



C-533-844

Administrative Review

POR: 01/01/2016 – 12/31/2016

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Office III, Operations: JSC; EBG

DATE: October 3, 2018

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

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

SUBJECT: Decision Memorandum for Preliminary Results of 2016
Countervailing Duty Administrative Review: Certain
Lined Paper Products from India

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the countervailing duty (CVD) order on certain lined paper products from India for the period of review (POR) January 1, 2016, through December 31, 2016. We recommend preliminarily applying total adverse facts available with respect to the sole mandatory respondent Goldenpalm Manufacturers PVT Limited (Goldenpalm).

If these preliminary results are adopted in the final results of this review, we will instruct U.S. Customs and Border Protection to assess countervailing duties on all appropriate entries of subject merchandise entered during the POR. Interested parties are invited to comment on these preliminary results. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), we will issue the final results no later than 120 days after publication of these preliminary results.

II. BACKGROUND

A. Case History

On September 28, 2006, Commerce published in the *Federal Register* the *Lined Paper Order*.¹ On September 1, 2017, Commerce published a notice of opportunity to request an administrative review of this CVD order.² In response, on September 29, 2017, Goldenpalm filed a timely request for review.³ We received no additional requests for an administrative review. On November 13, 2017, Commerce published the *Initiation Notice* in the *Federal Register*.⁴ On January 23, 2018, Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018.⁵

On November 24, 2017, Commerce issued initial questionnaires to Goldenpalm and the Government of India (GOI).⁶ The GOI and Goldenpalm submitted timely responses to the Initial Questionnaire on December 26, 2017, and January 9, 2018, respectively.⁷

On February 2, 2018, the American Association of School Paper Suppliers (the AASP, hereinafter referred to as the petitioner) filed comments on the Goldenpalm IQR and GOI IQR.⁸ The petitioner's submission also included new subsidy allegations (NSAs).⁹

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

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 82 FR 41595 (September 1, 2017).

³ See Letter from Goldenpalm, "Lined Paper Products from India; C-533-844; Request for Review by Goldenpalm Manufacturers PVT Limited," dated September 29, 2017.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 52268 (November 13, 2017) (*Initiation Notice*).

⁵ See memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by three days.

⁶ See Letter from Commerce, "Issuance of Initial Questionnaire to Goldenpalm Manufacturers PVT Limited (Goldenpalm)," dated November 24, 2017; and Letter from Commerce, "Issuance of Initial Questionnaire to the Government of the Republic of India (GOI)," dated November 24, 2017. The Initial Questionnaire issued to Goldenpalm and the GOI was identical. Hereinafter we use the term Initial Questionnaire to refer to the questionnaire issued to both entities.

⁷ See Letter from the GOI, "Administrative Review of the Countervailing Duty Order on Certain Lined Paper Products from India (Case No. C-533-844) – Questionnaire Response on Behalf of Government of India," dated December 26, 2017 (GOI IQR); and Letter from Goldenpalm, "Lined Paper Products from India; C-533-844; Response to Section III of Department's Countervailing Duty Questionnaire," dated January 9, 2018 (Goldenpalm IQR).

⁸ See Letter from the petitioner, "*Certain Lined Paper Products from India: Deficiency Comments on Goldenpalm and Government of India Initial Questionnaire Responses and New Subsidy Allegations*," dated February 2, 2018 (NSA Submission).

⁹ *Id.* at 9-18.

On March 20, 2018, Commerce issued a supplemental questionnaire to the GOI, to which the GOI timely responded on April 6, 2018.¹⁰ On March 22, 2018, Commerce issued a supplemental questionnaire to Goldenpalm, to which the company timely responded on April 6, 2018.¹¹ On April 6, 2018, Commerce initiated investigations of the eight programs contained in the NSA Submission.¹² On April 20, 2018, Commerce issued supplemental questionnaires to the GOI and Goldenpalm requesting information on the eight NSA programs,¹³ to which the GOI and Goldenpalm timely responded on May 11, 2018, and May 14, 2018, respectively.¹⁴

On June 7, 2018, Commerce issued a supplemental questionnaire to the GOI, to which the GOI timely responded on July 2, 2018.¹⁵ On June 14, 2018, Commerce issued a supplemental questionnaire to Goldenpalm, to which the company timely responded on June 18, 2018.¹⁶ On June 25, 2018, Commerce issued a supplemental questionnaire to Goldenpalm, to which the company timely responded on July 9, 2018.¹⁷

On July 27, 2018, the petitioner submitted new factual information to rebut information contained in Goldenpalm's supplemental questionnaire response dated July 9, 2018.¹⁸

On August 1, 2018, Commerce issued a supplemental questionnaire to Goldenpalm, to which the company timely responded on August 15, 2018.¹⁹ On August 16, 2018, Commerce issued a supplemental questionnaire response to the GOI, to which it responded on September 4, 2018.²⁰

¹⁰ See Letter from the GOI, "SUB: Administrative Review of Countervailing Duty into Certain Lined Paper from India (Case No. C-533-844) -Response to Supplemental Questionnaire dated 20 March 2018 on behalf of Government of India," dated April 6, 2018 (GOI Supplemental QR1).

¹¹ See Letter from Goldenpalm, "Lined Paper Products from India; C-533-844; Supplemental Questionnaire Response," dated April 6, 2018 (Goldenpalm Supplemental QR1).

¹² See Memorandum, "New Subsidy Allegations," dated April 6, 2018 (NSA Memorandum).

¹³ See Letter from Commerce, "New Subsidies Questionnaire for the Government of Republic of India (GOI)," dated April 20, 2018; and Letter from Commerce, "New Subsidies Questionnaire for Goldenpalm Manufacturers PVT Limited (Goldenpalm)," dated April 20, 2018.

¹⁴ See Letter from the GOI, "Administrative Review of the Countervailing Duty into Certain Lined Paper Products from India (Case No. C-533-844) – Response to New Subsidy Allegation Questionnaire on Behalf of Government of India," dated May 11, 2018 (GOI Supplemental QR2); and Letter from Goldenpalm, "Lined Paper Products from India; C-533-844; Response to Department's NSA Questionnaire," dated May 14, 2018 (Goldenpalm Supplemental QR2).

¹⁵ See Letter from the GOI, "Administrative Review of Countervailing Duty into Certain Lined Paper from India (Case No. C-533-844) -Response to Supplemental New Subsidy Allegations Questionnaire on behalf of Government of India," dated July 2, 2018 (GOI Supplemental QR3).

¹⁶ See Letter from Goldenpalm, "Lined Paper Products from India; C-533-844; Response to Department Supplemental Questionnaire of June 14, 2018," dated June 18, 2018 (Goldenpalm Supplemental QR3).

¹⁷ See Letter from Goldenpalm, "Lined Paper Products from India; C-533-844; Response to Department's Supplemental Questionnaire," dated July 9, 2018 (Goldenpalm Supplemental QR4).

