



September 6, 2019

MEMORANDUM TO: Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results and Partial
Rescission of the Countervailing Duty (CVD) Administrative
Review of Polyethylene Terephthalate Film, Sheet, and Strip (PET
film) from India; 2017

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the countervailing duty (CVD) order on polyethylene terephthalate film, sheet and strip (PET film) from India in response to requests from interested parties. The period of review (POR) is January 1, 2017, through December 31, 2017. We preliminarily determine that Jindal Poly Films Ltd. (Jindal) and SRF Limited (SRF) benefitted from countervailable subsidies during the POR.

II. BACKGROUND

On July 1, 2002, Commerce published in the *Federal Register* the CVD order on PET film from India.¹ On July 3, 2018, Commerce published a notice of opportunity to request an administrative review of the CVD order.² In response, on July 10, 2018, DuPont Teijin Films, Mitsubishi Polyester Film, Inc., and SKC, Inc. (collectively, the petitioners) requested reviews for six companies: Ester Industries Limited (Ester), Garware Polyester Ltd. (Garware), Polyplex Corporation (Polyplex), SRF, Jindal, and Vacmet India Limited (Vacmet).³ Also, on July 27, 2018, Polyplex USA LLC (Polyplex USA) requested a review for eight companies: Ester,

¹ See *Notice of Countervailing Duty Order: Polyethylene Terephthalate Film, Sheet and Strip (PET Film) from India*, 67 FR 44179 (July 1, 2002).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 31121, 31122 (July 3, 2018).

³ See Petitioners' Letter, "Polyethylene Terephthalate (PET) Film Sheet, and Strip from India: Request for Countervailing Duty Administrative Review," dated July 10, 2018.



Garware, Jindal, MTZ Polyesters Limited (MTZ), Polyplex, SRF, Vacmet, and Uflex Ltd. (Uflex).⁴ On July 30, 2018, Jindal and SRF each self-requested a review.⁵

On September 10, 2018, we published a notice of initiation of a CVD review of eight companies in this proceeding.⁶ On October 15, 2018, we placed on the record U.S. Customs and Border Protection (CBP) import data⁷ for purposes of respondent selection, and invited parties to comment.⁸ Because Jindal entered its notice of appearance at a later point in time⁹ and did not obtain its administrative protective order until after the comment period for the October 15, 2018, CBP data, Commerce re-released the CBP data on November 5, 2018, and extended the comment period on the CBP import data for Jindal only. We received no comments from interested parties.

Subsequently, Polyplex USA timely withdrew its request for a review on November 21, 2018, for all companies.¹⁰ Also, on December 10, 2018, SRF withdrew its request for a review.¹¹

We selected Jindal and SRF as mandatory respondents¹² and issued the initial CVD questionnaire to the Government of India (GOI) on December 19, 2018.¹³ Jindal filed a timely response to the affiliation section of the initial questionnaire on February 11, 2019, and the remainder of the response on March 11, 2019.¹⁴ SRF submitted a timely response to the affiliation section of the initial questionnaire on January 29, 2019, and the remainder of the response on March 13, 2019.¹⁵ The GOI submitted the initial questionnaire response on

⁴ See Polyplex USA's Letter, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Request for Countervailing Duty Administrative Review" dated July 27, 2018.

⁵ See Jindal's Letter, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Request for Administrative Review," dated July 30, 2018; SRF's Letter, "Polyethylene Terephthalate (PET) Film from India: Request for Countervailing Duty (CVD) Admin Review," dated July 30, 2018.

⁶ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 45596, 45604 (September 10, 2018). The eight companies were Ester, Garware, Jindal, MTZ, Polyplex, SRF, Uflex, and Vacmet.

⁷ The CBP import data released on September 19, 2018, was compiled based on the company names, and variations thereof, whereas the CBP import data release of October 15, 2018, was compiled based on the case number and POR, which captured Jindal's and SRF's shipments of subject merchandise during the POR in full.

⁸ See Memorandum "Administrative Review of the Countervailing Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from India: Release of U.S. Customs Entry Data for Respondent Selection" dated October 3, 2017.

⁹ See Jindal's Letter, "Polyethylene Terephthalate (Pet) Film from India: Entry of Appearance and APO Application," dated October 23, 2018 (Jindal Entry of Appearance).

¹⁰ See Polyplex USA's Letter, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Request for Withdrawal of Countervailing Duty Administrative Review," dated November 21, 2018.

¹¹ See SRF's Letter, "Polyethylene Terephthalate (PET) Film from India/ Withdrawal of Request for countervailing Duty Admin Review of SRF Limited (SRF)," dated December 10, 2018,

¹² See Memorandum, "Administrative Review of the Countervailing Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from India: Selection of Respondents for Individual Examination - 2017" dated December 17, 2018.

¹³ See Commerce Letter re: Countervailing Duty Questionnaire, dated December 19, 2018 (Initial CVD Questionnaire).

¹⁴ See Jindal's February 11, 2019 Initial Questionnaire Response to Affiliation Section (Jindal February 11, 2019 IQR-AFFR), and Jindal's March 11, 2019 Initial Questionnaire Response (Jindal March 11, 2019 IQR).

¹⁵ See SRF's January 29, 2019 Initial Questionnaire Response to Affiliation Section (SRF January 29, 2019 IQR-AFFR), and SRF's March 13, 2019 Initial Questionnaire Response (SRF March 13, 2019 IQR).

March 20, 2019.¹⁶ We issued a supplemental questionnaires to SRF, Jindal, and the GOI on June 24, 2019, July 23, 2019, and on July 25, 2019, respectively.¹⁷ SRF filed a timely supplemental response on July 15, 2019,¹⁸ and both the GOI and Jindal timely filed their supplemental responses on August 8, 2019.¹⁹

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.²⁰ If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day.²¹ On April 26, 2019, and July 10, 2019, we extended the deadline for the preliminary results of this review.²² The revised deadline for the preliminary results is now September 6, 2019.

III. PARTIAL RESCISSION OF ADMINISTRATIVE REVIEW

As noted above, Polyplex USA and SRF timely withdrew their requests for review of certain companies. As Polyplex USA's withdrawal requests were timely filed and no other party requested a review of MTZ or Uflex, we are rescinding this administrative review with respect to those companies, pursuant to 19 CFR 351.213(d)(1).

IV. SCOPE OF THE ORDER

For purposes of the order, the products covered are all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet and strip, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00.90. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the order is dispositive.

¹⁶ See GOI's March 20, 2019 Initial Questionnaire Response (GOI March 20, 2019 IQR).

¹⁷ See Department Letters re: First Supplemental Questionnaire for SRF, dated June 24, 2019 (SRF First SQ); First Supplement Questionnaire for Jindal, dated July 23, 2019 (Jindal First SQ); and First Supplemental Questionnaire for the GOI, dated July 25, 2019 (GOI First SQ).

¹⁸ See SRF's July 15, 2019 First Supplemental Questionnaire Response (SRF July 15, 2019 SQR1).

¹⁹ See GOI's August 8, 2019 First Supplemental Questionnaire Response (GOI August 8, 2019) and Jindal's August 8, 2019 First Supplemental Questionnaire Response (Jindal August 8, 2019 SQR1).

²⁰ See Memorandum to the Record from 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, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

²¹ *Id.*

²² See Memorandum, "Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review," dated April 26, 2019; Memorandum, "Second Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review" dated July 10, 2019.

V. PERIOD OF REVIEW (POR)

The POR is January 1, 2017, through December 31, 2017.

VI. SUBSIDIES VALUATION INFORMATION

A. Allocation Period

Under 19 CFR 351.524(d)(2)(i), we presume the allocation period for non-recurring subsidies to be the average useful life (AUL) prescribed by the Internal Revenue Service (IRS) for renewable physical assets of the industry under consideration (as listed in the IRS's 2006 Class Life Asset Depreciation Range System, and as updated by Department of the Treasury). This presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets of the company or industry under investigation. Specifically, the party must establish that the difference between the AUL from the tables and the company-specific AUL or country-wide AUL for the industry under investigation is significant, pursuant to 19 CFR 351.524(d)(2)(i) and (ii).

In the IRS Tables, PET film falls under the category "Manufactured Chemicals and Allied Products." For that category, the IRS tables specify a class life of 9.5 years, which is rounded to establish an AUL of 10 years. SRF has not disputed this allocation period for this administrative review.²³ In the 2003 administrative review, Jindal provided the required supporting documentation to rebut the presumption and, based on that information, Commerce determined to apply a company-specific AUL of 17 years for Jindal.²⁴

In the instant review, in response to Commerce's initial questionnaire response, Jindal argued for Commerce to revise its current company-specific AUL of 17 years to a company-specific AUL of approximately 23 years, for allocating Jindal's non-recurring subsidies.²⁵ Specifically, Jindal proposed a company-specific AUL of approximately 23 years based on its company-wide plant and machinery. As required under 19 CFR 351.524(d)(2)(i) and (ii), in its responses, Jindal provided its depreciation schedule on a company-wide, as well as on a division-wide, basis, with the totals of the yearly closing gross-block for plant and machinery, and the total depreciation, for the past 23 years.²⁶ Jindal's company-wide reported totals are supported for fiscal years (FY) 1996-1997 through FY 2017-2018.²⁷ Accordingly, Jindal substantiated all of the 23 years it argues for as its company-specific AUL. Therefore, for these preliminary results, we determine that Jindal established that the above referenced tables do not reasonably reflect the AUL of the renewable physical assets of the company or industry under review. Specifically, Jindal established that the difference between the AUL from the tables and the company-specific AUL for the industry under review is significant, pursuant to 19 CFR 351.524(d)(2)(i) and (ii). In

²³ See SRF March 13, 2019 IQR at 15.

²⁴ See *Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 71 FR 7534 (February 13, 2006) (*PET Film Final Results 2003 Review*) and accompanying Issues and Decision Memorandum (IDM) at Subsidies Valuation Information.

²⁵ See Jindal March 11, 2019 IQR at 14-19 and Exhibits 14-16; Jindal August 8, 2019 SQR1 at 5-9.

²⁶ See Jindal March 11, 2019 IQR at Exhibits 14-16.

²⁷ *Id.*

addition, we find that Jindal demonstrated that its company-specific AUL of 17 years, effective for all assets and grants received through the 2016 review period, no longer reflects the AUL of the renewable physical assets of the company. Therefore, we preliminarily determine Jindal's company-specific AUL to be 23 years,²⁸ effective for this countervailing duty administrative review for 2017.

