaire – Identification of Affiliated Companies," dated May 30, 2018 (Paras May 30, 2018 Affiliation Response) at 1-4.

²⁵ *Id.*

²⁶ See Paras May 30, 2018 Affiliation Response at 3-4 and Exhibit 1.

²⁷ Because certain information concerning Paras' affiliation with other companies is proprietary in nature, discussion of this issue is provided in Memorandum to the File, "Countervailing Duty Investigation of Glycine from India: Paras Intermediates Pvt. Ltd. Preliminary Calculation Memorandum," dated concurrently with this memorandum (Paras Preliminary Calculation Memorandum).

²⁸ See 19 CFR 351.525(b)(1)-(5).

V. LOAN BENCHMARKS 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,” indicating that a benchmark must be a market-based rate. In addition, 19 CFR 351.505(a)(3)(i) stipulates that when selecting a comparable commercial loan that the recipient “could actually obtain on the market” Commerce will normally rely on actual loans obtained by the firm. However, when there are no comparable commercial loans during the period, Commerce “may use a national average interest rate for comparable commercial loans,” pursuant to 19 CFR 351.505(a)(3)(ii). 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. 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).

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

Avid and Paras reported that they received exemptions from import duties on the importation of capital equipment under the Export Promotion Capital Goods Scheme (EPCGS) program and the Status Holder Incentive Scrip (SHIS) program, respectively, which we determined provide non-recurring benefits in accordance with 19 CFR 351.524(c).²⁹ Thus, unless an exception applies, Commerce must identify an appropriate long-term interest rate for purposes of allocating the non-recurring benefits over time, where applicable. These companies reported rupee-denominated long-term loans from a commercial bank for certain years for which we must calculate benchmark and discount rates.³⁰ However, pursuant to 19 CFR 351.524(d)(3), we preliminarily determine that the loans provided to Avid and Paras are not comparable fixed-rate loans. Therefore, we are preliminarily using national average interest rates, pursuant to 19 CFR 351.505(a)(3)(ii). Specifically, we used national average interest rates from the International Monetary Fund’s International Financial Statistics (IFS) as benchmark rates for rupee-denominated short-term and long-term loans.³¹ We preliminarily find that the IFS rates provide a reasonable representation of both short-term and long-term interest rates for rupee-denominated loans.

B. Discount Rates

For allocating the benefit from non-recurring grants under the EPCGS program and SHIS, we have used the discount rates described above for the year in which the government agreed to provide the subsidy, consistent with 19 CFR 351.524(d)(3)(i)(A).³² The interest-rate

²⁹ See Section V.1., below, entitled, “Export Promotion of Capital Goods Scheme;” *see also* Section V.2., “Status Holder Incentive Scrip.”

³⁰ See Avid August 3, 2018 SQR at 8, 11, Exhibit 5 and Avid’s August 14, 2018 SQR, at Exhibit 4; *see also* Paras June 28, 2018 IQR, at 21-32.

³¹ See Kumar Preliminary Calculation Memorandum; Avid Preliminary Calculation Memorandum; and Paras Preliminary Calculation Memorandum, dated concurrently with this Memorandum.

³² *Id.*

benchmarks and discount rates used in our preliminary calculations are provided in the respective preliminary calculation memoranda.³³

VI. ANALYSIS OF PROGRAMS

Based upon our analysis and the responses to our questionnaires, we preliminarily determine the following:

Programs Preliminarily Determined to be Countervailable

1. Export Promotion Capital Goods Scheme (EPCGS)

The GOI reported that the EPCGS program provides for a reduction or exemption of customs duties and excise taxes on imports of capital goods used in the production of exported products. Under this program, producers pay reduced duty rates on imported capital equipment by committing to earn convertible foreign currency equal to four to five times the value of the capital goods within a period of eight years. Once a company has met its export obligation, the GOI will formally waive the duties on the imported goods. If a company fails to meet the export obligation, the company is subject to payment of all or part of the duty reduction, depending on the extent of the shortfall in foreign currency earnings, plus a penalty interest.³⁴

Commerce has previously determined that import duty reductions or exemptions provided under the EPCGS are countervailable export subsidies because: (1) the scheme provides a financial contribution pursuant to section 771(5)(D)(ii) of the Act in the form of revenue forgone (*i.e.*, uncollected import duties); (2) respondents receive two different benefits under section 771(5)(E) of the Act; and (3) the program is contingent upon export performance, and is, therefore, specific under section 771(5A)(A) and (B) of the Act.³⁵ Because the evidence on the record of this investigation with respect to this program³⁶ is consistent with the findings in, *inter alia*, *Steel Flanges from India Final* and *PET Resin Final*, we preliminarily determine that this program is countervailable.

Of the two benefits that can be received under section 771(5)(E) of the Act, the first benefit is the amount of unpaid import duties that would have to be paid to the GOI if the accompanying export obligations are not met. The repayment of this liability is contingent on subsequent

³³ *Id.*

³⁴ See GOI August 21, 2018 SQR at 2-11 and GOI June 25, 2018 IQR at Exhibit 12, pages 85-90.