¹⁸ See Letter from the petitioner, "*Certain Lined Paper Products from India: Submission of Rebuttal Factual Information to Goldenpalm's July 9, 2018 New Subsidy Allegation Supplemental Questionnaire Response*," dated July 27, 2018 (Petitioner NFI Submission).

¹⁹ See Letter from Goldenpalm, "Lined Paper Products from India; C-533-844; Response to Department's Supplemental Questionnaire," dated August 15, 2018 (Goldenpalm Supplemental QR5).

²⁰ See Letter from the GOI, "Administrative Review of Countervailing Duty into Certain Lined Paper from India (Case No. C-533-844) -Response to 2nd Supplemental NSA Questionnaire dated 16 August 2018 on behalf of Government of India," dated September 4, 2018 (GOI Supplemental QR4).

On August 29, 2018, the petitioner submitted pre-preliminary results comments on the questionnaire responses submitted by Goldenpalm and the GOI.²¹ On September 27, 2018, the petitioner submitted additional pre-preliminary comments.²²

We note that despite the numerous supplemental questionnaire responses submitted by Goldenpalm, as explained below, we find that the application of facts available (FA) with adverse inferences, as provided under sections 776(a) and (b) of the Act, is warranted due to Goldenpalm's failure to disclose in a timely manner the existence of a certain individual as well as certain companies for which information was required in order for Commerce to conduct its CVD analysis.

B. Extension of Time Limit for Preliminary Results

On May 31, 2018, Commerce extended the time period for issuing these preliminary results by 120 days, until October 3, 2018, in accordance with section 751(a)(3)(A) of the Act.²³

III. Scope of the Order

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

²¹ See Letter from the petitioner, "*Certain Lined Paper Products from India: Comments on Goldenpalm and Government of India New Subsidy Allegation Supplemental Questionnaire Responses and Request for Immediate Preliminary Results Based On Adverse Facts Available*," dated August 28, 2018.

²² See Letter from the petitioner, "*Certain Lined Paper Products from India: Supplemental Pre-Preliminary Comments*," dated September 27, 2018.

²³ See Memorandum, "Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review," dated May 31, 2018.

as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this order are:

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

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

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

eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

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

Merchandise subject to this order is typically imported under headings 4810.22.5044, 4811.90.9050, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2050, 4820.10.2060, and 4820.10.4000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.²⁴

IV. USE OF FACTS OTHERWISE AVAILABLE AND APPLICATION OF

²⁴ See *Lined Paper Order*, 71 FR at 56950-56951.

ADVERSE INFERENCES

A. Legal Standard

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

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

Section 776(b) of the Act further provides that Commerce may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, Commerce is not required to determine, or make any adjustments to, a countervailable subsidy rate based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.²⁵ Further, section 776(b)(2) states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record.²⁶

Section 776(c) of the Act provides that, when Commerce relies on secondary information rather than on information obtained in the course of a review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.²⁷ Secondary information is “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”²⁸ It is Commerce’s practice to consider information to be corroborated if it has probative value.²⁹ In analyzing whether information has probative value, it is Commerce’s practice to examine the reliability and relevance of the information to be used.³⁰ However, the SAA emphasizes that Commerce need

²⁵ See section 776(b)(1)(B) of the Act.

²⁶ See also 19 CFR 351.308(c).

²⁷ See also 19 CFR 351.308(d).

²⁸ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. No. 103- 316, vol. 1 at 870 (1994).

²⁹ See SAA at 870.

³⁰ See, e.g., SAA at 869.

not prove that the selected facts available are the best alternative information.³¹ Further, Commerce is not required to corroborate any countervailing duty applied in a separate segment of the same proceeding.³²

Finally, under section 776(d) of the Act, when applying an adverse inference, Commerce may use a countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that the agency considers reasonable to use, including the highest of such rates.³³ Additionally, when using an adverse inference in selecting among the facts otherwise available, Commerce is not required, for purposes of 776(c), or any other purpose, to estimate what the countervailable subsidy rate would have been if the interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality of the interested party.”³⁴

B. Application of Adverse Facts Available (AFA): Goldenpalm

In CVD proceedings, we examine whether the producers/exporters of the subject merchandise are cross-owned with one another, parent/holding companies, and with their input suppliers, as outlined in 19 CFR 351.525(b)(6). Accordingly, Commerce requires respondents to disclose the firms with which they are affiliated and cross-owned as part of their initial questionnaire response. This information is necessary for Commerce to decide which entities must submit a complete response, and whether those entities received subsidies that are attributable to the respondent. Thus, in the Initial Questionnaire, we instructed Goldenpalm to identify all companies with which it was affiliated, as provided under section 771(33) of the Act, to provide the name and mailing address of any such affiliates, describe in detail the nature of the relationship between Goldenpalm and such companies, and to identify those affiliates with whom Goldenpalm was cross-owned, as defined under 19 CFR 351.525(6)(vi).³⁵ We further explained in the Initial Questionnaire that Goldenpalm would be required to submit a complete questionnaire response for those affiliates where cross-ownership exists and: 1) the affiliate produces or sells (*e.g.*, a trading company) the subject merchandise; 2) the affiliate is a holding company or a parent company (with its own operations); 3) the affiliate supplies an input product to you that is primarily dedicated to the production of the subject merchandise; or 4) the affiliate has received a subsidy and transferred it to your company.³⁶

In its initial questionnaire response, Goldenpalm identified GMC International Limited (GMC), a Hong Kong-based firm through which it made sales during the POR, as its sole affiliate.³⁷ Goldenpalm further indicated that despite being cross-owned with GMC, GMC did not meet any of the four criteria that would require it to submit a complete questionnaire response.³⁸

³¹ See SAA at 869-870.

³² See section 776(c)(2) of the Act.

³³ See section 776(d)(1) and (2) of the Act.

³⁴ See section 776(d)(3) of the Act.

³⁵ See Initial Questionnaire, Section III, at 1-2.

³⁶ *Id.*

³⁷ See Goldenpalm IQR at 1-2

³⁸ *Id.*

Goldenpalm did not identify any other affiliates in its initial questionnaire response.³⁹ Further, Goldenpalm did not identify additional affiliates or cross-owned entities in any of its five supplemental questionnaire responses.⁴⁰

In its fourth supplemental questionnaire response, in which the company reiterated its non-use of the NSA programs at issue, Goldenpalm submitted the approval form received in connection with its involvement in the Government of Tamil Nadu's Industrial Policy (TNIP) program, as well as invoice summaries of its electricity bills for the POR.⁴¹ The approval form references Company A and Company B,⁴² while Goldenpalm's electricity invoice summaries reference Company C.⁴³ Information in the Petitioner NFI Submission and Goldenpalm's initial and supplemental questionnaire responses indicates that the managing director and sole owner of Goldenpalm (hereinafter referred to as Person A)⁴⁴ is also the managing director of Company A, that Person A engaged in financial transactions on behalf of Company A and Goldenpalm, and that Goldenpalm and Company A share the same address.⁴⁵ Goldenpalm's fourth questionnaire response also indicates that Goldenpalm has other possible unreported affiliated companies such as Companies B and C, which are involved in Goldenpalm's operations and financial transactions.⁴⁶ Information on the record also indicates that Companies B and C were specifically involved in operational and financial activities that involved Goldenpalm, many of which deal with the new subsidy allegations. Thus, it was not until the filing of the Petitioner NFS Submission and Goldenpalm's fourth and fifth supplemental questionnaire responses that Commerce became aware of the existence of Company A, Company B, and Company C and Person A's management position in Company A.