B. Attribution of Subsidies

Cross-Ownership

In accordance with 19 CFR 351.525(b)(6)(i), Commerce normally attributes a subsidy to the products produced by the company that received that subsidy. However, additional rules at 19 CFR 351.525(b)(6)(ii)-(v) provide for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise, (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to the respondent.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. Commerce's regulations state that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The preamble to Commerce's regulations further clarifies Commerce's cross-ownership standard. According to the preamble, relationships captured by the cross-ownership definition include those where:

{T}he interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a "golden share" may also result in cross-ownership.²⁹

Thus, Commerce's regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists. The U.S. Court of International Trade (CIT) has upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.³⁰

²⁸ The calculated AUL for the 2017 countervailing duty administrative review is 22.71 years, rounded to 23 years.

²⁹ See *Countervailing Duties: Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*Preamble*).

³⁰ See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 603 (CIT 2001).

Jindal

Jindal responded to Commerce's initial and supplemental questionnaires on behalf of itself and on behalf of its affiliate *Jindal Films India Limited*.³¹ Based on the information provided, we preliminarily find that Jindal and Jindal Films India Limited are cross-owned within the meaning of 19 CFR 351.525(b)(6). Additionally, we find that certain benefits from subsidies received by Jindal Films India Limited will be attributed to Jindal.

In its affiliation response, Jindal reported that it holds direct ownership in Jindal Films India Limited.³² Jindal Films India Limited "is engaged in the processing of PET-MET film (Non-subject merchandise) and BOP-MET film (Non-subject merchandise)."³³ Jindal Films India Limited is also a provider and exporter of management consulting services, for which it earned duty credit scrips during the POR for duty free imports of materials. Those duty scrips may also be sold or transferred to a third party.³⁴ Based on the ownership information on the record, we preliminarily determine that these companies are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi) because Jindal can use or direct the assets of Jindal Films India Limited in essentially the same ways it can use its own assets. We still need further information to determine whether those programs reported by the cross-owned entity are countervailable subsidies. See "Programs for Which More Information is Needed" section below.

C. Benchmark Interest Rates

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

Jindal received exemptions from import duties and Central Sales Tax (CST) under the Export Promotion Capital Goods Scheme (EPCGS) and duty scrip for the import of capital goods under the Status Holder Incentive Scheme (SHIS), and SRF received exemptions from import duties and CST on the importation of capital equipment under the Special Economic Zones (SEZ) programs and the SHIS, which we determined to be non-recurring benefits in accordance with 19 CFR 351.524(c). Thus, unless an exception applies, Commerce identifies an appropriate long-term interest rate for purposes of allocating the non-recurring benefits over time pursuant to 19 CFR 351.524(d)(1) and (d)(3).

Pursuant to 19 CFR 351.505(a)(2)(iii), in selecting a comparable loan if a program under review is a government-provided, long-term loan program, the preference would be to use a loan for

³¹ See Jindal February 11, 2019 IQR-AFFR at Exhibit 1; Jindal March 11, 2019 IQR at 90-99 and Exhibits 7-9; and Jindal August 8, 2019 SQR1 at Exhibit 124.

³² See Jindal February 11, 2019 IQR-AFFR at Exhibit 1.

³³ See Jindal August 8, 2019 SQR1 at Exhibit 124 at 7.

³⁴ See Jindal March 11, 2019 IQR at 91.

which the terms were established during, or immediately before, the year in which the terms of the government-provided loan were established. Pursuant to 19 CFR 351.505(a)(2)(ii), Commerce will not consider a loan provided by a government-owned special purpose bank to be a commercial loan for purposes of selecting a loan to compare with a government-provided loan. Commerce has previously determined that the Industrial Development Bank of India (IDBI), the Industrial Finance Corporation of India (IFCI), and the Export-Import Bank of India (EXIM) are government-owned special purpose banks.³⁵ As such, Commerce does not use loans from the IDBI, the IFCI, or the EXIM as a basis for a commercial loan benchmark.

In this review, Jindal and SRF did not have comparable commercial long-term rupee-denominated loans for all required years; therefore, for those years for which we did not have company-specific information, and where the relevant information was on the record, we relied on comparable long-term rupee-denominated benchmark interest rates from the immediately preceding year as directed by 19 CFR 351.505(a)(2)(iii).³⁶ When there were no comparable long-term, rupee-denominated loans from commercial banks either during the year under consideration or the preceding year, we used national average long-term interest rates, pursuant to 19 CFR 351.505(a)(3)(ii), from International Financial Statistics (IMF Statistics), a publication of the International Monetary Fund.³⁷ Finally, 19 CFR 351.524(d)(3) directs us regarding the selection of a discount rate or long-term lending rate for the purposes of allocating non-recurring benefits over time. The regulations provide several options in order of preference. The first among these is the cost of long-term fixed-rate loans of the firm in question, excluding any loans which have been determined to be countervailable, for each year in which non-recurring subsidies have been received. The second option directs us to use the average cost of long-term, fixed-rate loans in the country in question. Thus, for those years for which Jindal and SRF, respectively, did not report any long-term fixed-rate commercial loans, we used the yearly average long-term lending rate in India from IMF Statistics.

D. Denominator

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, Commerce considers the basis for the respondent's receipt of benefits under each program at issue. As discussed in further detail below, we determine that all but two benefits received by SRF, *i.e.*, (1) the State Government of Madhya Pradesh (SGOMP) Industrial Promotion Policy (IPP) 2014, and (2) the State and Union Territory Sales Tax Incentive program, and three benefits received by Jindal, *i.e.*, (1) the Section 35 R&D Deductions of the Income Tax Act, 1961, sub-section 35 DD; (2) the State of Maharashtra Package Scheme of Incentives (PSI) 1993

³⁵ See *Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 71 FR 7534 (February 13, 2006) (*PET Film Final Results 2003 Review*), and accompanying Issues and Decision Memorandum (IDM) at Subsidies Valuation Information, and *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 73 FR 7708 (February 11, 2008) (*PET Film Final Results 2005 Review*) and accompanying Issues and Decision Memorandum (IDM) at Benchmark Interest Rates and Discount Rates.

³⁶ See Memoranda, "Jindal Preliminary Results Calculation 2017," dated September 6, 2019 (Jindal Prelim Calc Memo 2017) and "SRF Preliminary Results Calculation 2017," dated September 6, 2019 (SRF Prelim Calc Memo 2017).

³⁷ See Jindal Prelim Calc Memo 2017 and SRF Prelim Calc Memo 2017.

and 2007; and (3) the State Sales Tax Incentive program, found countervailable, were tied to export performance. Therefore, for those programs tied to export performance, we use export sales, net of deemed exports,³⁸ as the denominator for our calculations. Nevertheless, as respondents may fulfill their export obligations under certain export subsidy programs with deemed exports, *i.e.*, the good supplied does not physically leave the country, those deemed exports may be included in the denominator for those programs permitting deemed exports to fulfill a respondent's export obligations.³⁹ Accordingly, with respect to Jindal, we divided the benefits from all export programs, with the exception of the Advance Authorization Scheme (AAS), formerly, Advance Licenses Program (ALP), by Jindal's total export sales net of deemed exports. Because we were able to tie the benefits earned under the AAS to exports of subject merchandise based on information provided by the company and because it reported to have had deemed exports during the POR for this program,⁴⁰ we used total exports of subject merchandise, inclusive of deemed exports, as the denominator for our rate calculations for this program. As SRF earned its benefits on its SEZ and its exports from the Packaging Film Business (PFB) division, we used total export sales, net of deemed exports, from its PFB division as the denominator for our rate calculations.⁴¹ For the remaining programs SRF participated in and tied to export performance, we used total export sales as the denominator net of deemed exports. For the programs under which SRF and Jindal received benefits, but were not tied to export performance, we used total sales as the denominator for our rate calculations for both companies.

VII. ANALYSIS OF PROGRAMS

Programs Preliminarily Determined to be Countervailable

1. Export Promotion Capital Goods Scheme (EPCGS)

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

In the investigation, Commerce determined that import duty reductions provided under the EPCGS are countervailable export subsidies because: (1) the scheme provides a financial contribution pursuant to section 771(5)(D)(ii) of the Act in the form of revenue forgone for not collecting import duties; (2) respondents receive two different benefits under section 771(5)(E)

³⁸ See SRF July 15, 2019 SQR1 at 5 and Exhibit S1-7.

³⁹ See SRF July 15, 2019 SQR1 at Exhibit S1-7.

⁴⁰ See Jindal August 8, 2019 SQR1 at 1.

⁴¹ See SRF July 15, 2019 SQR1 at 5 and Exhibit S1-7; *see also Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review; 2015*, 83 FR 5612 (February 8, 2018) (*PET Film Final Results 2015 Review*), and accompanying Issues and Decision Memorandum.

of the Act; and (3) the program is contingent upon export performance, and is specific under section 771(5A)(A) and (B) of the Act.⁴² There is no new information or evidence of changed circumstances that would warrant reconsidering our determination that this program is countervailable. Therefore, for these preliminary results, we continue to find this program countervailable.

The first benefit is the amount of unpaid import duties that would have to be paid to the GOI if the accompanying export obligations are not met. The repayment of this liability is contingent on subsequent events and, in such instances, it is 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).⁴³ 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. . ."⁴⁴ In accordance with 19 CFR 351.524(c)(2)(iii), we are treating these exemptions as non-recurring benefits.

Jindal reported that it imported capital goods under the EPCGS in the years prior to and during the POR. Jindal received various EPCGS licenses, which it reportedly used for the production of either: (1) subject merchandise, or (2) non-subject merchandise. However, information provided by Jindal indicates that some of the licenses were issued for the purchase of capital goods and materials that could be used in the production of both subject and non-subject merchandise.⁴⁵ Based on the information and documentation submitted by Jindal, we cannot reliably determine that the EPCGS licenses are tied to the production of a particular product within the meaning of 19 CFR 351.525(b)(5). As such, we find that all of Jindal's EPCGS licenses benefit all of the company's exports.

SRF reported that it did not benefit from the EPCGS as it did not import capital goods duty free under the EPCGS for use in the manufacture of either subject or non-subject merchandise during the AUL period and including the POR.⁴⁶

⁴² See *Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet and Strip (PET Film) from India*, 67 FR 34905 (May 16, 2002) (*PET Film Final Determination*) and accompanying Issues and Decision Memorandum (IDM) at EPCGS.

⁴³ *Id.*

⁴⁴ See *Countervailing Duties; Final Rule*, 63 FR 65348, 65393 (November 25, 1998) (*Preamble*).

⁴⁵ See Jindal March 11, 2019 IQR at 20-34, and Exhibits 21, 26-27a, 38-68; Jindal August 8, 2019 SQR1 at 17-18 and Exhibit 132-150.