³⁵ See *Steel Flanges from India Final* and accompanying Issues and Decision Memorandum (IDM) at Comment 5; see also *Countervailing Duty Investigation of Certain Polyethylene Terephthalate Resin from India: Preliminary Affirmative Determination, Final Affirmative Determination and Final Affirmative Critical Circumstances Determination, in Part*,” 81 FR 13334 (March 14, 2016) (*PET Resin Final*) and accompanying PDM at 14; *Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination: Polyethylene Terephthalate Film, Sheet and Strip (PET Film) from India*, 66 FR 53389, 53393 (October 22, 2001) (*PET Film Prelim Determination*); unchanged in *Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet and Strip (PET Film) from India*, 67 FR 34905 (May 16, 2002) (*PET Film Final Determination*) and accompanying Issues and Decision Memorandum (IDM) at II.A.4. “EPCGS.”

³⁶ See GOI August 21, 2018 SQR at 2-11 and GOI June 25, 2018 IQR at Exhibit 12, pages 85-90.

events and, in such instances, it is Commerce's practice to treat any balance on an unpaid liability as a contingent liability interest-free loan, pursuant to 19 CFR 351.505(d)(1).³⁷ The second benefit is the waiver of duty on imports of capital equipment covered by those EPCGS licenses for which the export requirement has already been met. For those licenses for which companies demonstrate that they have completed their export obligation, we treat the import duty savings as grants received in the year in which the GOI waived the contingent liability on the import duty exemption, pursuant to 19 CFR 351.505(d)(2).

Import duty exemptions under this program are provided for the purchase of capital equipment. The *Preamble* to our regulations states that if a government provides an import duty exemption tied to major equipment purchases, "it may be reasonable to conclude that, because these duty exemptions are tied to capital assets, the benefits from such duty exemptions should be considered non-recurring..."³⁸ In accordance with 19 CFR 351.524(c)(2)(iii) and past practice,³⁹ we are treating these exemptions as non-recurring benefits.

Avid reported that it imported capital goods under the EPCGS program during the AUL period, prior to the POI, and that it received EPCGS licenses that it used for the production of both subject and non-subject merchandise.⁴⁰ Because Avid reported that the purchase of capital goods could be used in the production of both subject and non-subject merchandise, we are attributing benefits received to their total exports consistent with 19 CFR 351.525(b)(5). As such, we find all of Avid's EPCGS licenses benefit all of the company's exports.

Avid reported that it had not met its export obligation as required under the program.⁴¹ Therefore, although Avid received a deferral from paying import duties when the capital goods were imported, the final waiver of the obligation to pay the duties has not yet been granted for many of these imports. As noted above, import duty reductions that Avid received on the imports of capital equipment for which it had not yet met export obligations may have to be repaid to the GOI if the obligations under the licenses are not met.⁴² Consistent with our practice and prior determinations, we will treat the unpaid import duty liability as an interest-free loan, for which repayment is contingent on future action.⁴³

³⁷ See *Steel Flanges from India Final* and accompanying Issues and Decision Memorandum at Comment 5; see also *PET Resin Final* and accompanying Preliminary Decision Memorandum at 14; *PET Film Final Determination* and accompanying Issues and Decision Memorandum at II.A.4. EPCGS.

³⁸ See *Countervailing Duties; Final Rule*, 63 FR 65348, 65393 (November 25, 1998) (*Preamble*).

³⁹ See, e.g., *See Steel Flanges from India Final* and accompanying Issues and Decision Memorandum (IDM) at Comment 5; see also *PET Resin Final* and accompanying PDM at 14.

⁴⁰ See Avid August 3, 2018 SQR at 11.

⁴¹ *Id.* at 8 and Exhibit 5; see also Avid's August 14, 2018 SQR, at Exhibit 4.

⁴² See 19 CFR 351.505(d)(1); *PET Film Final Determination* IDM at EPCGS; see also *Finished Carbon Steel Flanges from India: Final Affirmative Countervailing Duty Determination* 82 FR 29479 (June 29, 2017) (*Steel Flanges from India Final*) and accompanying Issues and Decision Memorandum (IDM) at Comment 4; *Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination*, 78 FR 50385 (August 19, 2013) (*Shrimp from India*), and accompanying Issues and Decision Memorandum

⁴³ See 19 CFR 351.505(d)(1); see also *Shrimp from India* and accompanying Issues and Decision Memorandum at 14.

