



C-533-872
Administrative Review
POR: 11/29/16 – 12/31/17
Public Document
E&C/OVI: YB/JCM

October 8, 2019

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Enforcement and Compliance

SUBJECT: Decision Memorandum for the Preliminary Results of the
Countervailing Duty Administrative Review of Finished Carbon
Steel Flanges from India

I. Summary

The Department of Commerce (Commerce) is conducting an administrative review of the countervailing duty (CVD) order on finished carbon steel flanges (steel flanges) from India in response to requests from interested parties. The period of review (POR) is November 29, 2016 through December 31, 2017. We preliminarily determine that Norma (India) Ltd. (Norma) and R.N. Gupta & Co. Ltd (RNG) benefitted from countervailable subsidies during the POR.

II. Background

A. Initiation and Case History

On August 24, 2017, Commerce published in the *Federal Register* the CVD order on steel flanges from India.¹ On August 7, 2018, Commerce published a notice of opportunity to request an administrative review of the *Order*.² On August 31, 2018, the petitioners in the underlying CVD investigation³ requested a review of the following 35 producers and/or exporters of subject merchandise:⁴ Adinath International; Allena Group; Alloyed Steel; Bansidhar Chiranjilal; C. D. Industries; CHW Forge; CHW Forge Pvt. Ltd.; Citizen Metal Depot; Corum Flange; DN Forge

¹ See *Finished Carbon Steel Flanges from India: Countervailing Duty Order*, 82 FR 40138 (August 24, 2017) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 38682 (August 7, 2018).

³ The petitioners in the underlying CVD investigation include: Weldbend Corporation and Boltex Mfg. Co., L.P.

⁴ See Petitioners' Letter, "Finished Carbon Steel Flanges from India: Request for Administrative Review," dated August 31, 2018.



Industries; Echjay Forgings Limited; Falcon Valves and Flanges Private Limited; Heubach International; Hindon Forge Pvt. Ltd.; Kinnari Steel Corporation; Mascot Metal Manufacturers; M F Rings and Bearing Races Ltd.; Norma; OM Exports; Punjab Steel Works (PSW); Raaj Sagar Steels; Ravi Ratan Metal Industries; R. D. Forge; RNG; Rolex Fittings India Pvt. Ltd.; Rollwell Forge Pvt. Ltd.; SHM (ShinHeung Machinery); Siddhagiri Metal & Tubes; Sizer India; Steel Shape India; Sudhir Forgings Pvt. Ltd.; Tirupati Forge; Uma Shanker Khandelwal & Co.; Umashanker Khandelwal Forging Limited; and USK Export Private Limited. From August 28, 2018, through August 31, 2018, Norma,⁵ RNG, Jai Auto Pvt. Ltd., and Bebitz Flanges Works Private Limited, foreign producers or exporters of subject merchandise, each requested a review of the *Order* on steel flanges from India.⁶

On October 4, 2018, Commerce published a notice of initiation of this CVD review.⁷ Further, on October 18, 2018, Commerce released the CBP data to all interested parties under an administrative protective order, and requested comments regarding the data and respondent selection.⁸ We did not receive any interested party comments regarding respondent selection.

We selected Norma and RNG as mandatory respondents⁹ and issued the initial CVD questionnaire to the Government of India (GOI) on November 15, 2018.¹⁰ RNG and Norma submitted their affiliation questionnaire responses on December 3, 2018, and December 7, 2018, respectively.¹¹ The GOI submitted its response to Commerce's initial questionnaire on January 7, 2019.¹² On February 19, 2019, and February 20, 2019, Norma and RNG submitted their responses to Section III of Commerce's initial questionnaire.¹³ Commerce further issued supplemental questionnaires to Norma, RNG, and the GOI, and received timely responses.

⁵ We note that Norma requested a review of itself, USK Export Private Limited (USK), Uma Shanker Khandelwal and Co., (UMA) and Bansidhar Chiranjilal (BCL).

⁶ See Norma's Letter, "Finished Carbon Steel Flanges from India: Request for entry of appearance in the Countervailing Duty Administrative Review for Norma (India) Limited, USK Export Private Limited, Uma Shanker Khandelwal and Co. and Bansidhar Chiranjilal," dated August 28, 2018; see also RNG's Letter, "Finished Carbon Steel Flanges from India: Request for Countervailing Duty Administrative Review," August 30, 2018; Jai Auto Pvt. Ltd.'s Letter, "Finished Carbon Steel Flanges from India: Requests for Administrative Review," dated August 31, 2018; and Bebitz Flanges Works Private Limited's Letter, "Finished Carbon Steel Flanges from India: Requests for Administrative Review," August 31, 2018.

⁷ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 50077, 50085 (October 4, 2018) (*Initiation Notice*).

⁸ See Memorandum, "Finished Carbon Steel Flanges from India: Release of U.S. Customs and Border Protection Import Data," dated October 18, 2018.

⁹ See Memorandum, "Countervailing Duty Administrative Review of Finished Carbon Steel Flanges from India: Respondent Selection," dated November 9, 2018.