⁴⁶ See SRF March 13, 2019 IQR at 15.

Jindal reported that it met the export requirements for certain EPCGS licenses prior to December 31, 2017, and the GOI formally waived payments of the relevant import duties.⁴⁷ For most of its licenses, however, Jindal has not yet met its export obligation as required under the program.⁴⁸ Therefore, although Jindal received a deferral from paying import duties when the capital goods were imported, the final waiver of the obligation to pay the duties has not yet been granted for many of these imports.

To calculate the benefit received from the GOI's formal waiver of import duties on Jindal's capital equipment imports where the export obligation was met prior to December 31, 2017, we considered the total amount of duties waived (net of required application fees, as applicable) to be the benefit, and treated these amounts as grants pursuant to 19 CFR 351.504. Further, consistent with the approach followed in the investigation, we determine the year of receipt of the benefit to be the year in which the GOI formally waived Jindal's outstanding import duties.⁴⁹ Next, we performed the "0.5 percent test," as prescribed under 19 CFR 351.524(b)(2), for each year in which the GOI granted Jindal an import duty waiver. For those license(s) which were not expensed in the year of receipt, we calculated the benefit from these allocable grants using the methodology set forth in 19 CFR 351.524 to determine the benefit in the POR from these grants. We summed the benefits from these grants to determine the total benefit for Jindal of these waivers.

As noted above, import duty reductions that Jindal received on the imports of capital equipment for which it has not yet met export obligations may have to be repaid to the GOI if the obligations under the licenses are not met.⁵⁰ Consistent with our practice and prior determinations, we will treat the unpaid import duty liability as an interest-free loan.

The amount of the unpaid duty liabilities to be treated as an interest-free loan is the amount of the import duty reduction or exemption for which the respondent applied, but, as of the end of the POR, had not been finally waived by the GOI. Accordingly, we find the benefit to be the interest that Jindal would have paid during the POR had it borrowed the full amount of the duty reduction or exemption at the time of importation.⁵¹ 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

⁴⁷ See Jindal March 11, 2019 IQR at 31-32 and Exhibits 39-66, and Jindal August 8, 2019 SQR1 at 17-18 and Exhibits 132-150.

⁴⁸ *Id.*

⁴⁹ See *Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet and Strip (PET Film) from India*, 67 FR 34905 (May 16, 2002) (*PET Film Final Determination*) and accompanying Issues and Decision Memorandum (IDM) at EPCGS.

⁵⁰ See 19 CFR 351.505(d)(1); *PET Film Final Determination* IDM at EPCGS; see also *Final Affirmative Countervailing Duty Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin from India*, 70 FR 13460 (March 21, 2005) (*Indian PET Resin Final Determination*) and accompanying Issues and Decision Memorandum (IDM) at Export Promotion Capital Goods Scheme (EPCGS).

⁵¹ 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* IDM at Export Promotion Capital Goods Scheme (EPCGS).

commitment is more than one year after importation of the capital good). As the benchmark interest rate, we used the weighted-average interest rate from all of Jindal's comparable commercial long-term, rupee-denominated loans for the year in which the capital good was imported. See the "Benchmarks Interest Rates" section of this memorandum 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 capital good was imported and summed these amounts to determine the total benefit to Jindal from these interest-free loans.

Thus, the total benefit Jindal received under the EPCGS is the sum of: (1) the benefit attributable to the POR from the formally waived duties for imports of capital equipment for which respondents met export requirements by December 31, 2017, and (2) interest due on the contingent liability loans for imports of capital equipment that have not met export requirements. We then divided the total benefit by Jindal's total exports to determine a subsidy of 2.4 percent *ad valorem*.⁵²

2. Status Holder Incentive Scrip (SHIS)

The SHIS scheme was introduced in 2009 with the objective to promote investment in upgrading technology in specific sectors.⁵³ 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 goods.⁵⁴

In the *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 exempted duties on imported capital equipment.⁵⁵

Import duty exemptions under this program are solely provided for the purchase of capital equipment.⁵⁶ The preamble of Commerce's regulations states that, if a government provides an

⁵² See Jindal Prelim Calc Memo 2017.

⁵³ See GOI August 8, 2019 SQR1 at 15-27.

⁵⁴ See *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 (PDM) at 8-10, affirmed 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*), and accompanying Issues and Decision Memorandum (IDM) at 4; see also *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 (IDM), at Status Holder Incentive Scrip.

⁵⁵ *Id.*

⁵⁶ See GOI August 8, 2019 SQR1 at 16; see also *Steel Threaded Rod from India Final*, IDM at Status Holder Incentive Scrip.

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....”⁵⁷ 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.⁵⁸

SRF and Jindal reported that they received SHIS license scrips to import capital goods duty-free prior to the POR. Information provided by SRF and Jindal indicates that the SHIS license scrips were issued for the purchase of capital goods used for the production of exported goods, so we are attributing the SHIS benefits received by SRF and Jindal to the companies’ 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 SRF and Jindal 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 0.09 percent *ad valorem* for SRF and 0.44 percent *ad valorem* for Jindal.

The GOI stated that this program was discontinued in 2013.⁶³ Companies may apply for licenses for up to three years after the program has ended (*i.e.*, through 2016).⁶⁴ Additionally, because this program applies to capital goods and the AUL in this proceeding is ten years, and for Jindal, specifically, 17 years,⁶⁵ companies may receive residual benefits from this program through at least 2026, and for Jindal through 2033.

⁵⁷ See *Countervailing Duties*, 63 FR at 65393.

⁵⁸ See *Final PET Film 2014 Review* IDM at 4, and *Steel Threaded Rod from India Final*, IDM at Status Holder Incentive Scrip.

⁵⁹ See SRF March 13, 2019 IQR at 43-49, 51-54, and Exhibit 28(e); Jindal March 11, 2019 IQR at 50-54 and Exhibit 80.

⁶⁰ See *Steel Threaded Rod from India Final*, IDM at Status Holder Incentive Scrip.

⁶¹ Commerce determined and was 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), that benefits were conferred when earned, rather than when the credits were used.

⁶² See SRF Prelim Calc Memo 2017, at Attachment 1; Jindal Prelim Calc Memo 2017, at Attachment 1.

⁶³ See GOI August 8, 2019 SQR1 at 16.

⁶⁴ *Id.*; see also *Prelim PET Film 2014 Review* PDM 8-10 (affirmed *Final PET Film 2014 Review*); *Steel Threaded Rod from India Final*, IDM at Status Holder Incentive Scrip.

⁶⁵ See Allocation Period section, above.

3. Special Economic Zones (SEZs) formerly known as Export Process Zones/Export Oriented Units (EPZs/EOUs)

This program was found countervailable in SRF's new shipper review.⁶⁶ An SEZ may be established jointly or individually by the Central Government, a State Government or a person, to manufacture goods or provide services, or both, as well as to serve as a Free Trade and Warehousing Zone. Entities that want to set up an SEZ in an identified area may submit their proposal to the relevant State Government. To be eligible under the SEZ Act, the companies inside an SEZ must commit to export their production of goods and/or services. Specifically, all products produced, excluding rejects and certain domestic sales, must be exported and must achieve a net foreign exchange (NFE), calculated cumulatively for a period of five years from the commencement of production. In return, the companies inside the SEZ are eligible to receive various forms of assistance.

Companies in a designated SEZ may receive the following benefits: (1) duty-free importation of capital goods and raw materials, components, consumables, intermediates, spare parts and packing material; (2) purchase of capital goods and raw materials, components, consumables, intermediates, spare parts and packing material without the payment of CST thereon; (3) exemption from the services tax for the services consumed within the SEZ; (4) exemption from stamp duty for all transactions and transfers of immovable property, or documents related thereto within the SEZ; (5) exemption from electricity duty and cess thereon on the sale or supply to the SEZ unit; (6) income tax exemptions under the Income Tax Exemption Scheme Section 10A; and (7) discounted land in an SEZ.⁶⁷

SRF reported that it produced subject and non-subject merchandise in an SEZ unit located in Indore during the POR. Specifically, for the POR SRF reported using the SEZ program to obtain: (1) duty-free importation of capital goods and raw materials, components, consumables, intermediates, spare parts and packing material; (2) purchase of capital goods and raw materials, components, consumables, intermediates, spare parts and packing material without the payment of CST thereon; (3) exemption from stamp duty of all transactions and transfers of immovable property, or documents related thereto within the SEZ; (4) exemption from electricity duty and cess thereon on the sale or supply to the SEZ unit; (5) income tax exemptions under Income Tax Exemption Scheme Section 10A; and (6) discounted land in an SEZ.⁶⁸

Since eligibility for the SEZ program is contingent upon export performance, we find that the assistance provided under the SEZ program is specific within the meaning of sections 771(5A)(A) and (B) of the Act.

⁶⁶ See *Polyethylene Terephthalate Film, Sheet and Strip from India: Final Results of Countervailing Duty New Shipper Review*, 76 FR 30910 (May 27, 2011) (*SRF New Shipper Review*) and accompanying Issues and Decision Memorandum (IDM) at 13-19.

⁶⁷ *Id.*; see also GOI March 20, 2019 IQR at 20-34.

⁶⁸ See SRF March 13, 2019 IQR at 10-33 and Exhibits 10, 11(a)-(c), 12(a)-(c), 13, 22, 23(a) and (b), and 24(a).

a. *Duty-Free Importation of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material*

Companies in SEZs are entitled to import capital goods and raw materials, components, consumables, intermediates, spare parts and packing material duty-free in exchange for committing to export all of the products they produce, excluding rejects and certain domestic sales. Additionally, such companies have to achieve an NFE calculated cumulatively for a period of five years from the commencement of production.⁶⁹

We determine that the duty-free importation of capital goods and raw materials, components, consumables, intermediates, spare parts and packing material, provides a financial contribution pursuant to section 771(5)(D)(ii) of the Act through the forgoing of duty payments. This SEZ program confers benefits in the amounts of exemptions of customs duties not collected in accordance with section 771(5)(E) of the Act.

In the *SRF New Shipper Review*, Commerce determined that, with regard to these import duty exemptions provided on goods, such as raw materials, that may be consumed in the production of the exported product, the GOI did not claim or provide any information to demonstrate that such exemptions meet the criteria for non-countervailability set forth in 19 CFR 351.519(a)(4). Thus, Commerce determined that the entire amount of the import duty deferral or exemption provided to the respondent constitutes a benefit under section 771(5)(E) of the Act.⁷⁰ In the initial questionnaire for this segment of the proceeding, Commerce stated that it was not going to reevaluate the countervailability of this program, however, if there were any changes to the nature or operation of this program, or parts thereof, to please explain.⁷¹ In its response, the GOI did not inform Commerce of any changes to this program or its operation.⁷² There is no new information or evidence of changed circumstances that would warrant reconsidering our determination that this program is countervailable. Therefore, for these preliminary results, we continue to find this program countervailable.