We preliminarily determine that Goldenpalm withheld necessary information that was requested of it, failed to provide information within the deadlines established, and significantly impeded this proceeding by not fully disclosing its affiliate relationship with Company A and not fully disclosing the involvement of Company B and Company C in its operational and financial dealings as they regard aspects of the Government of Tamil Nadu's TNIP program. By doing so, we preliminarily determine that Goldenpalm undermined Commerce's ability to fully investigate the universe of cross-owned companies that may have subsidies attributable to Goldenpalm, as well as Commerce's ability to determine whether Goldenpalm used the alleged subsidy programs at issue in this review. Thus, we have relied on facts otherwise available in making our preliminary determination with respect to Goldenpalm, pursuant to sections 776(a)(2)(A)-(C) of

³⁹ *Id.*

⁴⁰ See Goldenpalm Supplemental QR1 – QR5.

⁴¹ See Goldenpalm Supplemental QR4 at Exhibit SSNSA-2.

⁴² The identity of Company A as well as the identities of other potentially affiliated companies are business proprietary. For the identities of the companies discussed herein, see Memorandum, "Identities of Companies Discussed in the Preliminary Results Memorandum," dated concurrently with these preliminary results (Identity of Person A and Companies A-C Memorandum).

⁴³ *Id.* at Exhibit SSNSA-2 and Exhibit SSNSA-7.

⁴⁴ The identity of Person A is business proprietary. For the identity of Person A, see Identity of Person A and Companies A-C Memorandum.

⁴⁵ See Goldenpalm IQR at 3; see also Petitioner NFI Submission at 1-2 and Exhibits 1-4; see also Goldenpalm Supplemental QR4 at 2 and Exhibits 4-5; see also Goldenpalm Supplemental QR5 at 13.

⁴⁶ See Goldenpalm Supplemental QR4 at Exhibit SSNSA-2 and Exhibit SSNSA-7. The information in these exhibits involving Company B and Company C is business proprietary and cannot be summarized on the public record.

the Act. Moreover, we preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act, because, by failing to identify Company A as an affiliate and by failing to disclose in a timely manner the involvement of Company B and Company C in the financial and operational dealings that were potentially germane to the NSA alleged under the Government of Tamil Nadu's TNIP program until much later in the review, Goldenpalm deprived Commerce of the opportunity to examine cross-ownership of Company A and the potential relevance of Company B and Company C. Accordingly, we preliminarily determine that Goldenpalm did not cooperate to the best of its ability to comply with the requests for information in this review and that the application of facts available with adverse inferences under sections 776(a) and (b) of the Act is warranted. In drawing an adverse inference, we have not relied on Goldenpalm's reported usage information for certain programs or its claims of non-use of certain programs. Rather, in resorting to the use of adverse inferences, we find that Goldenpalm benefited from each of the programs listed in the "Selection of the AFA Rates" section below, as provided under section 771(5)(E) of the Act.

C. Selection of the AFA Rates Assigned to Goldenpalm

In assigning net subsidy rates for each of the programs at issue in this review, we were guided by Commerce's practice applied in prior CVD proceedings.⁴⁷ Under Commerce's practice, we apply a total AFA rate for a non-cooperating company using the highest calculated program-specific rates determined for the identical or similar programs. Specifically, in an administrative review, Commerce applies the highest calculated above-*de minimis* rate (e.g., above 0.5 percent) for the identical program from any segment of the same proceeding. If there is no identical program match within the same proceeding, or if the rate is *de minimis*, Commerce uses the highest non-*de minimis* rate calculated for a similar program, based on treatment of the benefit. Absent an above-*de minimis* subsidy rate calculated for the identical or similar program from the same proceeding, Commerce looks to other proceedings involving the same country and applies the highest calculated above-*de minimis* subsidy rate for the identical or similar/comparable program. Where no above-*de minimis* rate for an identical or similar program within the country has previously been calculated, Commerce applies the highest calculated rate for any program from any CVD case involving the same country that could conceivably be used by the non-cooperating company. The exception to the methodology described above involves income tax programs. For income tax programs, per our practice, we apply an adverse inference that the non-cooperating respondent paid no income tax during the POR.⁴⁸

⁴⁷ See e.g., *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Countervailing Duty Administrative Review, and Partial Rescission of Countervailing Duty Administrative Review*; 2014, 82 FR 27466 (June 15, 2017) and accompanying Issues and Decision Memorandum at "Use of Facts Otherwise Available and Adverse Inferences;" see also *Certain Lined Paper Products from India: Preliminary Results of Countervailing Duty Administrative Review; Calendar Year 2010*, 77 FR 61742 (October 11, 2012) (*Preliminary Results of Lined Paper from India 2010*) and accompanying Decision Memorandum (*Lined Paper from India 2010 Preliminary Decision Memorandum*) at 3; unchanged in *Certain Lined Paper Products from India: Final Results of Countervailing Duty Administrative Review*; 2010, 78 FR 22845 (April 17, 2013) (*Lined Paper from India 2010*) and accompanying Decision Memorandum (*Lined Paper from India 2010 Decision Memorandum*) at 2 and Comment 2.

⁴⁸ See *Stainless Steel Flanges from India: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 83 FR 40748 (August 16, 2018) (*Flanges from India*) and accompanying Decision Memorandum (*Flanges Decision from India Memorandum*) at 40.

In assigning an AFA rate to Goldenpalm, we were guided by Commerce's CVD AFA methodology described above. The standard income tax rate for corporations in India in effect during the POR was 30 percent.⁴⁹ Accordingly, we are applying a 30 percent AFA rate for the 801B Tax Program, the sole income tax program at issue in this review.