¹⁰ See GOI's Letter, "Administrative Review of the Countervailing Duty Order on Finished Carbon Steel Flanges from India: Initial Questionnaire," dated November 15, 2018.

¹¹ See RNG's Letter, "Initial Response to Section III of the Countervailing Duty Questionnaire – Identification of Affiliated Companies," dated December 3, 2018 (RNG Affiliation QR); see also Norma's Letter, "Finished Carbon Steel Flanges from India: Section III Affiliations Response of Norma (India) Limited," dated December 7, 2018 (Norma Affiliation QR).

¹² See GOI's Letter, "Administrative Review of the Countervailing Duty Order on Finished Carbon Steel Flanges from India: Response to Section II of the CVD Questionnaire," dated January 7, 2019 (GOI Initial QR).

¹³ See RNG's Letter, "Finished Carbon Steel Flanges from India: Response to Section III of Countervailing Duty Questionnaire," dated February 19, 2019 (RNG Initial QR); see also Norma's Letter, "Finished Carbon Steel Flanges from India: Section III Response of Norma (India) Limited," dated February 21, 2019 (Norma Initial QR);

On January 28, 2019, the petitioners timely submitted new subsidy allegations (NSAs) with regard to Norma and RNG.¹⁴ No comments were filed in response to the petitioners' NSA Submission. On February 14, 2019, Commerce requested additional information from the petitioners regarding the NSAs.¹⁵ The petitioners timely responded to Commerce's request on February 21, 2019¹⁶ and we received no comments regarding this response. On April 10, 2019, Commerce released its decision memorandum regarding the petitioners' NSAs concerning Norma and RNG¹⁷ and also issued NSA questionnaires to Norma, RNG, and the GOI.¹⁸ On April 24, 2019, RNG and the GOI submitted their NSA questionnaire responses.¹⁹ On the following day, Norma submitted a timely response to its NSA questionnaire.²⁰

B. Extension of Time Limit for Preliminary Results

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, 2019.²¹ Further, on June 5, 2019, Commerce extended the time period for issuing these preliminary results by 106 days, in accordance with section 751(a)(3)(A) of the Act.²² On September 20, 2019, we extended the time period for issuing these preliminary results by an additional 13 days,

UMA's Letter, "Finished Carbon Steel flanges from India: Section III Response of Norma (India) Limited – Affiliate UMA Shanker Khandelwal & Co.," dated February 21, 2019 (UMA Initial QR); USK's Letter, "Finished Carbon Steel Flanges from India: Section III Response of Norma (India) Limited – Affiliate USK Exports Private Limited," dated February 21, 2019 (USK Initial QR); and BCL's Letter, "Finished Carbon Steel Flanges from India: Section III Response of Norma (India) Limited – Affiliate Bansidhar Chiranjilal," dated February 21, 2019 (BCL Initial QR).

¹⁴ See Petitioners' Letter, "Finished Carbon Steel Flanges from India: New Subsidy Allegations," dated January 28, 2019 (NSA Submission).

¹⁵ See Commerce's Letter, "Administrative Review of Finished Carbon Steel Flanges from India: Request for Additional Information Pertaining to New Subsidy Allegations," dated February 14, 2019.

¹⁶ See Petitioners' Letter, "Finished Carbon Steel Flanges from India: Additional Information Pertaining to New Subsidy Allegations," dated February 21, 2019 (Petitioners' February 21, 2019 Submission).

¹⁷ See Memorandum, "Countervailing Duty Administrative Review of Finished Carbon Steel Flanges from India: New Subsidy Allegations," dated April 10, 2019 (NSA Memo).

¹⁸ See Commerce's April 10, 2019 New Subsidy Allegations Questionnaire for Norma; Commerce's April 10, 2019 New Subsidy Allegations Questionnaire for RNG; and Commerce's April 10, 2019 New Subsidy Allegations Questionnaire for the GOI.

¹⁹ See RNG's Letter, "Finished Carbon Steel Flanges from India: Response to New Subsidy Allegation Countervailing Duty Questionnaire," dated April 24, 2019 (RNG's NSA QR); *see also* GOI's Letter, "Administrative Review of the Countervailing Duty Order on Finished Carbon Steel Flanges from India: Response to New Subsidy Allegations Questionnaire," dated April 24, 2019 (GOI NSA QR).

²⁰ See Norma's Letter, "Finished Carbon Steel Flanges from India; Submission of Norma's NSA Response," dated April 25, 2019 (Norma Group's NSA QR).

²¹ 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.

²² See Memorandum, "Finished Carbon Steel Flanges from India: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review; 11/29//2016 – 12/31/2017," dated June 5, 2019.

pursuant to section 751(a)(3)(A) of the Act.²³ The revised deadline for these *Preliminary Results* is now October 9, 2019.