Further, based on the information provided by SRF in its “Executed Legal Agreement for SEZ Unit” with the GOI, until an operation in a SEZ demonstrates that it has fully met its export requirement, the company remains contingently liable for the import duties.⁷³ SRF has not yet met its export requirement under this program⁷⁴ and will owe the unpaid duties if the export requirement is not met. Therefore, consistent with 19 CFR 351.505(d)(1), until the contingent liability for the unpaid duties is officially waived by the GOI, we consider the unpaid duties to be an interest-free loan made to SRF at the time of importation. We determine the benefit to be the interest that SRF would have paid during the POR had it borrowed the full amount of the duty reduction or exemption at the time of importation.

⁶⁹ See GOI March 20, 2019 IQR at 26-33 and Exhibit G at 8-9, 24-25 (Chapter VI of the SEZ Rules) and 34.

⁷⁰ See *SRF New Shipper Review*, IDM at 14-15.

⁷¹ See Initial CVD Questionnaire at II.-4.

⁷² See GOI March 20, 2019 IQR at 20-31.

⁷³ See SRF March 13, 2019 IQR at 18-19 and Exhibits 12(a)-(b); GOI March 20, 2019 IQR at 27-28.

⁷⁴ *Id.* at 21.

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 (*i.e.*, the date of expiration of the time period to fulfill the export commitment) 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 SEZ program, the time period for fulfilling the export commitment is more than one year after importation of the capital good). As the benchmark interest rate, we used the weighted-average interest rate from all of SRF's comparable commercial long-term, rupee-denominated loans for the year in which the capital good was imported. See the "Benchmarks Interest Rates" section of this memorandum for a discussion of the applicable benchmark.

We calculated the benefit from these exemptions by multiplying the value of the item imported by the applicable duty rates for customs duty and cess and multiplied these amounts by the appropriate interest rate. We then summed the results and divided that total by SRF's exports of its PFB division to determine the countervailable subsidy of 3.88 percent *ad valorem*.⁷⁵

b. Exemption from Payment of Central Sales Tax (CST) on Purchases of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material

Commerce found this program countervailable in the *SRF New Shipper Review*.⁷⁶ Under this program, SRF was exempt from paying CST on capital goods, raw materials, and other goods, such as packaging materials procured domestically. We determine that the exemption from payment of CST on purchases of capital goods and raw materials, components, consumables, intermediates, spare parts and packing material provides a financial contribution pursuant to section 771(5)(D)(ii) of the Act through the forgoing of CST payments. This SEZ program confers benefits in the amount of CST not collected, in accordance with section 771(5)(E) of the Act. Specifically, the benefit associated with domestically purchased materials is the amount of CST due and uncollected on those purchases by SRF during that period.

Commerce found that for the CST exemptions on goods, such as raw materials, that may be consumed in the production of the exported product, the GOI did not provide any information to demonstrate that such exemptions meet the criteria for non-countervailability set forth in 19 CFR 351.518. In the initial questionnaire to this segment of the proceeding, Commerce stated that it was not going to reevaluate the countervailability of this program, however, if there were any changes to the nature or operation of this program, or parts thereof, to please explain.⁷⁷ In its response, GOI did not inform Commerce of any changes to this program or its operation.⁷⁸ There is no new information or evidence of changed circumstances that would warrant reconsidering our determination that this program is countervailable.⁷⁹ Therefore, the entire amount of CST exemptions (other than on capital goods) constitutes a benefit. Furthermore, for these preliminary results, we continue to treat all CST exemptions on all purchases (other than capital goods) as recurring benefits pursuant to 19 CFR 351.524.

⁷⁵ See SRF Prelim Calc Memo 2017.

⁷⁶ See *SRF New Shipper Review*, IDM at 15-16.

⁷⁷ See Initial CVD Questionnaire at II.-4.

⁷⁸ See GOI March 20, 2019 IQR at 20-31.

⁷⁹ *Id.* at 20-34.

Normally, uncollected indirect taxes, such as the CST, are considered to be recurring benefits. However, a portion of the benefit of this program is tied to the purchase of capital goods. Pursuant to 19 CFR 351.524(c)(2)(iii), we normally treat uncollected taxes due on purchases of capital goods as non-recurring benefits. However, we performed the “0.5 percent test,” as prescribed under 19 CFR 351.524(b)(2) and found that the amount of uncollected CST that was tied to the purchase of capital goods during the POR was less than 0.5 percent of total export sales from the PFB Division during the POR. We also performed the “0.5 percent test” on SRF’s uncollected CST that was tied to its purchases of capital goods in the years 2007 through 2017 and found that each year’s uncollected CST was less than 0.5 percent of total export sales from its PFB Division for each year. Therefore, each annual benefit from 2007 through 2017 was expensed in the year of receipt and the only benefit attributable to the POR was the amount of the uncollected CST on purchases of capital goods under this program during the POR.⁸⁰

To calculate the benefit, we summed the total value of uncollected CST for capital goods purchased during the POR and the total value of uncollected CST due on all other purchases during the POR. We then divided this amount by the total value of SRF’s export sales from its PFB division during the POR. On this basis, we determine the countervailable subsidy provided to SRF through the CST exemptions under the SEZ program to be 0.45 percent *ad valorem*.⁸¹

c. Exemption from Stamp Duty of all Transactions and Transfers of Immovable Property within the SEZ (Stamp Duty)

In the *SRF New Shipper Review*, Commerce determined that the program provides a financial contribution in the form of revenue forgone by the State Government of Madhya Pradesh pursuant to section 771(5)(D)(ii) of the Act, and confers a benefit equal to the amount of the tax exemption, pursuant to section 771(5)(E) of the Act.⁸² Further, section 13(2) of the Indore Special Economic Zone Act, 2003, provides that the transfers of immovable property or documents within or related to the zone are exempt from stamp duty.⁸³ Therefore, Commerce determined that the SEZ exemption from stamp duty/taxes provides a non-recurring benefit under 19 CFR 351.524(c)(2)(i).⁸⁴ There is no new information or evidence of changed circumstances that would warrant reconsidering our determinations. Therefore, for these preliminary results, we continue to find this program countervailable.

To calculate the benefit, we first calculated the value of the uncollected stamp duties and taxes, as listed above, which SRF did not pay upon registration of the land deed for the SEZ, by multiplying the value of the immovable property by the tax rates provided. As discussed above, pursuant to 19 CFR 351.524(c)(2)(i), we will treat SRF’s uncollected stamp duties due on the lease of the SEZ land as non-recurring benefits. However, we performed the “0.5 percent test,” as prescribed under 19 CFR 351.524(b)(2) and found that the value of uncollected stamp duties

⁸⁰ See 19 CFR 351.524(b)(2).

⁸¹ See SRF Prelim Calc Memo 2017.

⁸² *Id.*

⁸³ See SRF March 13, 2019 IQR at 31-32.

⁸⁴ See *SRF New Shipper Review*, IDM at 16 and 35 (Comment 7).

on the lease of the SEZ land was less than 0.5 percent of total export sales from the PFB division during the year in which the benefit was received.⁸⁵ Therefore, we allocated the benefit received on stamp duty to 2004, the year it was received. As a result, there is no benefit from this exemption to SRF during the POR.

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

SRF reported that under Section 11(4) of the Indore Special Economic Zone (Special Provisions) Act, 2003, the supply of electricity to an SEZ is exempt from electricity duty and cess, as long as the unit for which electricity duty is exempted, is located within the SEZ, as approved by the GOI.⁸⁶ In addition, SRF provided an exhibit including the Madhya Pradesh Electricity Duty (Amendment) Act, 1995 and the state's laws governing the taxation of electricity, which establish the applicable rates of electricity duty and cess,⁸⁷ demonstrating that this program is within the control of the state government.

In the *SRF New Shipper Review*, Commerce determined that the electricity duty and cess exemptions provide a financial contribution in the form of revenue forgone by the State Government of Madhya Pradesh, pursuant to section 771(5)(D)(ii) of the Act. It confers a benefit equal to the amount of the tax exemption, pursuant to section 771(5)(E) of the Act. Commerce also determined that the SEZ exemption from electricity duty and cess provides a recurring benefit under 19 CFR 351.524(c).⁸⁸ There is no new information or evidence of changed circumstances that would warrant reconsidering our determinations. Therefore, for these preliminary results, we continue to find this program countervailable.

To calculate the benefit, we first calculated the uncollected electricity duty and cess, which SRF did not pay during the POR, by multiplying the monthly billed amount of electricity consumed by the tax rates provided. We then divided this amount by SRF's total export sales from the PFB division during the POR to calculate a countervailable subsidy of 1.01 percent *ad valorem*.⁸⁹

e. SEZ Income Tax Exemption Scheme (Section 10A)

In accordance with Section 10A of the Indian Income Tax Act, 1961, companies in an SEZ are allowed to deduct profits derived from the export sales of an SEZ, as defined in the Foreign Trade Policy (FTP), from its taxable income. Specifically, Section 10A states that:

Subject to the provisions of this section, a deduction of such profits and gains as are derived by an undertaking from the export of articles or things or computer software for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such

⁸⁵ *Id.*

⁸⁶ See SRF March 13, 2019 IQR at 32 and Exhibits 24(a) and (b).

⁸⁷ *Id.* at Exhibit 24(b).

⁸⁸ See *SRF New Shipper Review* and accompanying IDM at 17.

⁸⁹ See SRF Prelim Calc Memo 2017.

articles or things or computer software, as the case may be, shall be allowed from the total income of the assessee.⁹⁰

In the *SRF New Shipper Review*, Commerce determined that, pursuant to section 771(5)(D)(ii) of the Act, the GOI provides a financial contribution in the form of revenue forgone.⁹¹ The benefit equals the difference between the amount of income taxes that would be payable absent this program and the actual amount of taxes payable by SRF, pursuant to section 771(5)(E) of the Act.⁹² We also determined that the SEZ income tax exemption provides a recurring benefit under 19 CFR 351.524(c).⁹³ There is no new information or evidence of changed circumstances that would warrant reconsidering our determinations. Therefore, for these preliminary results, we continue to find this program countervailable.