To calculate the benefit received from the unpaid duty liabilities, where the export obligations were not fulfilled and the GOI did not finally waive import duties, we used the amount of the import duty reduction or exemption for which the respondent applied. We treated these amounts as interest-free loans pursuant to 19 CFR 351.505(d). Accordingly, we find the benefit to be the interest that Avid would have paid during the POI on the full amount of the duty reduction or exemption at the time of importation.⁴⁴ As stated above, under the EPCGS program, the time period for fulfilling the export commitment expires eight years after importation of the capital good. As such, pursuant to 19 CFR 351.505(d)(1), the benchmark for measuring the benefit is a long-term interest rate because the event upon which repayment of the duties depends occurs at a point in time that is more than one year after the date of importation of the capital goods (*i.e.*, under the EPCGS program, the time period for fulfilling the export commitment is more than one year after importation of the capital good). As the benchmark interest rate, we used a national average interest rate for all comparable commercial long-term, rupee-denominated loans for the year in which the capital good was imported. *See* the “Benchmarks Interest Rates” section above for a discussion of the applicable benchmark. We then multiplied the total amount of unpaid duties under each license by the long-term benchmark interest rate for the year in which the license was approved and summed these amounts to determine the total benefit to Avid from these interest-free loans.

Commerce normally calculates the total benefit received by a respondent under the EPCGS as the sum of: (1) the benefit attributable to the POI from the formally waived duties for imports of capital equipment for which respondents met export requirements by December 31, 2017 (the last day of the POI), and (2) interest due on the contingent liability loans for imports of capital equipment that have not met export requirements. In this investigation, Avid reported that it had not yet met its export requirements to have duties formally waived; therefore, calculation of this benefit under option one is not applicable. Because Avid did not meet its export requirements under this program, we calculated Avid’s benefit based only on the interest due on the loans. We then divided the total benefit by Avid’s total exports to determine a subsidy of 0.06 percent *ad valorem*.⁴⁵

2. Status Holder Incentive Scrip (SHIS)

The GOI reported that the SHIS scheme was introduced in 2009 with the objective to promote investment in upgrading technology in specific sectors. Status Holders under the GOI’s listing of specific exported products receive incentive scrip (or credit) equal to one percent of the FOB value of the exports in the form of a duty credit. The SHIS license can only be used for imports of capital goods and it can be transferred to another Status Holder for the import of capital

⁴⁴ *See, e.g., PET Film Preliminary Results of 2003 Review*, 70 FR at 46488 (unchanged in *PET Film Final Results of 2003 Review*); *see also Indian PET Resin Final Determination* and accompanying Issues and Decision Memorandum at 14.

⁴⁵ *See Kumar Preliminary Calculation Memorandum*.

goods.⁴⁶ The GOI stated that this program was discontinued in 2013.⁴⁷ Companies may apply for licenses for up to three years after the program has ended (*i.e.*, through 2016).⁴⁸ Additionally, because this program applies to capital goods and the AUL in this proceeding is ten years, companies may receive residual benefits from this program through at least 2026.

Based on the information provided by the GOI,⁴⁹ we preliminarily determine the SHIS to provide a financial contribution, pursuant to section 771(5)(D)(ii) of the Act, in the form of revenue forgone. This program is also contingent upon exports, which we find to be specific within the meaning of 771(5A)(A) and (B) of the Act.⁵⁰ In addition, the GOI and Paras reported that this program conferred a benefit within the meaning of section 771(5)(E) of the Act in the amount of the scrip granted to the recipient, *i.e.*, the value of the SHIS license.⁵¹ Specifically, Paras reported that it received the SHIS during the AUL period, prior to the POI.⁵² Based on information, which is discussed further below, we preliminarily determine that Paras received a countervailable subsidy under this program in the instant investigation.

These findings are consistent with other proceedings in which Commerce determined that respondents received benefit under the SHIS program, such as in *Final PET Film 2014 Review*, Commerce found that this program is countervailable because it provides a financial contribution in the form of revenue forgone under section 771(5)(D)(ii) of the Act because duty free import of goods represents revenue foregone by the GOI. Further, Commerce determined that it is specific under sections 771(5A)(A) and (B) of the Act because it is limited to exporters. A benefit is also provided under the SHIS program under 771(5)(E) of the Act and 19 CFR 351.519 in the amount of the scrip granted to the recipient.⁵³

Import duty exemptions under this program are solely provided for the purchase of capital equipment.⁵⁴ The preamble of Commerce's regulations states that, if a government provides an import duty exemption tied to major equipment purchases, "it may be reasonable to conclude

⁴⁶ See GOI IQR, at 27 and Exhibits 8-10; *see also*, *Finished Carbon Steel Flanges from India: Preliminary Affirmative Countervailing Duty Determination*, 81 FR 85928 (November 29, 2016) (*Steel Flanges from India Prelim*) and accompanying Preliminary Decision Memorandum at 18, unchanged in *Steel Flanges from India Final: Polyethylene Terephthalate Film, Sheet and Strip from India: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*, 81 FR 51186 (August 3, 2016) (*Prelim PET Film 2014 Review*), and accompanying Preliminary Decision Memorandum at 8-10, unchanged in *Polyethylene Terephthalate Film, Sheet and Strip from India: Countervailing Duty Administrative Review; 2014*, 81 FR 89056 (December 9, 2016) (*Final PET Film 2014 Review*); *Steel Threaded Rod from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 40712 (July 14, 2014) (*Steel Threaded Rod from India Final*), and accompanying Issues and Decision Memorandum, at VI.A.5, page 17.