Programs Identified in the Initial Questionnaire Included in the AFA Rate:⁵⁰

- Advanced License Program
- Duty Drawback Program
- Export Promotion of Capital Goods Scheme
- Pre and Post-Shipment Financing
- Export Oriented Units
- Market Development Assistance
- Status Certificate Program
- Market Access Initiative
- Loan Guarantees from the GOI
- Income Deduction Program, (801B Tax Program)
- State Government of Maharashtra (SGOM) Provided Tax Incentives
- SGOM Electricity Duty Exemptions Under SGOM Package Scheme of Incentives of 1993
- SGOM Refunds of Octroi Under the PSI of 1993, Maharashtra Industrial Policy (MIP of 2001), and Maharashtra Industrial Policy (MIP of 2006)
- SGOM Infrastructure Subsidies to Mega Projects
- SGOM Provision of Land for Less than Adequate Remuneration (LTAR)
- SGOM Loan Guarantees Based on Octroi Refunds

Programs Alleged as New Subsidy Allegations Included in the AFA Rate:⁵¹

- Merchandise Export from India Scheme (MEIS)
- Interest Equalization Scheme (IES) for Export Financing
- State Government of Tamil Nadu Subsidy Programs Provided Under the Tamil Nadu Industrial Policy of 2014 (TNIP)⁵²
 - Capital Subsidies and Electricity Tax Exemptions under the TNIP
 - Provision of Land or Land-Use Rights for LTAR

⁴⁹ See *Flanges Decision from India Memorandum* at 40. We note that the period of investigation in *Flanges from India* was the same as the POR of the instant review.

⁵⁰ We note that the Duty Entitlement Passbook Scheme, Export Processing Zone, and State Government of Gujarat Sales Tax Program were included in the Initial Questionnaire. See Initial Questionnaire at II-7, II-13, and II-17. However, Commerce previously determined that the GOI terminated these programs. See *Certain Lined Paper Products From India: Preliminary Results of Countervailing Duty Administrative Review; Calendar Year 2012*, 79 FR 60447 (October 7, 2014) (*Preliminary Results of Lined Paper from India 2012*) and accompanying Decision Memorandum (Lined Paper from India 2012 Preliminary Decision Memorandum) at 20-21; unchanged in *Certain Lined Paper Products from India: Final Results of Countervailing Duty Administrative Review; Calendar Year 2012*, 80 FR 19637 (April 13, 2015) (*Lined Paper from India 2012*) and accompanying Decision Memorandum (Lined Paper from India 2012 Decision Memorandum). Therefore, we have not included these programs in our analysis in these preliminary results.

⁵¹ See NSA Memorandum.

⁵² For purposes of our total AFA calculation, we have assigned a subsidy rate to each sub-program under the TNIP program.

- Stamp Duty Concession
- Employment Intensive Subsidy
- Interest Subsidy Program
- Generator Subsidy

Based on the methodology described above, we preliminarily determine the net AFA countervailable subsidy rate for Goldenpalm is 188.70 percent *ad valorem*. The Appendix to this memorandum contains a chart detailing the calculation of the AFA rate, including citations to the CVD proceedings that served as the basis for the AFA rates.

D. Corroboration of the AFA Rate

As noted above, we have not relied on Goldenpalm's reported usage information for certain programs or its claims of non-use of certain programs. Rather, in resorting to the use of AFA, we find that Goldenpalm benefited from each of the programs listed below, as provided under section 771(5)(E) of the Act. Further, we reviewed the information concerning Indian subsidy programs in prior proceedings.⁵³ Where we have a program-type match, we find that, because these are the same or similar programs, they are relevant to the programs in this administrative review. The relevance of these rates is that they are actual calculated subsidy rates for Indian programs, from which Goldenpalm could actually receive a benefit. Due to Goldenpalm's failure to adequately disclose necessary information concerning certain affiliated companies to Commerce in a timely manner and the resulting lack of record information concerning these programs, we have corroborated the rates we selected to use as AFA to the extent practicable for these preliminary results.

E. Application of AFA: The GOI

In this review, despite repeated requests, the GOI failed to respond to our supplemental questionnaires regarding the six sub-programs alleged to be provided by the Government of Tamil Nadu under the TNIP program.⁵⁴ Additionally, the GOI failed to respond to the Initial Questionnaire with respect to the SGOM Electricity Duty Exemptions Under SGOM Package Scheme of Incentives of 1993, SGOM Refunds of Octroi Under the PSI of 1993, Maharashtra Industrial Policy (MIP of 2001), and Maharashtra Industrial Policy (MIP of 2006), SGOM Infrastructure Subsidies to Mega Projects, SGOM Provision of Land for Less than Adequate Remuneration (LTAR), and SGOM Loan Guarantees Based on Octroi Refunds.⁵⁵ The information requested in our questionnaires to the GOI are necessary in order for Commerce to determine whether the programs under the TNIP and the SGOM programs constitute a financial contribution and are specific under sections 771(5)(D) and 771(5A) of the Act, respectively.

Consequently, we preliminarily determine that the GOI withheld necessary information that was requested of it and, thus, that Commerce must rely on facts otherwise available in making our

⁵³ See the Appendix to this decision memorandum for the Indian CVD proceedings that served as the basis of the AFA rate assigned to Goldenpalm.

⁵⁴ See GOI Supplemental QR 2 at 15; *see also* GOI Supplemental QR3 at 6-7; *see also* GOI Supplemental QR4 at 2-3.

⁵⁵ See GOI IQR, where the GOI provides no mention of these three programs.

preliminary determination pursuant to sections 776(a)(1) and (a)(2)(A) of the Act. Moreover, we preliminarily determine that the GOI failed to cooperate by not acting to the best of its ability to comply with our requests for information. In this regard, the GOI did not explain why it was unable to provide the requested information, nor did it ask for additional time to gather and provide such information. Consequently, an adverse inference is warranted in the application of facts available under section 776(b) of the Act. In drawing an adverse inference, we find that the six sub-programs under TNIP and the Electricity Duty Exemptions Under the State Government of Maharashtra's Package Scheme of Incentives of 1993, State Government of Maharashtra Provision of Land for LTAR, Refunds of Octroi Under the PSI of 1993, Maharashtra Industrial Policy and Maharashtra Industrial Policy, and Infrastructure Subsidies to Mega Projects programs constitute a financial contribution within the meaning of section 771(5)(D) of the Act and are specific within the meaning of section 771(5A) of the Act.

F. Application of Facts Available: The GOI

In certain sections of its initial questionnaire response, the GOI stated that Goldenpalm was, by virtue of its location, not eligible to participate in certain programs or that Goldenpalm did not use certain programs.⁵⁶ However, as discussed above, we find that Goldenpalm failed to disclose its affiliation with Company A, as well as its involvement with Company B and Company C in a timely manner, thereby precluding Commerce from examining the location of those companies' facilities or whether those companies received subsidies that were potentially attributable to Goldenpalm. As a result, we lack sufficient information on the record of this administrative review to determine whether such programs constitute a financial contribution and are specific under sections 771(5)(D) and 771(5A) of the Act, respectively. For the programs at issue that fall under this fact pattern (*i.e.*, the Export Oriented Units Program, Status Certificates Program, Sales Tax Program from Maharashtra, and Merchandise Export from India Scheme), we have resorted to the use of FA under section 776(a) of the Act to preliminarily determine whether the financial contribution and specificity prongs have been satisfied. Thus, for each program for which we are applying FA, we have relied on Commerce's finding in prior Indian CVD proceedings, including the proceeding at issue, to determine whether the programs constitute a financial contribution or are specific under sections 771(5)(D) and 771(5A) of the Act, respectively.