SRF reported that it did not receive any benefit under this program during the POR.⁹⁴ Furthermore, SRF pointed out in its response that eligibility for benefits under Section 10A extends for a period of 10 years, and hence starting to receive that benefit in the fiscal year 2004-2005, it is no longer eligible to receive benefits under that sub-program.⁹⁵ We examined the information provided, such as a copy of SRF's Income Tax return and determined that SRF did not benefit from this exemption during the POR, and further has no more entitlements to those benefits.

f. Discounted Land Fees in an SEZ

The Special Economic Zones Act, 2005 and Chapter II, Rule 5, of the SEZ Rules delegates certain authorities, such as provisions with respect to exemption from the State and local taxes, levies and duties, etc.⁹⁶ The Indore SEZ, where SRF has its plant, is located in the State of Madhya Pradesh and as such, the State SEZ Act of Madhya Pradesh State, *i.e.*, the Indore Special Economic Zone (Special Provisions) Act, 2003, applies.⁹⁷ The State Government of Madhya Pradesh is in control of SRF's land lease agreement within the SEZ. SRF reported that, because its SEZ unit is a Mega Project by virtue of its large investment, the State Government of Madhya Pradesh has allowed a one-time concession on the lease premium on the land.⁹⁸ This is confirmed by the directive of the Government of Madhya Pradesh, Department of Commerce, Industry and Employment Ministry, submitted by SRF.⁹⁹ SRF further notes that the land concession was received in 2004, and considering the AUL of ten years, no benefit was received during the POR.¹⁰⁰

⁹⁰ See SRF March 13, 2019 IQR at 42-43 and Exhibit 25.

⁹¹ See *SRF New Shipper Review*, IDM at 18.

⁹² *Id.*

⁹³ *Id.*

⁹⁴ See SRF March 13, 2019 IQR at 32-33 and Exhibit 25.

⁹⁵ *Id.*

⁹⁶ See GOI March 20, 2019 IQR at 32 and Exhibit G; SRF March 13, 2019 IQR at 33 and Exhibits 11(a)-11(c).

⁹⁷ See SRF March 13, 2019 IQR at 33 and Exhibits 10(a)-(b), 11(a)-(c), and 12.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

In the *SRF New Shipper Review*, Commerce determined that, pursuant to section 771(5)(D)(ii) of the Act, the State Government of Madhya Pradesh provides a financial contribution in the form of revenue forgone.¹⁰¹ The benefit equals the difference between the land premium that would be payable absent this program and the actual amount paid by SRF, net of advances, *i.e.*, down payments on the lease made by SRF, pursuant to section 771(5)(E) of the Act.¹⁰² Further, the discount is a one-time occurrence given at the time of the original land lease agreement, *i.e.*, the 75 percent discount is applied only to the first year's annual all-inclusive lease premium. As such, Commerce determined this benefit to be non-recurring under 19 CFR 351.524(c)(2)(i).¹⁰³ There is no new information or evidence of changed circumstances that would warrant reconsidering our determinations. Therefore, for these preliminary results, we continue to find this program countervailable.

In *SRF New Shipper Review*¹⁰⁴ Commerce determined that SRF received this benefit in 2004. Based on our allocation over the AUL we determined that the last benefit that SRF obtained from this program was expensed in a prior POR, *i.e.*, 2013. Therefore, we determine that SRF did not receive any benefit under this program during the POR.¹⁰⁵

4. Advance Authorization Scheme (AAS), formerly Advance License Program (ALP)

Under the AAS/ALP, exporters may import, duty free, specified quantities of materials required to manufacture products that are subsequently exported. The exporting companies, however, remain contingently liable for the unpaid duties until they have fulfilled their export requirement. The quantities of imported materials and exported finished products are linked through standard input-output norms (SIONs) established by the GOI. During the POR, Jindal used advance licenses to import certain materials duty free.¹⁰⁶

In the 2005 administrative review of this proceeding, the GOI indicated that it had revised its FTP and Handbook of Procedures (HoP) for the AAS/ALP during 2005. We analyzed the changes introduced by the GOI to the AAS/ALP in 2005 and acknowledged that certain improvements to the AAS/ALP system were made. However, we found that, based on the information submitted by the GOI and examined during previous reviews of this proceeding, and no information having been submitted for that review demonstrating that the GOI had revised its laws and procedures governing this program since those earlier reviews, systemic issues continued to exist in the AAS/ALP system during that POR.¹⁰⁷ In the 2005 review, Commerce specifically stated that it continues to find the AAS/ALP countervailable based on:

¹⁰¹ See *SRF New Shipper Review*, IDM at 19.

¹⁰² *Id.*

¹⁰³ *Id.* at 18-19.

¹⁰⁴ See *SRF New Shipper Review*, IDM at 18-19.

¹⁰⁵ See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review; 2013*, 81 FR 7753 (February 16, 2013) (*Final PET Film 2013 Review*), and accompanying Issues and Decision Memorandum (IDM) at 4.

¹⁰⁶ See GOI March 20, 2019 IQR at 34-49; Jindal March 11, 2019 IQR at 39-50.

¹⁰⁷ See *Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review; 2005*, 73 FR 7708 (February 11, 2008) (*PET Film Final Results of 2005 Review*) and accompanying IDM at Comment 3; see also *Notice of Final Affirmative Countervailing Duty Determination and*

the GOI's lack of a system or procedure to confirm which inputs are consumed in the production of the exported products and in what amounts that is reasonable and effective for the purposes intended, as required under 19 CFR 351.519. Specifically, we still have concerns with regard to several aspects of the ALP including (1) the GOI's inability to provide the SION calculations that reflect the production experience of the PET film industry as a whole; (2) the lack of evidence regarding the implementation of penalties for companies not meeting the export requirements under the ALP or for claiming excessive credits; and, (3) the availability of ALP benefits for a broad category of "deemed" exports.¹⁰⁸

In its supplemental questionnaire, Commerce specifically asked the GOI whether it "has implemented any changes to the laws and regulations governing this program, including monitoring procedures, since 2005," to which the GOI responded that that the scheme has undergone several procedural changes since 2005.¹⁰⁹ For example, the GOI points to Chapter 4 at 4.23 of the HoP, allowing for an existing SION to be modified.¹¹⁰ Such changes do not address Commerce's concerns stated in the 2005 determination, and as referenced above. In fact, the GOI confirms itself that the SIONs for PET film have not been modified since 2005.¹¹¹ Jindal likewise, comments in its response that the HoP applicable for the 2015-2020 period provided "relevant revisions to the SION" at Chapter 4, paragraph 4.49; however, the relevant paragraph does not address the SIONs but rather discusses "Bonafide Default" in the fulfillment of the export obligation (EO).¹¹² While this paragraph addresses procedures, penalties and remedies in case of default by an Indian manufacturer, the lack of evidence regarding the actual implementation of penalties for companies not meeting the export requirements under the ALP or for claiming excessive credits persists. Accordingly, we find that there is no new evidence on the record of the current administrative review since the AAS was last examined by Commerce¹¹³ that would indicate that the systemic deficiencies in the AAS/ALP system, identified above, have been resolved.¹¹⁴ Therefore, Commerce continues to find that the AAS/ALP confers a countervailable subsidy because: (1) a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided under the program, as the GOI exempts the respondents from the payment of import duties that would otherwise be due; (2) the GOI does not have in place, and does not apply, a system that is reasonable and effective for the purposes intended, in accordance with 19 CFR 351.519(a)(4), to confirm which inputs, and in what amounts, are consumed in the production of the exported products, making normal allowance for waste, nor did the GOI carry out an examination of actual inputs involved to confirm which inputs are consumed in the production of the exported product, and in what amounts; thus, the entire amount of the import duty deferral or exemption provided to the respondent constitutes a

Final Negative Critical Circumstances Determination: Certain Lined Paper Products from India, 71 FR 45034 (August 8, 2006) and accompanying Issues and Decision Memorandum (IDM) at Comment 1.

¹⁰⁸ See *PET Film Final Results of 2005 Review*, IDM at Comment 3.

¹⁰⁹ See GOI August 8, 2019 SQR1 at 12-15.

¹¹⁰ *Id.* at 15.

¹¹¹ *Id.*

¹¹² See SRF March 13, 2019 IQR at Exhibit 79.

¹¹³ See *PET Film Final Results of 2005 Review*, IDM at Comment 3.

¹¹⁴ See GOI August 8, 2019 SQR1 at 12-15; Jindal March 11, 2019 IQR at 47-49 and Exhibit 79.

benefit under section 771(5)(E) of the Act; and (3) this program is specific under section 771(5A)(A) and (B) of the Act because it is contingent upon exportation.

Pursuant to 19 CFR 351.524(c)(1), the exemption of import duties on raw material inputs normally provides a recurring benefit. Thus, we are treating the benefit provided under the AAS/ALP as a recurring benefit.

Jindal imported inputs under the AAS/ALP for the production of subject merchandise duty free during the POR.¹¹⁵ The information provided by Jindal demonstrates that the license(s) were tied to the production and export of subject merchandise within the meaning of 19 CFR 351.525(b)(5). As such, we find that those licenses benefit the company's exports of subject merchandise. SRF reported that it did not hold any AAS licenses bestowed on subject merchandise and did not import any inputs duty free for the production of subject merchandise under the AAS.¹¹⁶ Accordingly, SRF did not receive any benefits under this program during the POR.

To calculate the subsidy rate, we first determined the total value of import duties exempted during the POR for Jindal under license(s) tied to subject merchandise. We then divided the resulting benefit by the total value of Jindal's export sales of subject merchandise. On this basis, we determine the countervailable subsidy provided to Jindal under the AAS/ALP to be 3.00 percent *ad valorem*.¹¹⁷

5. Merchandise Export from India Scheme (MEIS)

Jindal and SRF both reported participating in the MEIS during the POR.¹¹⁸ The GOI explained that the MEIS was introduced on April 1, 2015, in the 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.¹¹⁹ The eligibility is also dependent on the products and the foreign markets to which the products are exported.¹²⁰ 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."¹²¹ To receive the scrip, a recipient must file an electronic application and supporting shipping

¹¹⁵ See Jindal March 11, 2019 IQR at 39.

¹¹⁶ See SRF March 13, 2019 IQR at 35.

¹¹⁷ See Jindal Prelim Calc Memo 2017.

¹¹⁸ See Jindal March 11, 2019 IQR at 54-61 and Exhibit 86; SRF March 13, 2019 IQR at 54-59 and Exhibit 29(f).

¹¹⁹ See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*; 2015, 82 FR 36124 (August 3, 2017) (*Preliminary Results of 2015 Review*), and accompanying PDM at 19-20, unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from India*, 83 FR 5612 (February 8, 2018) (*PET Film Final Results of 2015 Review*) and accompanying IDM; see also GOI March 20, 2019 IQR at 70-79.