III. Scope of the Order

The scope of the *Order* covers finished carbon steel flanges. Finished carbon steel flanges differ from unfinished carbon steel flanges (also known as carbon steel flange forgings) in that they have undergone further processing after forging, including, but not limited to, beveling, bore threading, center or step boring, face machining, taper boring, machining ends or surfaces, drilling bolt holes, and/or deburring or shot blasting. Any one of these post-forging processes suffices to render the forging into a finished carbon steel flange for purposes of this review. However, mere heat treatment of a carbon steel flange forging (without any other further processing after forging) does not render the forging into a finished carbon steel flange for purposes of this review.

While these finished carbon steel flanges are generally manufactured to specification ASME B16.5 or ASME B16.47 series A or series B, the scope is not limited to flanges produced under those specifications. All types of finished carbon steel flanges are included in the scope regardless of pipe size (which may or may not be expressed in inches of nominal pipe size), pressure class (usually, but not necessarily, expressed in pounds of pressure, *e.g.*, 150, 300, 400, 600, 900, 1500, 2500, *etc.*), type of face (*e.g.*, flat face, full face, raised face, *etc.*), configuration (*e.g.*, weld neck, slip on, socket weld, lap joint, threaded, *etc.*), wall thickness (usually, but not necessarily, expressed in inches), normalization, or whether or not heat treated. These carbon steel flanges either meet or exceed the requirements of the ASTM A105, ASTM A694, ASTM A181, ASTM A350 and ASTM A707 standards (or comparable foreign specifications). The scope includes any flanges produced to the above-referenced ASTM standards as currently stated or as may be amended. The term “carbon steel” under this scope is steel in which: (a) Iron predominates, by weight, over each of the other contained elements; (b) The carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

- (i) 0.87 percent of aluminum;
- (ii) 0.0105 percent of boron;
- (iii) 10.10 percent of chromium;
- (iv) 1.55 percent of columbium;
- (v) 3.10 percent of copper;
- (vi) 0.38 percent of lead;
- (vii) 3.04 percent of manganese;
- (viii) 2.05 percent of molybdenum;
- (ix) 20.15 percent of nickel;
- (x) 1.55 percent of niobium;
- (xi) 0.20 percent of nitrogen;
- (xii) 0.21 percent of phosphorus;
- (xiii) 3.10 percent of silicon;
- (xiv) 0.21 percent of sulfur;

²³ See Memorandum, “Finished Carbon Steel Flanges from India: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review; 11/29//2016 – 12/31/2017,” dated September 20, 2019.

- (xv) 1.05 percent of titanium;
- (xvi) 4.06 percent of tungsten;
- (xvii) 0.53 percent of vanadium; or
- (xviii) 0.015 percent of zirconium.

Finished carbon steel flanges are currently classified under subheadings 7307.91.5010 and 7307.91.5050 of the Harmonized Tariff Schedule of the United States (HTSUS). They may also be entered under HTSUS subheadings 7307.91.5030 and 7307.91.5070. The HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope is dispositive.

IV. Period of Review

The POR is November 29, 2016 through December 31, 2017.

While the POR covers part of 2016, and calendar year 2017, we have analyzed data for the period January 1, 2017 through December 31, 2017, to determine the countervailable subsidy rate for exports of subject merchandise made during the periods in 2016 when liquidation of entries was suspended.²⁴ No parties submitted comments regarding the limited reporting period.

V. Use of Facts Otherwise Available and Application of Adverse Inferences

A. Legal Standard

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

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

Section 776(b) of the Act further provides that Commerce may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In so doing, Commerce is not required to determine, or make any adjustments to, a countervailable subsidy rate based on any

²⁴ See Memorandum, “Administrative Review of the Countervailing Duty Order on Finished Carbon Steel Flanges from India: Limited Reporting Period for the First Administrative Review,” dated November 15, 2018.

assumptions about information an interested party would have provided if the interested party had complied with the request for information.²⁵ Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record.²⁶

Section 776(c) of the Act provides that, when Commerce relies on secondary information rather than on information obtained in the course of a review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.²⁷ Secondary information is “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”²⁸ It is Commerce’s practice to consider information to be corroborated if it has probative value.²⁹ In analyzing whether information has probative value, it is Commerce’s practice to examine the reliability and relevance of the information to be used.³⁰ However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.³¹ Further, Commerce is not required to corroborate any countervailing duty applied in a separate segment of the same proceeding.³²

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

B. Application of Adverse Facts Available (AFA): The GOI

As indicated above, on April 10, 2019, we issued an NSA questionnaire to the GOI. In reviewing the GOI’s response, Commerce noted that the GOI deleted certain questions that Commerce had included in its NSA questionnaire (*i.e.*, the GOI did not respond to those questions) and failed to respond to the majority of the questions pertaining to the programs listed in Commerce’s NSA questionnaire. In addition, the GOI neither requested an extension of time

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

²⁶ See also 19 CFR 351.308(c).

²⁷ See also 19 CFR 351.308(d).

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

²⁹ See SAA at 870.

³⁰ See, *e.g.*, SAA at 869.

³¹ See SAA at 869-870.