V. Discussion and Analysis of Programs

In this section we address whether, based on the information provided by the GOI as well as on FA pursuant to section 776(a) of the Act, the remaining programs at issue in this review constitute a financial contribution and are specific under sections 771(5)(D) and 771(5A) of the Act. As discussed above, we are applying total AFA on Goldenpalm. As such, we are assuming as AFA that Goldenpalm used each of the programs below in a manner that conferred a benefit as described under section 771(5)(E) of the Act and have assigned an AFA rate to Goldenpalm for this program as set forth in the Appendix of this memorandum.

A. Advanced License Program (ALP)

⁵⁶ See, *e.g.*, GOI IQR at 52; *see also* GOI IQR at 55.

The GOI states that the ALP provides for duty free import of inputs, which are physically incorporated in an exported product (making normal allowance for wastage).⁵⁷ The exporting companies, however, remain 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.⁵⁸ We preliminarily determine that the duty exemptions provided under the ALP constitute a financial contribution in the form of revenue forgone and are contingent upon export and, therefore, specific under sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively. Furthermore, in prior proceedings we determined that, pursuant to 19 CFR 351.519(a)(1)(ii), the program confers a countervailable subsidy because: (1) a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided under the program, as the GOI exempts the respondent from payment of import duties that would otherwise be due; (2) the GOI does not have in place, and does not apply, a system that is reasonable and effective for the purposes intended in accordance with 19 CFR 351.519(a)(4), to confirm which inputs, and in what amounts, are consumed in the production of the exported product, 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.⁵⁹ We find that record evidence in this review does not show any change to the ALP program that would warrant a reconsideration.

B. Duty Drawback Program (DDB)

The GOI states that drawback is available to exports of duty paid on imported goods in terms of Section 74 of the Customs Act, 1962 read with Re-export of Imported Goods (Drawback of Customs Duty) Rules, 1995.⁶⁰ The GOI further indicates that the portion of customs duty paid is given back subject to certain procedure and conditions including identification of exported goods with those imported on duty payment and use criteria.⁶¹ We preliminarily determine that the duty exemptions provided under the DDB constitute a financial contribution in the form of revenue forgone and are contingent upon export and, therefore, specific under sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively. In prior proceedings we determined that, pursuant to 19 CFR 351.519(a)(1)(ii), the program confers a countervailable subsidy because: (1) a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided under the program, as the GOI exempts the respondent from payment of import duties that would otherwise be due; (2) the GOI does not have in place, and does not apply, a system that is reasonable and effective for the purposes intended in accordance with 19 CFR 351.519(a)(4), to confirm which inputs, and in what amounts, are consumed in the production of the exported product, making normal allowance for waste, nor did the GOI carry out an examination of actual

⁵⁷ See GOI IQR at 12.

⁵⁸ *Id.*

⁵⁹ See *Polytetrafluoroethylene Resin from India: Preliminary Affirmative Countervailing Duty Determination*, 83 FR 9842 (March 8, 2018) (*PTFE Resin from India Preliminary Determination*) and accompanying Preliminary Decision Memorandum (*PTFE Resin from India Preliminary Decision Memorandum*) at 13; unchanged in *Polytetrafluoroethylene Resin From India: Final Affirmative Countervailing Duty Determination*, 83 FR 23422 (May 21, 2018) (*PTFE Resin from India*) and accompanying Decision Memorandum (*PTFE Resin from India Decision Memorandum*) at 7.

⁶⁰ See GOI IQR at 21.

⁶¹ *Id.*

inputs involved to confirm which inputs are consumed in the production of the exported product, and in what amounts.⁶² In this case, information in the GOI's response indicates that it does not have a rebate rate that is linked to the lined paper product industry, and therefore, we preliminarily determine that the GOI does not have in place 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 product, making normal allowance for waste.⁶³ Our findings in this regard are consistent with Commerce's determinations in other Indian CVD proceedings.⁶⁴

C. Export Promotion of Capital Goods Scheme (EPCGS)

The GOI states that the EPCGS provides for a reduction or exemption of customs duties and an exemption for excise taxes on imports of capital goods.⁶⁵ Under this program, producers may import capital equipment at a reduced customs duty, subject to an obligation to attain export sales over a six-year period that are six times the value of duty saved.⁶⁶ If the 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, in addition to an interest penalty.⁶⁷ We preliminarily determine that the duty exemptions provided under the EPCGS constitute a financial contribution in the form of revenue forgone and are contingent upon export and, therefore, specific under sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively. Our findings in this regard are consistent with Commerce's determinations in other Indian CVD proceedings.⁶⁸

D. Export Oriented Units

The GOI states that Goldenpalm is not located in a special economic zone and, therefore, was not eligible to receive benefits under the program. As a result, the GOI did not provide a response to the Initial Questionnaire regarding this program.⁶⁹ However, as discussed above, we find that Goldenpalm failed to disclose its affiliation with Company A, as well as its involvement with Company B and Company C in a timely manner, thereby precluding Commerce from examining the location of those companies' facilities or whether those companies received subsidies that were potentially attributed to Goldenpalm. Therefore, because pursuant to AFA we are not

⁶² See PTFE Resin from India Preliminary Decision Memorandum at 21-22, in which Commerce found that the duty exemptions under the program constituted a financial contribution and were specific; unchanged in PTFE Decision Memorandum at 8.

⁶³ See, GOI Supplemental QR1, Exhibit G, at 4, where supporting documentation indicates that the GOI derived the drawback rate for the lined paper industry using duty entitlement passbook rebate rates because "the industry has not provided any data."

⁶⁴ See PTFE Resin from India Preliminary Decision Memorandum at 21-22, in which Commerce found that the duty exemptions under the program constituted a financial contribution and were specific; unchanged in PTFE Decision Memorandum at 8.

⁶⁵ See GOI IQR at 33.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ See PTFE Resin from India Preliminary Decision Memorandum at 10; unchanged at PTFE Resin from India Decision Memorandum at 6.