¹²⁰ See Jindal March 11, 2019 IQR at 55 and Exhibit 29(c).

¹²¹ See SRF March 13, 2019 IQR at 54-59; see also GOI March 20, 2019 IQR at Exhibit D (FTP at 3.03-3.12) (HoP at 3.01-3.16).

documentation for each port of export with Director General of Foreign Trade (DGFT).¹²² Each application can only comprise of a maximum of 50 shipping bills.¹²³ 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.¹²⁴

Commerce has found a similar program, the SHIS, to be countervailable. For the MEIS scheme, the GOI also provides scrips to exporters worth a certain percentage of the FOB value of exports. The scrip could then be used as a credit for future import duties on inputs or goods, including capital goods, or could be transferred to other Status Holders to be used as credit for future import duties.¹²⁵

The program is specific within the meaning of sections 771(5A)(A) and (B) of the Act because, as the GOI, Jindal, and SRF report, eligibility to receive the scrips is contingent upon export.¹²⁶ As Commerce determined for the SHIS program, 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.¹²⁷ A benefit is also provided under the MEIS scheme pursuant to 771(5)(E) of the Act and 19 CFR 351.519 in the amount of exempted duties on imported inputs or capital equipment.

Jindal and SRF both reported that they submitted applications and received approval under the MEIS program. According to each company, it met the requirements of this program and obtained the requisite scrips from the DGFT, which can be used by the recipient company or sold in the market.¹²⁸

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. We calculated the benefit to Jindal to be the total value of scrips granted 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;¹²⁹ however, because the 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

¹²² See Jindal March 11, 2019 IQR at 56.

¹²³ See SRF March 13, 2019 IQR at 56.

¹²⁴ *Id.* at 53-56.

¹²⁵ See SRF March 11, 2019 IQR at Exhibit 29(a) (FTP 201502020, 3.02 Nature of rewards); see also *PET Film from India 2013 Preliminary Results* and accompanying IDM at 11, unchanged in *PET Film from India 2013 Final Results*, and accompanying IDM; *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 IDM at Status Holder Incentive Scrip.

¹²⁶ See *PET Film from India 2013 Preliminary Results* and accompanying IDM at 11; see also GOI March 20, 2019 IQR at Exhibit D, Chapter 3;

¹²⁷ See *PET Film from India 2013 Preliminary Results* and accompanying IDM at 11; see also GOI March 20, 2019 IQR at 70-79.

¹²⁸ See Jindal March 11, 2019 IQR at 55; SRF March 13, 2019 IQR at 55.

¹²⁹ See 19 CFR 351.519(b)(1).

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.¹³⁰ Therefore, for our rate calculations, we divided the face value of the MEIS license by the respondents total export sales, net of deemed exports. On this basis we determine the countervailable subsidy provided to Jindal and SRF under the MEIS to be 1.44 percent and 1.34 percent *ad valorem*, respectively.¹³¹

6. Incremental Exports Incentivization Scheme (IEIS)

SRF reported participating in the IEIS during the POR and receiving benefits from this scheme during the POR in the form of GOI-issued scrip licenses.¹³²

The IEIS was introduced in 2012, in the FTP 2009-2014.¹³³ The purpose of the program is to reward companies that increased their export performance in the application year, relative to the previous year.¹³⁴ Specifically, the GOI issues a scrip worth up to two percent of the incremental export growth achieved by the exporter between the year of application and the previous year.¹³⁵

To be eligible for the scrip, a recipient must demonstrate that it increased exports of goods to certain markets (*i.e.* United States, Europe, and Asia)¹³⁶ during the period April 1, 2013, to March 31, 2014, relative to April 1, 2012, to March 31, 2013, the timeline set by the GOI. In addition, a recipient must demonstrate that it increased its overall exports in the same period.¹³⁷ Following the export of its merchandise, the recipient must file an electronic application and supporting shipping documentation demonstrating the purported incremental increase and overall export performance increase with the Director General of Foreign Trade (DGFT).¹³⁸ After a recipient receives and registers the scrip, it may either use it for the payment of future customs duties for importing inputs or goods, including capital goods, payment of excise duties for domestically purchased items, or transfer it to another company.¹³⁹

Commerce has found similar programs, the SHIS and MEIS, to be countervailable. For those programs, similar to this IEIS program, the GOI provides scrips to exporters worth a certain percentage of the FOB value of exports.¹⁴⁰ The scrip could then be used as a credit for future

¹³⁰ See, e.g., *Steel Threaded Rod from India Final*, IDM at Status Holder Incentive Scrip.

¹³¹ See Jindal Prelim Calc Memo 2017; SRF Prelim Calc Memo 2017.

¹³² See SRF March 13, 2019 IQR at 70-74 and Exhibits 32(a)-(e) (Handbook of Procedures (HoP), Chapter 3 (3.8.3)).

¹³³ See GOI August 8, 2019 SQR1 at 45-52 and Exhibit 10.

¹³⁴ See GOI August 8, 2019 SQR1 at 45-52 and Exhibit 10.

¹³⁵ See GOI August 8, 2019 SQR1 at 45-52 and Exhibit 10; SRF March 13, 2019 IQR at 70-74 and Exhibits 32(a)-(e).

¹³⁶ See SRF March 13, 2019 IQR at Exhibit 32(c).

¹³⁷ See GOI August 8, 2019 SQR1 at 48.

¹³⁸ *Id.*

¹³⁹ *Id.*; see also SRF March 13, 2019 IQR at 72 (FTP 2009-14, Para 3.17.5).

¹⁴⁰ See *PET Film from India 2013 Preliminary Results* and accompanying IDM at 11, *unchanged in PET Film from India 2013 Final Results* and accompanying IDM; *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 IDM at Status Holder Incentive Scrip; and *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review; 2015*, and accompanying IDM.

import duties, could be used for the payment of customs duties for the import of inputs or goods (including capital goods), or could be transferred to other Status Holders to be used as credit for future import duties.¹⁴¹

The program is specific within the meaning of sections 771(5A)(A) and (B) of the Act because, as the GOI and SRF state, eligibility to receive the scrips is contingent upon export performance.¹⁴² As Commerce determined for the SHIS and MEIS program, 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. We calculated the benefit to SRF within the meaning of section 771(5)(E) of the Act to be the total value of scrips granted during the POR.

SRF reported applying for an IEIS license under the scheme in 2016 and receiving the scripts under the IEIS during the POR.¹⁴³ According to SRF, it met the requirements of this program and obtained the requisite scrips from the DGFT, which can be used by the recipient company or sold in the market.¹⁴⁴

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, provided that recipients can demonstrate increased exports, recipients could apply for additional subsidies under this same program on an ongoing basis from year to year. 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;¹⁴⁵ however, because the IEIS benefit, *i.e.* the scrip, amount is not automatic and is not known to the exporter until well after the exports are made, the IEIS 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.¹⁴⁶ Therefore, for our rate calculations, we divided the face value of the IEIS license by the respondent's total export sales, net of deemed exports. On this basis we determine the countervailable subsidy provided to SRF under the IEIS to be 0.07 percent *ad valorem*.¹⁴⁷

¹⁴¹ See SRF March 13, 2019 IQR at 72.

¹⁴² See SRF March 13, 2019 IQR at 70-73.

¹⁴³ See SRF March 13, 2019 IQR at 73-74.

¹⁴⁴ See SRF March 13, 2019 IQR at 71-72.

¹⁴⁵ See 19 CFR 351.519(b)(1).

¹⁴⁶ See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review: 2016*, 83 FR 39677 (August 10, 2018) (*PET Film Preliminary Results of 2016 Review*) and accompanying PDM at 20-22, unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip: Final Results of Countervailing Duty Administrative Review: 2016*, 84 FR 10789 (March 22, 2019) (*PET Film Final Results of 2016 Review*); see also *Steel Threaded Rod from India Final*, IDM at Status Holder Incentive Scrip.

¹⁴⁷ See SRF Prelim Calc Memo 2017; see also *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Final Affirmative Countervailing Duty Determination*, 82 FR 58172 (December 11, 2017) and accompanying PDM at 19.

7. 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.¹⁴⁸ 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.¹⁴⁹ The DDB is generally fixed as a percentage of the Free-on-Board (FOB) price of the exported product.¹⁵⁰

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.¹⁵¹ 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.¹⁵² This system must be reasonable, effective for the purposes intended, and based on generally accepted commercial practices in the country of export.¹⁵³ 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.¹⁵⁴

In its initial questionnaire, Commerce asked the GOI to provide all documentation from all entities involved in the processes for determining whether an export product, as here PET film, should be included in the list of exports eligible for DDB, and the derivation of the DDB rate(s) to be applied to the product. Commerce also asked the GOI to include all documentation from the Export Promotion Councils, Trade 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.¹⁵⁵ However, the GOI provided no supporting documentation, but instead stated that the rates are determined following a procedure, undertaken by an independent committee:

The drawback rates are calculated on the basis of the data, pertaining to inputs and input services used in the manufacturing process provided by the different export promotion councils and is duly verified by the statutory auditors. The data is also sought from the Customs, Central Excise and Service Tax Commissioner

¹⁴⁸ See GOI January 16, 2018 IQR at 59; 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 IDM at “Duty Drawback;” *Shrimp from India* and accompanying IDM at 12.

¹⁴⁹ See GOI March 20, 2019 IQR at 58.

¹⁵⁰ *Id.* at 56-57; SRF March 13, 2019 IQR at 42.

¹⁵¹ See 19 CFR 351.519(a)(1)(ii).

¹⁵² See, e.g., *PET Film Final Determination*, and accompanying IDM at “Duty Entitlement Passbook Scheme (DEPS/DEPB).”

¹⁵³ See 19 CFR 351.519(a)(4).

¹⁵⁴ See 19 CFR 351.519(a)(4)(i)-(ii).

¹⁵⁵ See Initial CVD Questionnaire at II-8.

rates regarding the inputs used, their prices and the duty incidence on the inputs or the input services. Based on these verified data, and any additional statutory or non-statutory data available from the different government departments, the drawback rates are calculated by the drawback Committee. The rates provided to the goods in question represent a broad assessment of unrebated incidence (direct and embedded) of the duties which for ease of implementation are together extended as the drawback rate.¹⁵⁶

The GOI neither fully explained the process, step-by-step, in determining which export product is eligible for duty drawback, and which is not, nor did it provide any supporting documentation, such as verification reports or analysis papers generated by the entities involved therein. 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. We requested that the GOI provide complete documentation to support its response.¹⁵⁷ 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.¹⁵⁸ That is, the GOI cannot demonstrate that it has a system in place for selection export products eligible for duty drawback, like the inclusion of PET film, nor how the drawback rate granted for the imported inputs relates to the export product, PET film.