⁴⁷ See GOI June 25, 2018 IQR at 27.

⁴⁸ See *Prelim PET Film 2014 Review* and accompanying Preliminary Decision Memorandum at 8-10, unchanged in *Final PET Film 2014 Review*; *see also* *Steel Threaded Rod from India Final*, and accompanying Issues and Decision Memorandum at VI.A.5., page 17.

⁴⁹ See GOI June 25, 2018 IQR at 28-29.

⁵⁰ *Id.*

⁵¹ See GOI June 25, 2018 IQR, at 30 and Exhibit 7.

⁵² See Paras IQR at 21-32 and Exhibits Nos. 9(e) and 9(f).

⁵³ *Id.*

⁵⁴ See Paras June 28, 2018 IQR at 22-23; *see also* *Steel Threaded Rod from India Final*, and accompanying Issues and Decision Memorandum at VI.A.5., page 17.

that, because these duty exemptions are tied to capital assets, the benefits from such duty exemptions should be considered non-recurring....”⁵⁵ Therefore, in accordance with 19 CFR 351.524(c)(2)(iii) and past practice, we are treating these import duty exemptions on capital equipment as non-recurring benefits.⁵⁶

As indicated above, the GOI reported that Paras received SHIS licenses during the POI.⁵⁷ Paras reported that it received SHIS license scrips to import capital goods duty-free.⁵⁸ Consistent with *Steel Flanges from India Preliminary Determination*, we are attributing the SHIS benefits received by Paras to the company’s total exports.⁵⁹

The SHIS scrip represents a non-recurring benefit that is not automatically received and is known to the recipient at the time of receipt of the scrip.⁶⁰ Although 19 CFR 351.519(b)(1) of Commerce’s regulations stipulates that we will normally consider the benefit as having been received as of the date of exportation, because the SHIS benefit amount is not automatic and is not known to the exporter until well after the exports are made, the SHIS licenses, which contain the date of validity and the duty exemption amount, as issued by the GOI, are the best method to determine and account for when the benefit is received.⁶¹

We performed the “0.5 percent test,” as prescribed under 19 CFR 351.524(b)(2), for the total value of the exempted customs duties for the year in which Paras received the SHIS scrip and determined to allocate the benefits across the AUL.⁶² We then calculated the benefits according to the calculation provided for in 19 CFR 351.524(d)(1). On this basis, we determine a countervailable subsidy of 0.24 percent *ad valorem* for Paras.⁶³

⁵⁵ See *Countervailing Duties*, 63 FR at 65393.

⁵⁶ See *Final PET Film 2014 Review* and accompanying Issues and Decision Memorandum at 4, and *Steel Threaded Rod from India Final*, and accompanying Issues and Decision Memorandum at VI.A.5., page 17.

⁵⁷ See GOI June 25, 2018 IQR, at 30 and Exhibit 7.

⁵⁸ See Paras June 28, 2018 IQR, at 21-32.

⁵⁹ *Id.*, at 31; see also, Paras July 30, 2018 SQR, at 1 and Exhibit S2-1(a) and S2-1(b). *Finished Carbon Steel Flanges from India: Preliminary Affirmative Countervailing Duty Determination*, 81 FR 85928 (November 29, 2016), and accompanying Preliminary Decision Memorandum (PDM) at 16.

⁶⁰ See *Steel Threaded Rod from India Final*, and accompanying Issues and Decision Memorandum at VI.A.5., page 17.

⁶¹ Commerce determined and upheld by the CIT in *Essar Steel v. United States*, 395 F. Supp. 2d 1275, 1278 (CIT 2005) (*Essar Steel*) in the similar but discontinued GOI program, the Duty Entitlement Passbook Scheme (DEPS) in which similar benefits were conferred when earned, rather than when the credits were used.

⁶² See Paras Preliminary Calculation Memorandum.

⁶³ *Id.*

Merchandise Export from India Scheme (MEIS)

Kumar, Avid, and Paras reported participating in the MEIS during the POI.⁶⁴ The GOI explained that the MEIS was introduced on April 1, 2015, in the Foreign Trade Policy (FTP) 2015-2020. Its purpose is to offset infrastructural inefficiencies and associated costs involved in export of goods/products, which are produced/manufactured in India, especially those having high export intensity, employment potential and thereby enhancing India's export competitiveness.⁶⁵ Under this program, the GOI issues a scrip worth either two, three, or five percent of the FOB value of the exports in free foreign exchange realized or received, or on the "FOB value of exports in free foreign exchange, as given on the shipping bills in free foreign exchange, whichever is less." To receive the scrip, a recipient must file an electronic application and supporting shipping documentation for each port of export with Director General of Foreign Trade (DGFT). Each application can only comprise a maximum of 50 shipping bills. After a recipient receives and registers the scrip, it may either use it for the payment of future customs duties for importing goods or transfer it to another company.⁶⁶

The program is specific within sections 771(5A)(A) and (B) of the Act because, as the GOI, Kumar, Avid, and Paras reported, eligibility to receive the scrips is contingent upon export.⁶⁷ This program provides a financial contribution in the form of revenue forgone under 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 forgone by the GOI.⁶⁸