⁶⁹ See GOI IQR at 52.

relying on the questionnaire responses of Goldenpalm, and because the GOI couched its initial questionnaire response for this program based on Goldenpalm's claim of non-use, we lack sufficient information in this review to determine whether the program constitutes a financial contribution and is specific under sections 771(5)(D) and 771(5A) of the Act, respectively. Therefore, we have resorted to the use of FA under section 776(a) of the Act to determine whether these two subsidy prongs have been met. As partial FA we have relied on Commerce's findings in *Lined Paper from India 2012*, in which Commerce found that the program provided benefits that constitute a financial contribution and are specific under sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively.⁷⁰

E. Market Development Assistance (MDA)

The GOI states that the MDA provides financial assistance for export promotion based on proposals received for event participation by Export Promotion Councils in the annual programs provided under MDA Guidelines.⁷¹ Funding is made to the organizations mobilizing participation for such events and is given on notional basis in the form of part reimbursement.⁷² We preliminarily determine that the duty exemptions provided under the MDA constitute a financial contribution in the form of revenue forgone and are contingent upon export and, therefore, specific under sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively. Our findings in this regard are consistent with Commerce's determinations in other Indian CVD proceedings.⁷³

F. Status Certificate Program

The GOI states that Goldenpalm did not use the program during the POR, and as a result, the GOI did not provide a response to the Initial Questionnaire regarding this program.⁷⁴ However, as discussed above, we find that Goldenpalm failed to disclose its affiliation with Company A, as well as its involvement with Company B and Company C in a timely manner, thereby precluding Commerce from determining whether those companies received subsidies that were potentially attributed to Goldenpalm. Therefore, because pursuant to AFA, we are not relying on the questionnaire responses of Goldenpalm, and because the GOI couched its initial questionnaire response for this program based on Goldenpalm's claim of non-use, we lack sufficient information in this review to determine whether the program constitutes a financial contribution and is specific under sections 771(5)(D) and 771(5A) of the Act, respectively. Therefore, we have resorted to the use of FA under section 776(a) of the Act to determine whether these two subsidy prongs have been met. As partial FA we have relied on Commerce's finding in *Lined Paper from India 2012*, in which Commerce found that the program provided benefits that constitute a financial contribution and are specific under sections 771(5)(D)(i) and 771(5A)(B) of

⁷⁰ See *Lined Paper from India 2012 Preliminary Decision Memorandum* at 11-12; unchanged in *Lined Paper from India 2012 Decision Memorandum* at 5.

⁷¹ See GOI IQR at 54.

⁷² *Id.*

⁷³ See *Lined Paper from India 2012 Preliminary Decision Memorandum* at 12-13; unchanged in *Lined Paper from India 2012 Decision Memorandum* at 5.

⁷⁴ See GOI IQR at 55.

the Act, respectively.⁷⁵

G. Market Access Initiative (MAI)

The GOI states that the program provides financial assistance for medium term export promotion efforts and is administered by the Indian Department of Commerce.⁷⁶ The GOI states that such financial assistance is available for Export Promotion Councils, Industry and Trade Associations, Agencies of State Governments, Indian Commercial Missions abroad and other eligible entities as may be notified and that a range of activities can be funded under the program, such as market studies, sales promotion campaigns, and publicity campaigns.⁷⁷ In prior cases, Commerce has examined the program to the extent that it provides financial assistance from the GOI to approved organizations which promote exports by offsetting the expense of foreign market analysis and promotional publications.⁷⁸ We preliminarily determine that the duty exemptions provided under the MAI constitute a financial contribution in the form of revenue forgone and are contingent upon export and, therefore, specific under sections 771(5)(D)(i) and 771(5A)(B) of the Act, respectively. Our findings in this regard are consistent with Commerce's determinations in other Indian CVD proceedings.⁷⁹

H. Loan Guarantees from the GOI

The GOI states that it has the ability to provide loan guarantees, but that such guarantees may not be provided to privately-held firms and may only be provided to publicly-held firms provided that they "be justified in the public interest such as in the case of borrowings by public sector institutions for approved development purposes. . . ."⁸⁰ The GOI further indicated that because Goldenpalm was not a publicly-held company, it was not eligible for such loan guarantees and, for this reason, the GOI did not respond to the questions contained in the Initial Questionnaire as it regards this program.⁸¹ We find that we cannot rely on the GOI's claims because Goldenpalm failed to adequately disclose its affiliation with Company A and its financial and operational dealings with Company B and Company C. Goldenpalm's failure to provide the requested information precluded Commerce from determining whether any of the three companies should have submitted a complete questionnaire response. Consequently, we lack the necessary information to evaluate the GOI's claim that Goldenpalm, as well as any cross-owned entities that may have received subsidies attributable to Goldenpalm, were, due to their ownership structure, ineligible to receive subsidies under this program. Therefore, we preliminarily determine that the program provides government loan guarantees that are limited to certain state-

⁷⁵ See Lined Paper from India 2012 Preliminary Decision Memorandum at 14; unchanged with regard to financial contribution and specificity Lined Paper from India 2012 Decision Memorandum at 6-7 and Comment 1.

⁷⁶ See GOI IQR at 55-56, and Exhibit 20.

⁷⁷ *Id.*

⁷⁸ See Lined Paper from India 2012 Preliminary Decision Memorandum at 15-16; unchanged with regard to financial contribution and specificity Lined Paper from India 2012 Decision Memorandum at 7-8 and Comment 1.

⁷⁹ See Lined Paper from India 2012 Preliminary Decision Memorandum at 15-16; unchanged with regard to financial contribution and specificity Lined Paper from India 2012 Decision Memorandum at 7-8 and Comment 1.

⁸⁰ See GOI IQR at 56-57 and Exhibit 21.

⁸¹ See GOI IQR at 56-57.

owned firms, and, thus, the loan guarantees constitute a financial contribution and are specific under section 771(5)(D)(i) and 771(5A)(D)(i) of the Act.

I. Income Deduction Program, (801B Tax Program)

Introduced under in Article 50 the Finance Act of 1999, the GOI states that the program provides income tax reductions to firms located in economically disadvantaged regions that engage in designated industrial and infrastructure projects.⁸² We preliminarily determine that the tax savings provided under the program constitute a financial contribution in the form of revenue forgone and are limited to firms located in certain geographic regions and, therefore, specific under sections 771(5)(D)(ii) and 771(5A)(D)(iv) of the Act, respectively. Our findings in this regard are consistent with Commerce's determinations in other Indian CVD proceedings.⁸³

J. Sales Tax Program from Maharashtra

The GOI states that Goldenpalm did not use the program during the POR, and as a result, the GOI did not provide a response to the Initial Questionnaire regarding this program.⁸⁴ However, as discussed above, we find that Goldenpalm failed to disclose its affiliation with Company A as well as its involvement with Company B and Company C in a timely manner, thereby precluding Commerce from determining whether those companies received subsidies that were potentially attributed to Goldenpalm. Therefore, because pursuant to AFA we are not relying on the questionnaire responses of Goldenpalm and because the GOI couched its initial questionnaire response for this program based on Goldenpalm's claim of non-use, we lack sufficient information in this review to determine whether the program constitutes a financial contribution and is specific under sections 771(5)(D) and 771(5A) of the Act, respectively. Accordingly, we have resorted to the use of FA under section 776(a) of the Act to determine whether these two subsidy prongs have been met. As partial FA, we have relied on Commerce's finding in *Flanges from India*, in which Commerce found that the program provided benefits that constitute a financial contribution and are specific under sections 771(5)(D) and 771(5A)(D)(iv) of the Act, respectively.⁸⁵

K. Merchandise Export from India Scheme (MEIS)

The GOI states that Goldenpalm did not use the program during the POR, and as a result, the GOI did not provide a response to the Initial Questionnaire regarding this program.⁸⁶ However,

⁸² See GOI IQR at 57 and at Exhibit 23.