Based on the GOI's information in the questionnaire response and lacking the documentation to support the GOI's narrative, we conclude for these preliminary results that the GOI has not supported its claim that its system is reasonable or effective for the purposes intended.¹⁵⁹

Accordingly, we determine that the DDB program confers a countervailable subsidy. 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. 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. Therefore, under 19 CFR 351.519(a)(4), the entire amount of the import duty rebate earned during the POR constitutes a benefit. Finally, this program is only available to exporters; therefore, it is specific under sections 771(5A)(A) and (B) of the Act.

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 POR constitutes a benefit. Pursuant to 19 CFR 351.519(b)(1), we find that benefits from the DDB program are conferred on the dates of exportation of the shipments for which the pertinent drawbacks were earned.¹⁶⁰ We

¹⁵⁶ See GOI March 20, 2019 IQR at 56.

¹⁵⁷ See Initial CVD Questionnaire at II-8-II-9.

¹⁵⁸ See GOI March 20, 2019 IQR at 53-69.

¹⁵⁹ *Id.*; see also *Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination*, 78 FR 50385 (August 19, 2013) (*Shrimp from India*) and accompanying IDM, "Duty Drawback." at 12-13.

¹⁶⁰ See, e.g., *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*).

calculated the benefit on an as-earned basis. Drawbacks under the program are 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 amount of the benefit (*i.e.*, the value of the drawback).

SRF reported receiving drawbacks under the DDB program on exports of subject merchandise to the United States during the POR.¹⁶¹ 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 determined that SRF received benefits from this program during the POR. Therefore, we divided the total amount of duty drawback SRF received on exports of subject merchandise to the United States during the POR by SRF's exports of subject merchandise to the United States, net of deemed exports. On this basis, we determine a countervailable subsidy rate of 0.05 percent *ad valorem* for SRF.¹⁶²

8. State Government of Maharashtra Subsidies Under the Package Scheme of Incentives 1993 and 2007

Under the PSI, incentives are offered to encourage dispersal of industries to the less industrially developed areas of the state of Maharashtra to achieve higher and sustainable economic development. Pursuant to this objective, Annexure I of the PSI-2007 places all "*talukas*," *i.e.*, district subdivisions, into six different development zones: A, B, C, D, D+, and "no industry." The zones cover the entire state of Maharashtra. Benefits under the PSI-2007 vary by zone.¹⁶³ Commerce previously determined this program to be countervailable.¹⁶⁴

Jindal reported that it participated in the PSI under the provisions for "mega projects," and specifically the Industrial Promotion Subsidy (IPS) under this program.¹⁶⁵ According to paragraph 5.10, "Mega Projects:"

The quantum of incentives within the approved limit will be decided by the High Power Committee under the chairmanship of Chief Secretary, Government of Maharashtra. The Infrastructure Committee under the chairmanship of the Chief Minister of Maharashtra will have the power to customize and offer special/extra incentives for the prestigious Mega Projects on a case to case basis.¹⁶⁶

¹⁶¹ See SRF March 13, 2019 IQR at 37 and Exhibit 27(e).

¹⁶² See SRF Prelim Calc Memo 2017.

¹⁶³ See GOI March 20, 2019 IQR at 94-101 and Exhibit P; *see also* GOI August 8, 2019 SQR1 at 54-58 and Exhibits 11 and 12.

¹⁶⁴ See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*; 2012, 80 FR 11163, (March 2, 2015) (*PET Film Final Results 2012 Review*) and accompanying IDM at 21 and Comment 5; *see also* *Certain Oil Country Tubular Goods from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 41967 (July 18, 2014) (*OCTG from India 2012*) and accompanying IDM at SGOM Subsidies Under the Package Scheme of Incentives of 2007.

¹⁶⁵ See Jindal March 11, 2019 IQR at 77-81 and Exhibit 89.

¹⁶⁶ See GOI March 20, 2019 IQR at 94-101 and Exhibit P; *see also* *OCTG from India 2012*, IDM at SGOM Subsidies Under the Package Scheme of Incentives of 2007.

Industrial Promotion Subsidy (IPS)

The IPS, at paragraph 5.1, is part of the PSI-2007 incentives offered for new or expanding projects.¹⁶⁷ Commerce has previously determined this program to be countervailable.¹⁶⁸ The extent of the benefits is determined by the zone the project is located in or by whether the project qualifies as a “mega project.” The amount of the subsidy is also linked to the fixed capital investment.¹⁶⁹

As stated in *OCTG from India 2012*, the SGOM’s *Modalities of Sanction and Disbursement of Industrial Promotion Subsidy to Mega Projects under the PSI 2001 and PSI 2007*, at 1.1:

“Industrial Promotion Subsidy” in respect of Mega Projects under PSI 2001 & 2007 means an amount equivalent to the percentage of “Eligible Investments” which has been agreed to as a part of the customized package, or the amount of tax payable under Maharashtra Valued Added Tax Act (MVAT) 2002 and Central Sales Tax (CST) Act, 1956 by the eligible Mega Projects in respect of sale of finished products eligible for incentives before adjustment of set off or other credit available for such period as may be sanctioned by the State Government, less the amount of benefits by way of Electricity Duty exemption, exemption from payment of Stamp Duty, refund of royalty and any other benefits (as may be specified by the Government) availed by the eligible Mega Projects under PSI 2001/2007, whichever is lower.¹⁷⁰

Jindal is eligible for this benefit for seven years from the date of commencement of commercial production. The annual amount of the benefit is determined by SGOM each year through an annual application. Because its project in Maharashtra meets the criteria of a “mega project,” Jindal was allowed to propose the means through which it would receive its benefits. It chose exemption of state value-added-tax (VAT) and CST payments.¹⁷¹ Thus, the amount of the benefit determined each year is based on amount of exempted state VAT and CST for Jindal paid that year.

We find that this program provides a financial contribution in the form of revenue forgone by the SGOM pursuant to section 771(5)(D)(ii) of the Act.

Under the SGOM’s VAT system, taxpayers are required to remit VAT collected from customers (output VAT) to the SGOM.¹⁷² Before doing so, they reduce the amount of output VAT collected by the amount of VAT they have paid to their own suppliers (input VAT). Alternatively, instead of crediting output VAT with input VAT in this manner, they may receive

¹⁶⁷ See Jindal March 11, 2019 IQR at 77-78.

¹⁶⁸ See *PET Film Final Results 2012 Review*, IDM at 21 and Comment 5; see also *OCTG from India 2012*, IDM at SGOM Subsidies Under the Package Scheme of Incentives of 2007 – c. Industrial Promotion Subsidy.

¹⁶⁹ See Jindal March 11, 2019 IQR at 77-78 and Exhibits 98 and 99.

¹⁷⁰ See *OCTG from India 2012*, IDM at SGOM Subsidies Under the Package Scheme of Incentives of 2007 – c. Industrial Promotion Subsidy.

¹⁷¹ See Jindal March 11, 2019 IQR at 77-85; GOI March 20, 2019 IQR at Exhibit P.

¹⁷² See Jindal March 11, 2019 IQR at 74-75; GOI March 20, 2019 IQR at Exhibit P; see also *OCTG from India 2012*, IDM at SGOM Subsidies Under the Package Scheme of Incentives of 2007 – c. Industrial Promotion Subsidy.

a rebate of input VAT paid to their suppliers. Either way, the net amount of VAT the taxpayer pays to the SGOM equals the difference between output VAT and input VAT. Under the IPS program as applied to Jindal, however, that amount is refunded.¹⁷³ A refund for this amount would not be available absent the IPS program. Likewise, under the SGOM's CST system, the taxpayer pays to the SGOM the difference between the CST it collects from its customers and the CST it pays to its suppliers. Under the IPS program as applied to Jindal, however, that amount is also refunded; a refund that would not be available absent the IPS program.¹⁷⁴ The excessive refund of VAT provides a benefit under 19 CFR 351.510(a) (the refunded output VAT is only collected on domestic sales) and the remission of CST otherwise due provides a benefit under 19 CFR 351.510(a).

Pursuant to section 771(5A)(D)(iv) of the Act, the program is specific because it is limited to certain geographical regions within the state of Maharashtra. There is no new information or evidence of changed circumstances that would warrant reconsidering our determinations that this program is countervailable.¹⁷⁵

In order to calculate the benefit, we divided the total amount of the refunds Jindal received during the POR by its total sales during the POR. On this basis, we determined a countervailable subsidy rate of 1.97 percent *ad valorem* for Jindal.¹⁷⁶

9. State Government of Madhya Pradesh (SGOMP) Industrial Promotion Policy (IPP) 2014

The Industrial Promotion Policy (IPP) of the State Government of Madhya Pradesh (SGOMP) serves to achieve inclusive growth and bring economic prosperity to the state through sustainable industrialization, increased employment, skill enhancements, balanced regional development, and ease of business and environmentally friendly practices in enterprise development.¹⁷⁷ Specifically, the SGOMP IPP states that “{it} wants to encourage growth in Madhya Pradesh’s thrust sectors ...,” and is “promoting industrial parks for clusters development of similar micro and small scale industries in regions of the State which are rich in raw material being used in that particular industry.”¹⁷⁸ The IPP 2014 was last amended in December 2018.¹⁷⁹ The level of investment determines which benefits and at what level a company may receive. There are different set incentive packages based on the level of investment by a company, including fiscal assistance, capital subsidies, interest subsidy, entry tax exemption, VAT and CST Assistance, electricity duty exemption, stamp duty, etc.¹⁸⁰ If a company commits to an investment reaching at least 100 crore in Indian rupees,¹⁸¹ it qualifies as a Mega unit, and the benefit package can be

¹⁷³ See Jindal March 11, 2019 IQR at 79-80.

¹⁷⁴ *Id.* at Exhibit 89.

¹⁷⁵ See GOI March 20, 2019 IQR at 94-101 and Exhibit P.

¹⁷⁶ See Jindal Prelim Calc Memo 2017.

¹⁷⁷ See GOI August 8, 2019 SQR1 at 59 and Exhibit 13.

¹⁷⁸ See GOI August 8, 2019 SQR1 at Exhibit 13 (Section 2, “Vision”).

¹⁷⁹ *Id.* at 59.