³² See section 776(c)(2) of the Act.

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

³⁴ See section 776(d)(3) of the Act.

to respond to Commerce's NSA questionnaire under 19 CFR 351.302(c), nor did it indicate that it was having any difficulty responding to Commerce's questions. Thus, the record contains limited information regarding specificity and financial contribution for the following programs:

- Export Oriented Units (EOUs) - Duty-Free Importation of Capital Goods and Raw Materials
- EOUs - Reimbursements of Central Sales Tax (CST) Paid on Goods Manufactured in India
- EOUs - Duty Drawback on Fuel Procured from Domestic Oil Companies
- EOUs - Exemption from Payment of Central Excise Duty (CED) on Goods Manufactured in India and Procured from a Domestic Tariff Area (DTA)
- State Government of Uttar Pradesh (SGUP) Subsidies - Exemption from Entry Tax for the Iron and Steel Industry
- SGUP Subsidies - Investment Promotion Scheme
- SGUP Subsidies - Special Assistance for Mega Projects
- Punjab Fiscal Incentives for Industrial Promotion

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

VI. Subsidies Valuation Information

A. Allocation Period

Commerce normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise. Commerce finds the AUL in this proceeding to be 7 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System. Commerce notified the respondents of the 7-year AUL in the initial questionnaire and requested data accordingly. No party in this proceeding disputed this allocation period.

Furthermore, for non-recurring subsidies, we applied the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (e.g., total sales or export sales) for the year in which the assistance was approved. If the amount of the subsidies is less than 0.5 percent

of the relevant sales value, then the benefits are allocated to the year of receipt rather than over the AUL.

B. Attribution of Subsidies

In accordance with 19 CFR 351.525(b)(6)(i), Commerce normally attributes a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides additional rules 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 a 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. This section of Commerce's regulations states 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 *CVD Preamble* to Commerce's regulations further clarifies cross-ownership standard. According to the *CVD 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.³⁵

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) upheld Commerce's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.³⁶

Norma

Norma responded on behalf of itself and three affiliates involved in the production and sale of subject merchandise: UMA, USK, and BCL (collectively, Norma Group). We preliminarily determine that these companies are cross-owned within the meaning of 19 CFR

³⁵ See *Countervailing Duties*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).

³⁶ See *Fabrique de Fer de Charleroi S.A. v. United States*, 166 F. Supp. 2d 593, 603 (CIT 2001).

351.565(b)(6)(vi) because of the substantial ownership positions held by the family members of Norma Group.

Norma states that USK and UMA were engaged in the manufacture and sale of forged flanges, including carbon steel flanges, during the POR and AUL.³⁷ Further, USK, UMA, and BCL further processed flanges produced by Norma during the POR.³⁸ However, Norma stated that BCL did not engage in the sale of finished subject merchandise to either the domestic nor export markets during the POR. BCL reported receiving no subsidies, and it did not provide a primarily dedicated input, produce subject merchandise, make any sales of carbon steel flanges or transfer a subsidy during the POR or AUL.³⁹ As such, pursuant to 19 CFR 351.525(b)(6)(ii), all subsidies received by UMA, USK, and Norma are attributed to the combined sales of UMA, USK, and Norma (less intercompany sales).

RNG

RNG, located in Punjab, is a producer and exporter of the subject merchandise. RNG reported affiliation with certain companies during the POR. Based on our review of the information provided in its questionnaire responses, we did not find these companies to be cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi).⁴⁰ As such, pursuant to 19 CFR 351.525(b)(6)(i), all subsidies received by RNG are attributed to its own sales.

C. Denominators

In accordance with 19 CFR 351.525(b)(1) – (5), Commerce considers the basis for the respondent’s receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondent’s export or total sales. The denominators we used to calculate the countervailable subsidy rate for the various subsidy programs are the respondent’s export sales, as described below, and which are also explained in further detail in the preliminary calculations memoranda prepared for these preliminary results.⁴¹

VII. Benchmark Interest Rates

Section 771(5)(E)(ii) of the Act provides that the benefit for loans is the “difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market,” indicating that a benchmark must be a market-based rate. In addition, 19 CFR 351.505(a)(3)(i) stipulates

³⁷ See Norma Affiliation QR at 1-2; *see also* Norma’s Letter, “Finished Carbon Steel Flanges from India: Supplemental Affiliation Response of Norma (India) Limited,” dated March 20, 2019 at 1 and 3-6.

³⁸ See Norma’s Letter, “Finished Carbon Steel Flanges from India: Supplemental Affiliation Response of Norma (India) Limited,” dated March 20, 2019 at 2, and 5-7.

³⁹ See BCL Initial QR at 5.

⁴⁰ See RNG Affiliation QR at Exhibit-1 (a).