Kumar, Avid and Paras reported that they submitted applications and received approval under the MEIS program. Each company reported that it met the requirements of this program and obtained the requisite scrips from the DGFT, which can be used for a company's own consumption or sold in the market.⁶⁹

This program provides a recurring benefit because, unlike the scrips in the SHIS scheme, 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)(ii). We calculated the benefit to Kumar, Avid and Paras to be the total value of scrips granted (*i.e.*, the MEIS license value) during the POI. Normally, in cases where the benefits are granted based on a percentage value of a shipment, Commerce calculates benefit as having been received as of the date of exportation;⁷⁰ however, because the

⁶⁴ See Kumar June 28, 2018 IQR at 9 and Kumar July 31, 2018, at 14 and Exhibits CVD-23 and CVD-25; *see also*, Paras June 28, 2018 IQR, at 38 and Exhibits 10(a) – 10(f); Avid June 28, 2018 IQR, Section II.F. at 28 and August 14, 2018 SQR at Exhibit 3.

⁶⁵ See GOI June 25, 2018 IQR at 42-54 and Exhibits 8, 9, 12, 13; *see also* Paras June 28, 2018, at 43 and Exhibit 10, Parts 1 and 2.

⁶⁶ *Id.*

⁶⁷ See GOI June 25, 2018 IQR at 102; *see also* Kumar June 28, 2018 IQR at section entitled, "Other Subsidies," at 5; Avid June 28, 2018 IQR, Section II.F. at 28; Paras June 28, 2018 IQR, at 38-39.

⁶⁸ *Id.*; *see also* GOI January 16, 2018 IQR at 85.

⁶⁹ See Kumar June 28, 2018 IQR at section entitled "Other Subsidies," at 7-9 and Exhibit CVD-8, Kumar July 31, 2018, Exhibits CVD-23 and CVD-25, Avid June 28, 2018 IQR, Section II.F. at 28, and Paras June 28, 2018 IQR at 39-41 and Exhibit 10(f).

⁷⁰ See 19 CFR 351.519(b)(1);

MEIS benefit, *i.e.* the scrip, amount is not automatic and is not known to the exporter until well after the exports are made, the MEIS licenses, which contain the date of validity and the duty exemption amount as issued by the GOI, are the best method to determine and account for when the benefit is received.⁷¹

On this basis we preliminarily determine the countervailable subsidy provided to Kumar and Avid under the MEIS to be 2.49 percent and 27.56 percent, respectively, and the countervailable subsidy provided to Paras to be 0.88 percent *ad valorem*.⁷²

Duty Drawback (DDB) Program

The DDB program provides rebates of duties or taxes chargeable on any (a) imported or excisable materials and (b) input services used in the manufacture of export goods.⁷³ Specifically, the duties and tax “neutralized” under the program are (i) the customs and union excise duties on inputs and (ii) the service tax in respect of input services.⁷⁴ The DDB is generally fixed as a percentage of the Free-on-Board (FOB) price of the exported product.⁷⁵

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.⁷⁶ 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.⁷⁷ This system must be reasonable, effective for the purposes intended, and based on generally accepted commercial practices in the country of export.⁷⁸ If such a system does not exist, if it is not applied effectively, or if the government in question does not carry out an examination of the actual inputs involved to confirm which are consumed in the production of the exported product, the entire amount of any exemption, deferral, remission or drawback is countervailable.⁷⁹

In our initial questionnaire, we asked the GOI to provide all documentation from all entities involved in the production and/or export of glycine and the applied DDB rate(s).⁸⁰ We also asked the GOI to include all documentation from the Export Promotion Councils, Trade

⁷¹ See, e.g., *Steel Threaded Rod from India Final*, and accompanying Issues and Decision Memorandum at VI.A.5., page 17.

⁷² See Kumar Preliminary Calculation Memorandum and Paras Preliminary Calculation Memorandum.

⁷³ See GOI June 25, 2018 IQR at 14; see also *Steel Flanges from India Final* and accompanying Issues and Decision Memorandum at Comment 2; see also *Certain Oil Country Tubular Goods from India: Final Affirmative Countervailing Duty Determination and Partial Affirmative Determination of Critical Circumstances*, 79 FR 41967 (July 18, 2014) (*OCTG from India 2012*) and accompanying Issues and Decision Memorandum at “Duty Drawback;” *Shrimp from India* and accompanying Issues and Decision Memorandum at 12.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ See 19 CFR 351.519(a)(1)(ii).

⁷⁷ See, e.g., *PET Film Final Determination*, and accompanying Issues and Decision Memorandum at “Duty Entitlement Passbook Scheme (DEPS/DEPB).”

⁷⁸ See 19 CFR 351.519(a)(4).

⁷⁹ See 19 CFR 351.519(a)(4)(i)-(ii).

⁸⁰ See Commerce Initial Questionnaire at Section II.II.B.3, page 4.