¹⁸⁰ *Id.* at Exhibit 15

¹⁸¹ 1 crore = 10,000,000.

negotiated between the company and the Cabinet Committee of Investment Promotion (CCIP).¹⁸² The CCIP has the authority to deal with all issues relating to the industrial promotion and may sanction a customized package of assistance beyond what has been explicitly provided in this policy, such as the packages available to Mega Scale Industrial Units, only.¹⁸³

As described in more detail below, we find that this program provides a financial contribution in the form of revenue forgone by the SGOMP pursuant to section 771(5)(D)(ii) of the Act in the form of VAT and CST, now GST refunded to the producer. Further, the SGOMP stated in the SGOMP IPP 2014 that it wants to promote certain “thrust sectors” “in regions of the State which are rich in raw material being used in that particular industry.”¹⁸⁴ Pursuant to section 771(5A)(D)(iii) and (iv) of the Act, the program is specific because it is limited to certain industries in certain geographical regions within the state of Madhya Pradesh.

SRF reported receiving subsidies under the SGOMP IPP 2014, Mega Scale Industrial Units, for its investment in its plant located in the Domestic Tariff Area (DTA) of Indore Madhya Pradesh.¹⁸⁵ That particular plant has two separate production lines, one producing BOPET film (subject merchandise), that commenced production in February 2017, and the other is for the production of BOPP film (non-subject merchandise) that commenced production in December 2017.¹⁸⁶ SRF explains that its BOPET production line in the DTA received benefits during the POR under the under the following sub-sections of the SGOMP IPP 2014:¹⁸⁷

a) VAT& CST/GST¹⁸⁸ Assistance

Based on its investment in the BOPET facility in the DTA, SRF is eligible for the investment promotion assistance under this program, calculated with a specified formula based on SRF’s investment. This benefit is conferred over seven years and needs to be applied for yearly.¹⁸⁹

In order to calculate the benefit, we divided the total amount of the VAT&CST/GST refunds SRF received during the POR by its total sales during the POR. On this basis, we determined a countervailable subsidy rate of 0.19 percent *ad valorem* for SRF for this sub-program.

b) Entry Tax Exemption

As part of the SGOMP IPP 2014, and SRF’s Mega Scale Industrial Unit agreement, SRF was exempt from paying Entry Tax for a period of 10 Years from the date of first purchase of raw material.¹⁹⁰

¹⁸² See GOI August 8, 2019 SQR1 at Exhibit 13 (Section 10, “Fiscal Assistance”).

¹⁸³ *Id.* at 60 and Exhibit 13 (Section 4, “Improving business climate by enhancing ease of doing business”).

¹⁸⁴ See GOI August 8, 2019 SQR1 at Exhibit 13 (Section 2, “Vision”).

¹⁸⁵ See SRF March 13, 2019 IQR at 94. SRF notes that this plant is separate from its SEZ plant located in Indore, Madhya Pradesh – *see above* at SEZ.

¹⁸⁶ *Id.*

¹⁸⁷ See SRF March 13, 2019 IQR at Exhibit 37(a) and (b).

¹⁸⁸ Value-Added Tax (VAT); Central Sales Tax (CST); Goods and Services Tax (GST).

¹⁸⁹ See SRF March 13, 2019 IQR at 9 7-98 and Exhibit 39(a)-(c); GOI August 8, 2019 SQR1 at Exhibit 13 (Sections 15 and 16).

¹⁹⁰ See SRF March 13, 2019 IQR at 98 and Exhibits 40(a)-(b); GOI August 8, 2019 SQR1 at 10-12 and Exhibits 1 and 2.

In order to calculate the benefit, we divided the total amount of the entry tax exemption SRF received during the POR by its total sales during the POR. On this basis, we determined a countervailable subsidy rate of 0.02 percent *ad valorem* for SRF for this sub-program.

c) Electricity Duty Exemption and (d) Electricity Rate Concession

SRF reported that, as part of its approval agreement, it is also exempted from paying electricity duty and cess for a period of ten years.¹⁹¹ According to SRF, the electricity duty rate is fifteen percent tariff per unit.¹⁹²

Based on its SGOMP IPP 2014 agreement, SRF is entitled to a rebate of one Indian rupee per unit consumed. That rebate is reflected in SRF's electricity bill.¹⁹³

To calculate the benefit for the electricity duty exemption and rate concession, we divided the total amount of the exemption and the rate concession SRF received during the POR by its total sales during the POR. On this basis, we determined a countervailable subsidy rate of 0.12 percent *ad valorem* for SRF for this sub-program

e) Onetime Capital Subsidy

Pursuant to the SGOMP IPP 2014, SRF is entitled to a one time capital subsidy of 50 percent, but not to exceed 250,000,000 (25 Lakh) Indian rupees for investing in projects such as the construction of waste management systems, pollution control devices, health and safety standards, and water conservation/harvesting, etc. SRF has claimed and received the maximum amount, in 2018, that is, outside the instant POR. Accordingly, SRF did not receive benefits under this sub-program during the POR.

10. State and Union Territory Sales Tax Incentive Programs

Certain state governments in India grant exemptions to, or deferrals from, sales taxes in order to encourage regional development. These incentives allow privately-owned (*i.e.*, not 100 percent owned by the GOI) manufacturers, that are in selected industries and are located in the designated regions, to sell goods without charging or collecting state sales taxes.¹⁹⁴

In the original CVD investigation, we determined that the operation of these types of state sales tax programs confer countervailable subsidies.¹⁹⁵ Specifically, Commerce found that these programs provide a financial contribution in the form of revenue forgone by the respective state governments pursuant to section 771(5)(D)(ii) of the Act, and confer a benefit equal to the amount of the tax exemption, pursuant to section 771(5)(E) of the Act. Pursuant to section

¹⁹¹ See SRF March 13, 2019 IQR at 98-99 and Exhibits 36(a) and 41(a)-(c).

¹⁹² *Id.*

¹⁹³ *Id.* at 99 and Exhibits 37(b) and 41(c)-(d).

¹⁹⁴ See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 72 FR 6530 (February 12, 2007) (*PET Film Final Results 2004 Review*) and accompanying IDM at State Sales Tax Incentive Programs.

¹⁹⁵ See *PET Film Final Determination*, IDM at State of Maharashtra Programs and State of Uttar Pradesh Programs: Sales Tax Incentives; see also *PET Film Final Results of 2005 Review*, IDM at State Sales Tax Incentive Programs.

771(5A)(A) and (D)(iv) of the Act, these programs are specific because they are limited to certain geographical regions within the respective states administering the programs. There is no new information or evidence of changed circumstances that would warrant reconsidering our determinations that these programs are countervailable.

Jindal and SRF reported not having to pay state sales tax and CST for certain purchases of inputs and supplies from certain locations within India for both subject- and non-subject merchandise.¹⁹⁶ To calculate the benefit, we first calculated the total sales tax reduction or exemption Jindal and SRF received during the POR by subtracting taxes paid from the amount that would have been paid on its purchases during the POR absent these programs. We then divided these amounts by Jindal's and SRF's total sales during the POR, to calculate a net countervailable subsidy rate of 0.16 and 0.00 percent *ad valorem*, respectively.¹⁹⁷

Programs Preliminarily Determined to Be Not Used or to Provide No Benefit During the POR

We preliminarily determine that SRF and Jindal did not apply for or receive benefits during the POR under the programs listed below:

GOI Programs

1. Duty Free Replenishment Certificate (DFRC)
2. Target Plus Scheme
3. Capital Subsidy
4. Exemption of Export Credit from Interest Taxes
5. Loan Guarantees from the GOI
4. Export Oriented Units
5. Focus Market Scheme/Focus Product Scheme
6. Pre- and Post-Shipment Export Financing in Indian Rupees
7. Section 35 R&D Deductions of the Income Tax Act, 1961
---Sub-Section 35(iv)
---Sub-Section 35(2AB)¹⁹⁸
8. Section 80-IA Deductions of the Income Tax Act, 1961 for Enterprises Engaged in Infrastructure Development¹⁹⁹

State Programs

9. Octroi Refund Scheme State of Maharashtra (SOM)
10. Waiving of Interest on Loans by SICOM Limited (SOM)
11. State of Uttar Pradesh Capital Incentive Scheme
10. Infrastructure Assistance Schemes (State of Gujarat)
11. Capital Incentive Scheme Uttaranchel
12. Capital Incentive Schemes (SGOM)
13. Electricity Duty Exemption Scheme (SGOM IPS 2007)

¹⁹⁶ See Jindal March 11, 2019 IQR at 87-88 and Exhibit 103; SRF March 13, 2019 IQR at 67-68 and Exhibit 31.

¹⁹⁷ See Jindal Prelim Calc Memo 2017 and SRF Prelim Calc Memo 2017.

¹⁹⁸ See SRF March 13, 2019 IQR at 76-81 and Exhibit 33(d)-reported used but demonstrated no benefit.

¹⁹⁹ SRF March 13, 2019 IQR at 88-94 and Exhibit 35(c) – reported used but demonstrated not benefit.

14. Exemption of Electricity Duty on Account of Electricity Generation (State of Gujarat)
15. Interest Subsidy under Special Textile Package of Industrial Policy (State of Madhya Pradesh)

Programs for Which More Information is Needed

16. Section 32 for Investments into new Plants and Machinery (Section 32 Capital Investment Deductions) of the Income Tax Act, 1961 – Sub-Section 32AC(1A)²⁰⁰
17. Section 35 R&D Deductions of the Income Tax Act, 1961 – Sub-Section 35DD²⁰¹
18. Services from India Scheme (SFIS)²⁰²
19. Services Export from India Scheme (SEIS)²⁰³

VIII. Recommendation

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



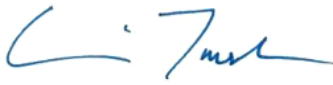
Agree



Disagree

9/6/2019

X



Signed by: CHRISTIAN MARSH

Christian Marsh

Deputy Assistant Secretary
for Enforcement and Compliance

²⁰⁰ See Jindal March 11, 2019 IQR at 104-109 and Exhibit 121; SRF March 13, 2019 IQR at 83-88 and Exhibit 34(a); GOI August 8, 2019 SQR1 at 36-44 and Exhibits 6 and 9.

²⁰¹ See Jindal March 11, 2019 IQR at 109-112 and Exhibit 121.

²⁰² See Jindal March 11, 2019 IQR at 90-95 and Exhibits 100, 105-108z; GOI August 8, 2019 SQR1 at 52 and Exhibit 4.

²⁰³ See Jindal March 11, 2019 IQR at 95-99 and Exhibits 22 p.60, 110-113; GOI August 8, 2019 SQR1 at 52-53 and Exhibit 4.