⁴¹ See Memoranda, “Preliminary Results Calculations for RN Gupta & Company Limited,” dated concurrently with this memorandum (RNG’s Preliminary Calculation Memorandum); and “Preliminary Results Calculations for Norma (India) Limited,” dated concurrently with this memorandum (Norma’s Preliminary Calculation Memorandum).

that when selecting a comparable commercial loan that the recipient “could actually obtain on the market” Commerce will normally rely on actual loans obtained by the firm. However, when there are no comparable commercial loans during the period, Commerce “may use a national average interest rate for comparable commercial loans,” pursuant to 19 CFR 351.505(a)(3)(ii). In addition, 19 CFR 351.505(a)(2)(ii) states that Commerce will not consider a loan provided by a government-owned special-purpose bank for purposes of calculating benchmark rates. 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. As such, Commerce does not use loans from the IDBI, the IFCI, or the EXIM as a basis for a commercial loan benchmark.⁴² Also, in the absence of reported long-term loan interest rates, we use the above-discussed interest rates as discount rates for purposes of allocating non-recurring benefits over time pursuant to 19 CFR 351.524(d)(3)(i)(B).

RNG and Norma received exemptions from import duties under the Export Promotion Capital Goods Scheme and the Status Holder Incentive Scheme. Pursuant to 19 CFR 351.524(d)(3), we preliminarily determine that the loans provided by RNG and Norma are not comparable fixed-rate loans. Therefore, to allocate the benefit from non-recurring grants provided under the EPCGS and SHIS programs, we are preliminarily using national average interest rates, pursuant to 19 CFR 351.505(a)(3)(ii). Specifically, we used the yearly average long-term lending rate from the International Monetary Fund’s International Financial Statistics (IFS).

VIII. Analysis of Programs

A. Programs Preliminarily Determined to be Countervailable

1. Duty Drawback Program (DDB Program)

Norma, USK, and RNG reported receiving duty rebates under this program.⁴³ The GOI explained that the DDB Program provides rebates for duty or tax chargeable on any imported materials or excisable materials and input services used in the manufacture of such goods for export.”⁴⁴ Further, drawback is only available to (1) re-exported goods, (2) import duties on raw materials used in the manufacture of exports products, (3) service tax paid on input services used in the manufacture of export products, (4) certain supplies that have been deemed export, and (5) the reimbursement of excise duty paid on fuels by way of drawback notified by the Directorate General of Foreign Trade (DGFT).⁴⁵

⁴² See *Final Results of the 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 Comment 3; see also *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 73 FR 7708 (February 11, 2018) (*PET Film Final Results 2005 Review*), and accompanying IDM at Benchmark Interest Rates and Discount Rates.

⁴³ See Norma Initial QR at 17; USK Initial QR at 17; and RNG Initial QR at 13; see also Norma’s Letter, “Finished Carbon Steel Flanges from India: 2nd Supplemental CVD Response of Norma (India) Limited,” dated May 6, 2019 at 9-11 and 38-40 (Norma Group Second SQR).

⁴⁴ See GOI Initial QR at 24.

⁴⁵ *Id.* at 20.

Duty drawback is subject to an All Industry Rate (AIR) or a Brand Rate.⁴⁶ The AIRs are generally fixed as a percentage of the free-on-board (FOB) price of the exported product or as specific rates.⁴⁷ The GOI notes that prior to the implementation of the Goods and Services Tax (GST) regime on July 1, 2017, AIRs were of two types (*i.e.*, A Rate: when Central Value Added Tax (CENVAT) Facility has not been availed and B Rate: when CENVAT has been availed).⁴⁸ The Brand Rate may be fixed in terms of “Rules 6 and 7 of the Drawback Rules, 2017.”⁴⁹ The GOI specifies that a company may be subject to a Brand Rate, rather than an AIR, when the exporter feels that drawback as determined under the AIRs is less than four-fifths of the duty or taxes paid on the materials, components, or input services used in the manufacture of goods.⁵⁰ Following July 1, 2017, respondents reported being subject to a single specified rate set by the GOI in accordance with tariff categorizations.⁵¹

Regarding the DDB program, the GOI confirmed that no changes have taken place since it was examined in the investigation.⁵² As such, we will not re-examine the countervailability of this program in the current review. Our findings are consistent with prior India CVD proceedings.⁵³

We calculated the subsidy rate using the value of all DDB Program duty rebates that Norma, USK, and RNG earned on U.S. sales during the POR. For Norma and its affiliate USK, we divided the total amount of the benefit received by each company by the combined total export sales made by Norma, USK, and UMA to the U.S. of subject merchandise during the POR. For RNG, we divided the total amount of the benefit received by RNG by its total sales of U.S. exports of subject merchandise during the POR.

On this basis, we preliminarily determine a countervailable subsidy rate of 2.00 percent *ad valorem* for Norma Group and 2.00 percent *ad valorem* for RNG.

2. Export Promotion of Capital Goods Scheme (EPCGS)

USK and RNG reported receiving benefits under this scheme.⁵⁴ The GOI reported that the EPCGS program provides for a reduction of or exemption from customs duties and certain excise taxes on imports of capital goods used in pre-production, production, or post-production of exported products.⁵⁵ Under this program, producers must commit to export, over a specific period of time, goods manufactured in relation to the imported capital goods for a value equal to

⁴⁶ *Id.* at 24.