⁸³ See Lined Paper from India 2010 Preliminary Decision Memorandum at 9-10; unchanged in Lined Paper from India 2010 Decision Memorandum at 3-4.

⁸⁴ See GOI IQR at 59.

⁸⁵ See *Stainless Steel Flanges from India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 3118 (January 23, 2018) (Flanges from India Preliminary Determination) and accompanying Decision Memorandum (Flanges from India Preliminary Decision Memorandum) at 26-27; unchanged in Flanges from India Decision Memorandum at 6.

⁸⁶ See GOI Supplemental QR2 at 2-3.

as discussed above, we find that Goldenpalm failed to disclose its affiliation with Company A, as well as its involvement with Company B and Company C in a timely manner, thereby precluding Commerce from determining whether those companies received subsidies that were potentially attributed to Goldenpalm. Therefore, because pursuant to AFA we are not relying on the questionnaire responses of Goldenpalm, and because the GOI couched its initial questionnaire response for this program based on Goldenpalm's claim of non-use, we lack sufficient information in this review to determine whether the program constitutes a financial contribution and is specific under sections 771(5)(D) and 771(5A) of the Act, respectively. Accordingly, we have resorted to the use of FA under section 776(a) of the Act to determine whether these two subsidy prongs have been met. As partial FA we have relied on Commerce's finding in *Flanges from India*, in which Commerce found that the program provided benefits that constitute a financial contribution and are specific under sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively.⁸⁷

L. Interest Equalization Scheme (IES) for Export Financing

According to the GOI, it introduced the IES program effective April 1, 2015, which centers on rupee export financing, or pre-shipment and post-shipment export financing in rupee denomination. Under this program, the RBI provides a refund of three percent of interest charged by the bank on "pre-shipment and post-shipment export financing in Rupees."⁸⁸ Therefore, we preliminarily determine that the funds provided under this program constitute a financial contribution in the form of a direct transfer of funds and are contingent upon export and, therefore, specific under sections 771(5)(D)(i) and 771(5A)(B) of the Act, respectively. Our findings in this regard are consistent with Commerce's determinations in other Indian CVD proceedings.⁸⁹

M. Pre and Post-Shipment Export Financing

In prior Indian CVD proceedings, Commerce determined that, with respect to rupee-denominated export financing, the Reserve Bank of India (RBI) had previously capped the interest rate that commercial banks could charge on these loans, but that beginning on July 1, 2010, the RBI eliminated the interest rate cap and allowed participating commercial banks to set the interest rates for these export loans based on the bank's own operating and lending costs.⁹⁰ Commerce further determined that the RBI instituted an interest subvention program for certain exporting companies, including small and medium enterprises, in which banks that participated in the interest subvention program were restricted to charging an interest rate not exceeding the Benchmark Prime Lending Rate minus 4.5 percentage points on pre-shipment credit up to 270

⁸⁷ See (Flanges from India Preliminary Decision Memorandum) at 22; unchanged in *Flanges from India*, 83 FR 40748, and *Flanges from India* Decision Memorandum at 6.

⁸⁸ See GOI Supplemental QR 2 at 2-3.

⁸⁹ See *Flanges from India* Preliminary Decision Memorandum at 23-24; unchanged in *Flanges from India* Decision Memorandum at 6.

⁹⁰ See *Steel Threaded Rod from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 40712 (*Threaded Rod from India*) and accompanying Decision Memorandum (*Threaded Rod from India* Decision Memorandum) at 10-11.

days and post-shipment credit up to 180 days on the outstanding amount.⁹¹ In addition, Commerce found that, along with the interest rate cap on subvention loans, the RBI provided a two-percentage point interest subvention on the export loans and required the banks to completely pass on the two percent interest subvention to small and medium enterprises.⁹² Accordingly, Commerce determined that the rupee-denominated pre- and post-shipment export loan programs constituted a financial contribution and were specific under sections 771(5)(D)(i) and 771(5A)(B) of the Act, respectively.⁹³

With respect to export financing denominated in foreign currencies, Commerce previously determined that the GOI changed how the foreign currency-denominated export loan program operated such that, effective May 5, 2012, banks were free to determine the interest rate on export loans provided in foreign currencies. As a result, Commerce determined that the GOI had terminated the foreign currency pre- and post-shipment export loan program.⁹⁴

We preliminarily determine that the information the GOI provided regarding the rupee and foreign currency denominated, pre- and post-shipment loans in the instant review is consistent with the information Commerce has examined in prior Indian CVD proceedings.⁹⁵ Therefore, consistent with Commerce's prior findings, we preliminarily determine that the rupee-denominated pre- and post-shipment loans constitute a financial contribution and were specific under sections 771(5)(D)(i) and 771(5A)(B) of the Act, respectively.⁹⁶

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*; see also *Flanges from India* Decision Memorandum at 31, where Commerce reached the same conclusions regarding the financial contribution and specificity prongs. We note that the period of investigation in *Flanges from India* was the same as the POR of the instant review.

⁹⁴ See *Threaded Rod from India* Decision Memorandum at 10-11.

⁹⁵ See GOI IQR 42-52 and Exhibits 18 and 19; see also GOI Supplemental QR2 at 8 and Exhibit 2.

⁹⁶ Further, consistent with *Threaded Rod from India*, we have treated the foreign currency pre- and post-shipment loan program as terminated.

VI. Recommendation

We recommend that you approve the preliminary findings described above.

☒

☐

Agree

Disagree

10/3/2018

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

APPENDIX
AFA Calculation Table
(See Excel Attachment)