Associations, and individual exporters, as well as the data on procurement prices of inputs (indigenous and imported), applicable duty rates, consumption ratios and FOB values of exports products, as well as corroborating data collected from Central Excise and Customs field formations.⁸¹ However, the GOI provided no supporting documentation, but instead stated that the rates are determined following a procedure, undertaken by an independent committee. Specifically, the GOI stated that:

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.⁸²

In addition, we requested that the GOI describe in detail how the standard input-output norm (SION) is applied to derive the DDB rate(s), and to explain why there are no differences in rates, even where different production processes are utilized, and provide complete documentation to support its response.⁸³ The GOI provided no documentary support and, instead, reaffirmed that although the SIONs are taken into consideration, the rates are based on an average of the duty incidences in the all industry level, so a common DDB rate is assigned to all exporters.⁸⁴ We preliminarily find that the GOI has not provided documentation enabling Commerce to determine that its system is reasonable or effective for the purposes intended.⁸⁵

Under the DDB program, a financial contribution, as defined under 771(5)(D)(ii) of the Act, is provided because rebated duties represent revenue forgone by the GOI. This program is only available to exporters; therefore, it is specific under sections 771(5A)(A) and (B) of the Act. Accordingly, we determine that the DDB program confers a countervailable subsidy.

Moreover, as explained above, the GOI has not supported its claim that the DDB system is reasonable and effective in confirming which inputs, and in what amounts, are consumed in the production of the exported product. Under 19 CFR 351.519(a)(4), in the absence of an adequate drawback system, the entire amount of customs and excise duties and service taxes rebated during the POI constitutes a benefit and therefore, find that benefits from the DDB program are conferred on the dates of exportation of the shipments for which the pertinent drawbacks were earned.⁸⁶ We calculated the benefit on an as-earned basis. Drawbacks under the program are

⁸¹ See Initial CVD Questionnaire.

⁸² See GOI June 25, 2018 IQR at 23.

⁸³ See Initial CVD Questionnaire.

⁸⁴ See GOI June 25, 2018 IQR at 25-26.

⁸⁵ *Id.*; see also *Shrimp from India* and accompanying Issues and Decision Memorandum at 12-13.

⁸⁶ See, e.g., *Steel Flanges from India Prelim* and accompanying Preliminary Decision Memorandum at 12;

provided as a percentage of the value of the exported merchandise on a shipment-by-shipment basis. As such, it is at the time of exportation that recipients know the exact amount of the benefit (*i.e.*, the value of the drawback).

Kumar, Avid, and Paras reported receiving drawbacks under the DDB program on exports of subject merchandise to the United States during the POR.⁸⁷ We preliminarily determined that Kumar, Company B, Avid and Paras received benefits from this program during the POI. Because we are able to tie the benefits received to specific markets and to specific products, in accordance with 19 CFR 351.525(b)(4) and (5), we calculated the subsidy rate for Kumar, Company B, Avid, and Paras using the value of all DDB rebates that were earned on U.S. sales of subject merchandise during the POI.⁸⁸ We divided the total amounts of each company's total exports of subject merchandise to the United States during the POI. On this basis, we determine a countervailable subsidy rate of 0.81 percent *ad valorem* for Kumar of 1.50 percent *ad valorem* for Avid, and 1.50 percent *ad valorem* for Paras.⁸⁹

Other Subsidies

Water for Less Than Adequate Remuneration

Paras reported under the Other Subsidies section of Commerce's initial questionnaire that it procured water from the Gujarat Industrial Development Corporation (GIDC).⁹⁰ According to the GOI, the GIDC is the agency created by the State Government of Gujarat (SGOG) for facilitating industrial development in the state of Gujarat. The GIDC establishes industry-ready land, referred to as "industrial estates,"⁹¹ with basic infrastructure, such as roads, water and power availability, which is then leased out to manufacturers.⁹² The GIDC is a statutory body that functions in accordance with SGOG statutes and regulations.⁹³ The framework for development is set forth in the Gujarat Industrial Development Act 1962, which are executed via the GIDC Water Supply Regulation of 1991.⁹⁴ We thus preliminarily find that the GIDC is an authority within the meaning of section 771(5)(B) of the Act.

Under the GIDC Water Supply Regulation of 1991, all companies located in a GIDC estate where the GIDC provides access to water are required to use that water.⁹⁵ The regulations stipulate that water is supplied through the GIDC, which controls the supply and sets and alters

unchanged in *Steel Flanges from India Final*; see also *Final Affirmative Countervailing Duty Determination: Certain Cut-To-Length Carbon Quality Steel Plate from India*, 64 FR 73131, 73134 and 73140 (December 29, 1999) (*Steel Plate Final Determination*).

⁸⁷ See Kumar June 28, 2018 IQR at 9 and Kumar August 10, 2018 SQR at 6 and Exhibit CVD-32; see also Paras June 28, 2018 IQR at 15 and Exhibit 8(f).

⁸⁸ See, e.g., *Steel Plate Final Determination*, 64 FR at 73134 and 73140.