⁴⁷ *Id.*

⁴⁸ See GOI’s Letter, “Administrative Review of the Countervailing Duty Order on Finished Carbon Steel Flanges from India: Response to First Supplemental Questionnaire,” dated May 31, 2019 at 7 and 11 (GOI First Supp QR); and Norma Initial QR at Exhibit Nil-12 (c).

⁴⁹ See GOI Initial QR at 24.

⁵⁰ See GOI First Supp QR at 10.

⁵¹ See Norma Initial QR at Exhibit NIL-12(d); and USK Initial QR at Exhibit USK-12(d).

⁵² See GOI First Supp QR at 6.

⁵³ See, *e.g.*, *Countervailing Duty Investigation of Glycine from India: Affirmative Final Determination*, 84 FR 18482 (May 1, 2019) (*Glycine from India*), and accompanying issues and decision memorandum at Comment 4.

⁵⁴ See USK Initial QR at 21.

⁵⁵ See GOI Initial QR at 32 and Exhibit G.

a multiple of the duty value saved on such capital goods.⁵⁶ If the company fails to meet the export obligation, the company is subject to payment of all or part of the duty reduction, depending on the extent of the shortfall in foreign currency earnings, in addition to an interest penalty.

Regarding EPCGS, the GOI confirmed that no changes have taken place since it was examined in the investigation.⁵⁷ As such, we will not re-examine the countervailability of this program in the current review. Our findings are consistent with prior India CVD proceedings.⁵⁸

Under the EPCGS program, the exempted import duties would have to be paid to the GOI if the accompanying export obligations are not met. It is Commerce's practice to treat any balance on an unpaid liability that may be waived in the future as a contingent-liability interest-free loan, pursuant to 19 CFR 351.505(d)(1).⁵⁹ Since the unpaid duties constitute a liability contingent on subsequent events, we treat the amount of unpaid duty liabilities as an interest-free contingent-liability loans. We find the amount respondents would have paid during the POR had it borrowed the full amount of the duty reduction or exemption at the time of importation to constitute the first benefit under the EPCGS program. The second benefit arises based on the amount of duty waived by the GOI on imports of capital goods covered by those EPCGS licenses for which the export requirement has already been met. With regard to licenses for which the GOI has acknowledged that the company has completed its export obligation, we treat the import duty savings as grants received in the year in which the GOI waived the contingent liability on the import duty exemption pursuant to 19 CFR 351.505(d)(2). Further, 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.

USK reported that it imported capital goods with waived import-duty rates under the EPCGS program.⁶⁰ Information provided by USK indicates that at the time of bestowal, its EPCGS licenses were not tied to the production of any type of merchandise, so we are attributing the EPCGS benefits received to their total exports consistent with 19 CFR 351.525(b)(5).⁶¹ USK reported that it met export requirements for all EPCG licenses, and as such, had no-unfulfilled licenses.⁶²

⁵⁶ See *id.*; see also Norma Initial QR at 22.

⁵⁷ The GOI explained that the EPCGS program experienced a change after the implementation of the GST regime on July 1, 2017. Specifically, importers under this scheme were required to pay IGST and could take input tax credit as applicable under GST rules. Subsequently, on October 13, 2017, DGFT allowed for exemption from IGST under this scheme.⁵⁷ However, as evidence on the record with respect to the functioning of this program has not changed from previous findings, we preliminarily find that this program is countervailable.

⁵⁸ See, e.g., *Glycine from India*, and accompanying IDM at Comment 5.

⁵⁹ See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*; 2012, 80 FR 11163, dated March 2, 2015, and accompanying Issues and Decision Memorandum at 7-10; see also *Welded Stainless Pipe from India*, and accompanying IDM at 12-13.

⁶⁰ See USK Initial QR at 20; RNG Initial QR at 22.

⁶¹ *Id.* at Exhibit USK-13(a) through (c).

⁶² *Id.* at 22.

RNG reported that it imported capital goods under the EPCGS program in the years prior to the POR.⁶³ Consistent with the underlying investigation, we preliminarily find that all of RNG's EPCGS licenses benefit all of the company's exports sales.⁶⁴ We are attributing the EPCGS benefits received to their total exports consistent with 19 CFR 351.525(b)(5).