No.	Initial or NSA Program	Program	AFA Rate	Basis for Match	Source:
1	Initial QNR Program	Pre- & Post-Shipment Loans	1.02%	Highest Calculated Rate for Identical Program In Lined Paper Proceeding	<i>See Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from India</i> , 71 FR 45034 (August 8, 2006) and accompanying Issues and Decision Memorandum, (CLPP Investigation from India I&D Memorandum) at 4-5 for Aero Exports (Aero) for the Pre and Post Shipment Loans, which was the highest of the rates given to the three respondents.
2	Initial QNR Program	Export Promotion of Capital Goods Scheme (EPCGS)	8.07%	Highest Calculated Rate for Identical Program In Lined Paper Proceeding	<i>See Certain Lined Paper Products From India: Amended Final Results of Countervailing Duty Administrative Review</i> , 2014, 82 FR 28047 (June 20, 2017) and Memorandum, Response to Ministerial Error Allegations in the Final Results, (CLPP Amended Final 2014) at 1-5.
3	Initial QNR Program	Export Oriented Units (EOU) Reimbursement of Central Sales Tax (CST) Paid on Materials Procured Domestically	2.74%	Highest Calculated Rate for Similar Program in Lined Paper Proceeding	<i>See</i> CLPP Investigation from India I&D Memorandum at 8 for Navneet Publications (Navneet) for Income Tax Exemption Scheme under 80HHC.
4	Initial QNR Program	Market Development Assistance (MDA)	16.63%	Highest Calculated Rate for Similar Program in an Indian CVD Proceeding	<i>See Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From India</i> , 66 FR 49635 (September 28, 2001) (HRS from India), and accompanying Issues and Decision Memorandum (HRS from India I&D Memorandum) at Export Promotion Capital Goods Scheme.
5	Initial QNR Program	Market Access Initiative (MAI)	16.63%	Highest Calculated Rate for Similar Program in an Indian CVD Proceeding	<i>See</i> HRS from India I&D Memorandum at Export Promotion Capital Goods Scheme.
6	Initial QNR Program	Status Certificate Program	1.02%	Highest Calculated Rate for Similar Program in Lined Paper Proceeding	<i>See</i> CLPP Investigation from India I&D Memorandum at 4-5 for Aero for the Pre and Post Shipment Loans, which was the highest of the rates given to the three respondents.
7	Initial QNR Program	Income Deduction Program (80IB Tax Programs)	30.00%	<i>See</i> IDM for AFA treatment of Income Tax Programs.	<i>See Decision Memorandum for Preliminary Results of 2016 Countervailing Duty Administrative Review: Certain Lined Paper Products from India</i> at 10-11
8	Initial QNR Program	ALP (AAP)	2.55%	Highest Calculated Rate for Identical Program In Lined Paper Proceeding	<i>See</i> CLPP Investigation from India I&D Memorandum at 4-5 for Aero for ALP.
9	Initial QNR Program	Loan Guarantees from GOI	1.02%	Highest Calculated Rate for Similar Program in Lined Paper Proceeding	<i>See</i> CLPP Investigation from India I&D Memorandum at 4-5 for Aero for the Pre and Post Shipment Loans, which was the highest of the rates given to the three respondents.
10	Initial QNR Program	State Government of Maharashtra (SGOM) Tax Incentives	2.74%	Highest Calculated Rate for Similar Program in Lined Paper Proceeding	<i>See</i> CLPP Investigation from India I&D Memorandum at 8 for Navneet for Income Tax Exemption Scheme under 80HHC.
11	Initial QNR Program	SGOM: Electricity Duty Exemptions Under the State Government of Maharashtra Package Program of Incentives of 1993	2.74%	Highest Calculated Rate for Similar Program in Lined Paper Proceeding	<i>See</i> CLPP Investigation from India I&D Memorandum at 8 for Navneet for Income Tax Exemption Scheme under 80HHC.
12	Initial QNR Program	SGOM Land for Less than Adequate Remunation	16.63%	Highest Calculated Rate for Similar Program in an Indian CVD Proceeding	<i>See</i> HRS from India I&D Memorandum at Export Promotion Capital Goods Scheme.
13	Initial QNR Program	SGOM: Refunds of Octroi Taxes	2.74%	Highest Calculated Rate for Similar Program in Lined Paper Proceeding	<i>See</i> CLPP Investigation from India I&D Memorandum at 8 for Navneet for Income Tax Exemption Scheme under 80HHC.
14	Initial QNR Program	SGOM: Loan Gurantees Based on Octroi Refunds by the State Government of Maharashtra	1.02%	Highest Calculated Rate for Similar Program in Lined Paper Proceeding	<i>See</i> CLPP Investigation from India I&D Memorandum at 4-5 for Aero for the Pre and Post Shipment Loans, which was the highest of the rates given to the three respondents.
15	Initial QNR Program	SGOM: Infrastructure Subsidies to Mega Projects - Electricity Duty Exemptions	2.74%	Highest Calculated Rate for Similar Program in Lined Paper Proceeding	<i>See</i> CLPP Investigation from India I&D Memorandum at 4-5 for Aero for the Pre and Post Shipment Loans, which was the highest of the rates given to the three respondents.
16	Initial QNR Program	Duty Drawback Program	8.07%	Highest Calculated Rate for Similar Program in Lined Paper Proceeding	<i>See</i> CLPP Amended Final 2014 at 1-5.
17	NSA Program	Merchandise Export from India Scheme (MEIS)	6.93%	Highest Calculated Rate for Similar Program in Lined Paper Proceeding	<i>See Certain Lined Paper Products From India: Final Results of Countervailing Duty Administrative Review</i> , 74 FR 6573 (February 10, 2009) and Accomanying Issues and Decision Memorandum at 5.
18	NSA Program	Interest Equalization Scheme (IES) for Export Financing	1.02%	Highest Calculated Rate for Similar Program In Lined Paper Proceeding	<i>See</i> CLPP Investigation from India I&D Memorandum at 4-5 for Aero for the Pre and Post Shipment Loans, which was the highest of the rates given to the three respondents.
19	NSA Program	(GOTN) Subsidy Programs Provided Under (TNIP): (1) Capital Subsidies and Electricity Tax Exemptions	2.74%	Highest Calculated Rate for Similar Program In Lined Paper Proceeding	<i>See</i> CLPP Investigation from India I&D Memorandum at 8 for Navneet for Income Tax Exemption Scheme under 80HHC.
20	NSA Program	GOTN Provision of Land or Land-Use Rights for LTAR	16.63%	Highest Calculated Rate for Similar Program in an Indian CVD Proceeding	<i>See</i> HRS from India I&D Memorandum at Export Promotion Capital Goods Scheme.
21	NSA Program	GOTN Stamp Duty Concession provided in connection with land purchases	2.74%	Highest Calculated Rate for Similar Program In Lined Paper Proceeding	<i>See</i> CLPP Investigation from India I&D Memorandum at 8 for Navneet for Income Tax Exemption Scheme under 80HHC.
22	NSA Program	GOTN Grants to firms provided to firms employing more than 25 workers	16.63%	Highest Calculated Rate for Similar Program in an Indian CVD Proceeding	<i>See</i> HRS from India I&D Memorandum at Export Promotion Capital Goods Scheme.
23	NSA Program	GOTN Interest subsidies provided on loans issued by the GONT-owned Tamil Nadu Industrial Investment Corporation (TIIC)	1.02%	Highest Calculated Rate for Similar Program In Lined Paper Proceeding	<i>See</i> CLPP Investigation from India I&D Memorandum at 4-5 for Aero for the Pre and Post Shipment Loans, which was the highest of the rates given to the three respondents.
24	NSA Program	GOTN Generator Subsidy	16.63%	Highest Calculated Rate for Similar Program in an Indian CVD Proceeding	<i>See</i> HRS from India I&D Memorandum at Export Promotion Capital Goods Scheme.

Total AFA Rate 180.70%

The Department of Commerce (Commerce) notes that for purposes of calculating an adverse facts available rate in these preliminary results, Commerce used the highest calculated program rate for an individual company's rate, not the individual components of the rate.