⁸⁹ See Kumar Preliminary Calculation Memorandum and Paras Preliminary Calculation Memorandum.

⁹⁰ See Paras July 30, 2018 SQR at 9-10 and Exhibits S2-4(a) Part 1, S2-4(b) Parts 1-2 and S2-3(c) Parts 1-3; Paras August 16, 2018 SQR at 45-51.

⁹¹ See GOI August 28, 2018 SQR at 13.

⁹² *Id.* at 13-17.

⁹³ *Id.* at 14-15 and Exhibit 3.

⁹⁴ *Id.* at 12-14 and Exhibits 3 and 7.

⁹⁵ *Id.* at 13 and Exhibit 7; see also Paras July 30, 2018 SQR at Exhibit S2-4(d).

the rates charged and can be made available to companies located outside of the estates.⁹⁶ The regulation also states that if a water connection is given to premises outside the limits of the estate, water charges shall be calculated at double the prevailing rates for water in the estate.⁹⁷

Because the GIDC is the dispensing agency for funds appropriated by the SGOG for the development of industrial estates, builds estates in location directed by the SGOG, and administers them according to directives and policies set by the SGOG, the jurisdiction of the authority providing the subsidy is the entire state of Gujarat.⁹⁸ The rates set by the GIDC only apply to those enterprises located within its estates.⁹⁹ Information provided by the GOI indicates that the GIDC estates are a designated area under the jurisdiction of the SGOG, and that the provision of water at the discounted rate is limited by law to enterprises or industries within a designated geographical region within the jurisdiction of the authority providing the subsidy.¹⁰⁰

Therefore, we preliminarily find that this program is regionally specific in accordance with section 771(5A)(D)(iv) of the Act, and consistent with Commerce's prior determinations.¹⁰¹ The GIDC Water Supply Regulation of 1991 provides that companies located outside of the GIDC estate are charged double the rate for water as companies located inside the GIDC industrial estates.¹⁰² As stated above, the GIDC is the agency created by the SGOG for facilitating industrial development in the state of Gujarat. The GIDC establishes industry-ready land with basic infrastructure, such as roads, water and power availability, which is then leased out to manufacturers.¹⁰³ In doing so, the GIDC sets the rates and supplies the water required for use by companies within GIDC estates, including the water used by Paras. In *PTFE Resin from India*, we found that the GIDC is fully controlled by the SGOG, which issues binding directives to the GIDC, provides funding to the GIDC, sanctions the budget of the GIDC, and selects the areas where the GIDC will establish industrial estates within Gujarat.¹⁰⁴ We preliminarily find the 50

⁹⁶ *Id.*

⁹⁷ *Id.* at Exhibit 7, e.g., at paragraph 17.

⁹⁸ See GOI August 28, 2018 SQR at Exhibit 3, e.g., Chapter IV and Exhibit 7.

⁹⁹ See GOI August 28, 2018 SQR at Exhibit 7.

¹⁰⁰ *Id.* at Exhibit 3, e.g., Chapter IV and Exhibit 7.

¹⁰¹ See, e.g., *Countervailing Duty Investigation of Welded Stainless Pressure Pipe from India: Final Affirmative Determination*, 81 FR 23575 (September 29, 2016) and accompanying Issues and Decision Memorandum at Comment 7 (where enterprises or industries located within a designated geographical region within the jurisdiction of the authority are deemed to be regionally specific); see also *Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28755 (May 21, 2010), and accompanying Issues and Decision Memorandum, at the "Provision of Land Use Rights for LTAR to FIEs in Jiangxi and the City of Xinyu" section (where eligibility for a program was limited to as Economic Development Zone under the jurisdiction of a city); *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from Thailand*, 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at the "Provision of Electricity for Less than Adequate Remuneration" section (where eligibility for a program was limited to users outside the Bangkok metropolitan area); *Laminated Woven Sacks from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination, in Part, of Critical Circumstances*, 73 FR 35639 (June 24, 2008) and accompanying Issues and Decision Memorandum at Comment 8, (where eligibility for a program was limited to companies located in an industrial park within the provider's (e.g., county's or municipality's) jurisdiction).

¹⁰² See GOI August 23, 2016 SQR at Exhibit 7, page 7.

¹⁰³ See GOI August 28, 2018 SQR at 13-17.

¹⁰⁴ See *Polytetrafluoroethylene Resin from India: Final Affirmative Countervailing Duty Determination*, 83 FR 23422 (May 21, 2018) (*PTFE Resin from India 2018*) and accompanying Issues and Decision Memorandum at 17.

percent price discount for enterprises within the GIDC industrial estates to constitute a financial contribution in the form of revenue foregone under section 771(5)(D)(ii) of the Act.