To calculate the benefit received from RNG's and USK's formal waiver of import duties on capital equipment imports where its export obligation was met prior to the end of the POR, we considered the total amount of duties waived, *i.e.*, the calculated duties payable less the duties actually paid in the year, net of required application fees, in accordance with section 771(6) of the Act, to be the benefit and treated these amounts as grants pursuant to 19 CFR 351.504. Further, consistent with the approach followed in previous investigations, we determine the year of receipt of the benefit to be the year in which the GOI formally waived respondents' outstanding import duties.⁶⁵ Next, we performed the "0.5 percent test," as prescribed under 19 CFR 351.524(b)(2), for the total value of duties waived, for each year in which the GOI granted respondents an import duty waiver. For any years in which the value of the waived import duties was less than 0.5 percent of respondents' total export sales, we expensed the value of the duty waived to the year of receipt. For years in which the value of the waivers exceeded 0.5 percent of respondents' total export sales in that year, we allocated the value of the waivers using respondents' company-specific allocation period of seven years for nonrecurring subsidies, in accordance with 19 CFR 351.524(d)(2).⁶⁶ For purposes of allocating the value of the waivers over time, we used the appropriate discount rate for the year in which the GOI officially waived the import duties.⁶⁷

As noted above, import duty reductions that RNG received on the imports of capital equipment for which it had not yet met export obligations may have to be repaid to the GOI if the obligations under the licenses are not met. Consistent with our practice and prior determinations, we are treating 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 had not been officially waived by the GOI, as of the end of the POR. Accordingly, we find the benefit to be the interest that the respondent would have paid during the POR had it borrowed the full amount of the duty reduction or exemption at the time of importation.

As noted above, the time period for fulfilling the export requirement expires a certain number of 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 (*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. As the benchmark interest rate, we used the long-term interest rates as discussed in the "Benchmark Interest Rates" section, above. We then multiplied the total amount

⁶³ See RNG Initial QR at 17.

⁶⁴ See RNG Initial QR at 25-26 and Exhibit 11(a).

⁶⁵ See *PET Film Final Determination*, and accompanying IDM at Comment 5.

⁶⁶ See "Allocation Period" section, *supra*.

⁶⁷ See "Benchmark Interest Rates and Discount Rates" section, *supra*.

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. For EPCGS licenses with duty free imports made during the POR, we calculated a daily interest rate based on a long-term interest rate and the number of days the loan was outstanding during the POR, to arrive at a prorated contingent liability for those imports.

The benefit received under the EPCGS program is the sum of: (1) the benefit attributable to the POR from the formally-waived duties for imports of capital equipment for which the respondents met export requirements by the end of the POR; and (2) the interest that would have been due had the respondents borrowed the full amount of the duty reduction or exemption at the time of importation for imports of capital equipment that have unmet export requirements during the POR. We then divided the total benefit received by USK under the EPCGS program by the combined total exports sales of Norma, UMA, and USK during the POR, as described above. On this basis, we preliminarily determine a countervailable subsidy rate of 1.49 percent *ad valorem* for Norma Group⁶⁸ and 0.10 percent *ad valorem* for RNG.⁶⁹

3. Merchandise Export from India Scheme (MEIS)

Norma, UMA, USK, and RNG reported receiving benefits from the MEIS during the POR.⁷⁰ The GOI explained that the MEIS was introduced in the Foreign Trade Policy (FTP) 2015-2020.⁷¹ 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.”⁷² Under this program, the GOI issues a scrip worth either two, three, or five percent of the FOB value of the of “exports in free foreign exchange, or on the FOB value of exports, as given on the shipping bills in free foreign exchange, whichever is less.”⁷³ To receive the scrip, a recipient must file an electronic application and supporting shipping documentation for each port of export with DGFT.⁷⁴ Each application can only comprise of a maximum of 50 shipping bills.⁷⁵ After a recipient receives and registers the scrip, it may use it for either the payment of future customs duties for importing goods or transfer it to another company.⁷⁶

⁶⁸ See Norma’s Preliminary Calculation Memorandum.

⁶⁹ See RNG’s Preliminary Calculation Memorandum.

⁷⁰ See GOI Initial QR at 47 and Exhibit-I; *see also* Norma Initial QR at 22; UMA Initial QR at 17; USK Initial QR at 35; and RNG Initial QR at 29-30 and Norma Group’s Letter, “Finished Carbon Steel Flanges from India: 4th Supplemental CVD Response of Norma (India) Limited,” dated August 2, 2019 at 10.

⁷¹ See GOI Initial QR at 46-47.

⁷² See Norma Initial QR at 21-22.

⁷³ *Id.*

⁷⁴ See GOI Initial QR at 50.

⁷⁵ See Norma Initial QR at 24.

⁷⁶ See Norma Initial QR at 23; UMA Initial QR at 18; USK Initial QR at 36; and RNG Initial QR at 31.