The record also demonstrates that the discount scheme described above as available to, and used by, Paras, that water was provided to customers outside of the GIDC estate at twice the rate, and that Paras was required to use water from the GIDC, as per the GIDC Water Supply Regulation of 1991.¹⁰⁵ The GIDC Water Supply Regulation of 1991 states that if a water connection is given to premises outside the limits of the estate, water charges shall be calculated at double the prevailing rates for water in the estate.¹⁰⁶ Accordingly, we find that this program confers a benefit, *i.e.*, the 50 percent discounted rate, within the meaning of section 771(5)(E) of the Act. To calculate the benefit to Paras, we compared the actual amount paid for water at each of its GIDC locations during the period of investigation to the amount it would have paid were it not located within the GIDC locations. We then divided that difference by Paras' total sales during the POI and calculated an estimated net subsidy of 0.41 percent *ad valorem* for Paras.¹⁰⁷

Programs Preliminarily Determined to Not be Used or to Provide No Benefit During the POI

We preliminarily determine that Kumar and Paras did not apply for, or receive, benefits during the POI under the programs listed below:

GOI Programs:

Duty Free Import Authorization Scheme (DFIA Scheme)

Advance Authorization Scheme (AAS)

Special Economic Zones (SEZs) (formerly known as Export Processing Zones/Export Oriented Units) (EPZs/EOUs)

Duty-free Importation of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material

Purchases of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material Without the Payment of Central Sales Tax (CST)

Exemption from Service Tax for Services Consumed Within the SEZ

Exemption of Stamp Duty for All Transactions and Transfers of Immoveable Property, or Documents Related Thereto Within the SEZ

Exemption from Electricity Duty and Cess Thereon on the Sale or Supply to the SEZ Unit

Discounted Land in an SEZ

Income Tax Exemptions Under the Income Tax Exemption Scheme Section 10A

¹⁰⁵ See GOI August 23, 2016 SQR at Exhibit 7, page 7.

¹⁰⁶ *Id.* at Exhibit 7.

¹⁰⁷ See Paras Preliminary Calculation Memorandum.

State Programs:

State and Union Territory Sales Tax Incentive Programs in the States of Gujarat and Maharashtra
State Government of Gujarat (SGOG) Subsidies Under Industrial Policy 2015 and 2009

- Financial Benefits for Mega Projects
- Promotion of Cluster Development in States
- Promotion of Non-Conventional Energy
- Anchor Institutes
- Market Development Assistance (MDA)
- Upgrading Industrial Infrastructure

State Government of Maharashtra (SGOM) Subsidies Under the Package Scheme of Incentives
1993, 2007 and 2013

- Financial Incentives for PSI-2013's MSMEs/LSIs
- Industrial Promotion Subsidy for MSMEs and LSIs
- Interest Subsidy
- Exemption from Electricity Duty
- Waiver of Stamp Duties
- Power Tariff Subsidy
- Subsidy Equal to Various Levels Related to VAT on Local Sales (Minus Input Tax Credit)
- 5% Subsidy on Capital Equipment
- 75% Subsidy on Expenses Incurred on Quality Certifications
- 75% Subsidy on Cost of Water Audit
- 75% Subsidy on Cost of Energy Audit
- 50% Subsidy on Cost of Capital Equipment Under Measures to Conserve/Recycle Water
- 50% Subsidy on Cost of Capital Equipment for Improving Energy Efficiency
- 25% Subsidy on Capital Equipment for Cleaner Production Measures
- 25% Subsidy on Patent Registration
- Incentives for Strengthening MSMEs and LSIs
- Incentives for Units Coming up in Naxalism Affecting Talukas
- Incentives for Mega/Ultra Mega Projects

Other Programs:

Land for Less Than Adequate Remuneration

Paras reported under the Other Subsidies section of Commerce's initial questionnaire that it procured land from the GIDC via lease agreements.¹⁰⁸ In its initial questionnaire response, the GOI stated that it was not aware of any other benefits (*e.g.*, land) provided to respondents other than those initiated on by Commerce in this investigation.¹⁰⁹ We issued a supplemental questionnaire to the GOI regarding the land reportedly received by Paras in accordance with its

¹⁰⁸ See Paras June 28, 2018 SQR at 35; *see also* Paras July 30, 2018 SQR at 6-8 and Exhibits S2-3(a), S2-3(b) Parts 1-3 and S2-3(c) Parts 1-3; Paras August 16, 2018 SQR at 45-51.

¹⁰⁹ See GOI June 25, 2018 IQR at 57.

lease agreements with the GIDC.¹¹⁰ The GOI provided its response to Commerce on August 22, 2018.¹¹¹ We have analyzed Paras' agreements, its reported procured land, and the GOI's responses to our supplemental questionnaire. In accordance with that information, we have preliminarily determined that Paras did not receive a measurable benefit from this program.¹¹² Accordingly, we need not make a determination on whether this program provides a financial contribution or is specific.

VII. CONCLUSION

We recommend that you approve the preliminary findings described above.

☒

Agree

☐

Disagree

8/27/2018

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

¹¹⁰ See Commerce's Letter re: Countervailing Duty Investigation of Glycine from India: Supplemental Questionnaire for the Government of India," dated August 17, 2018 (GOI Second Supplemental Questionnaire) at 4.

¹¹¹ See GOI August 21, 2018 Second SQR.

¹¹² See Paras Preliminary Calculation Memorandum.