Regarding MEIS, the GOI confirmed that no changes have taken place since it was examined in the investigation.⁷⁷ As such, we will not re-examine the countervailability of this program in the current review. Our findings are consistent with prior India CVD proceedings.⁷⁸

Norma, UMA, USK and RNG reported submitting applications and receiving approval under the MEIS. According to Norma, UMA, and USK, and RNG, each met the requirements of this program and obtained the requisite scrips from the DGFT, which it could use for its own consumption or sell it in the market. RNG indicated that it sold all of its scrips, or licenses.⁷⁹ According to Norma, UMA, and USK, and RNG, the MEIS is a continuous program and thus, is recurring, in nature.⁸⁰

This program provides a recurring benefit because, unlike the scrips in the SHIS scheme, the scrips provided under this program are not tied to capital assets. Furthermore, recipients can expect to receive additional subsidies under this same program on an ongoing basis from year to year under 19 CFR 351.524(c)(2)(i). We calculated the benefit to Norma, UMA, and USK, and RNG to be the total value of scrips granted during the POR. 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;⁸¹ 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 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.⁸² On this basis we determine the countervailable subsidy provided to Norma Group under MEIS to be 1.88 percent *ad valorem*⁸³ and to RNG 2.50 percent *ad valorem*.⁸⁴

4. Interest Equalization Scheme (IES)

The GOI introduced the IES effective April 1, 2015, which centers on rupee export financing, or pre-shipment and post-shipment export financing in rupee denomination.⁸⁵ Under this program,

⁷⁷ The GOI and Norma explained that the MEIS program experienced a percent change in the rates for products exported by Norma. However, as evidence on the record with respect to the functioning of this program has not changed from previous findings, we preliminarily find that this program is countervailable.

⁷⁸ See, e.g., *Certain Corrosion-Resistant Steel Products from India: Final Results of Countervailing Duty Administrative Review; 2015-2016*, 84 FR 11053 (March 25, 2019) (*Corrosion-Resistant Steel from India*), and accompanying issues and decision memorandum at Comment 9.

⁷⁹ See RNG Initial QR at 31.

⁸⁰ See Norma Initial QR at 25; and RNG Initial QR at 50-51.

⁸¹ See 19 CFR 351.519(b)(1); see also *Welded Stainless Pipe from India* and accompanying IDM at 8-11.

⁸² See *Polyethylene Terephthalate Film, Sheet and Strip From India: Preliminary Results And Partial Rescission of Countervailing Duty Administrative Review; 2012*, 79 FR 50616, dated August 25, 2014 (*PET Film Preliminary Results 2012*) and accompanying Memorandum titled “Calculations for the Preliminary Results: Jindal Poly Films of India Limited (Jindal) at 4-5, *unchanged in Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 40, dated March 2, 2015; *Polyethylene Terephthalate Film, Sheet, and Strip From India: Final Results of Countervailing Duty Administrative Review; 2013*, 81 FR 7753 dated February 16, 2016 at Comment 2.

⁸³ See Norma’s Preliminary Calculation Memorandum.

⁸⁴ See RNG’s Preliminary Calculation Memorandum.

⁸⁵ See GOI Initial QR at 56.

the Reserve Bank of India provides a refund of three percent of interest charged by the bank on “pre-shipment and post-shipment export finance in rupees.”⁸⁶

Regarding IES, the GOI confirmed that, during the POR, no changes have taken place since it was examined in the investigation.⁸⁷ As such, we will not re-examine the countervailability of this program in the current review. Our findings are consistent with prior India CVD proceedings.⁸⁸ Accordingly, we preliminarily determine that the GOI conferred a financial contribution and we find that the IES is specific within the meaning of 771(5)(D) and 771(5A)(B) of the Act, respectively.

Because the IES is contingent upon exports, and is a recurring benefit, we divided the total benefit received during the POR by the value of RNG’s total exports during the POR. On this basis we determine the countervailable subsidy provided to RNG under the IES to be less than 0.005 percent *ad valorem*.

5. Status Holder Incentive Scheme (SHIS)

Norma, UMA, and USK and RNG reported use of the SHIS in their respective questionnaire responses and provided certain supporting documentation.⁸⁹ Regarding SHIS, the GOI confirmed that no changes have taken place since it was examined in the investigation.⁹⁰ As such, we will not re-examine the countervailability of this program in the current review. Our findings are consistent with prior India CVD proceedings.⁹¹

The GOI claims that the SHIS was in operation until March 31, 2013.⁹² Further, companies may apply for benefits under this program through March 31, 2016,⁹³ though there is no deadline the GOI’s issuance of program benefits.⁹⁴ We note that there is no evidence on the record of this proceeding demonstrating that this program has been terminated by an official government act, there has been no replacement program, or that there are no residual benefits provided. Pursuant to Section 351.526 without such evidence we are unable to find the program be terminated.

⁸⁶ See RNG Initial QR at 35.

⁸⁷ The GOI and Norma explained that the IES program experienced a percent change in the rates for exports by micro, small and medium enterprises sector manufacturers, and with regard to certain products covered. However, as evidence on the record with respect to the functioning of this program has not changed from previous findings, we preliminarily find that this program is countervailable.

⁸⁸ See, e.g., *Stainless Steel Flanges from India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative and Alignment of Final determination with Final Antidumping Duty Determination*, 83 FR 3118 (*Stainless Steel Flanges from India Prelim*), and accompanying preliminary decision memorandum at 23-24, unchanged in the final determination.

⁸⁹ See, e.g., Norma Initial QR at 26; USK Initial QR at 39; and UMA Initial QR at 22. See also RNG Initial QR at 36.

⁹⁰ See GOI First SQR at 14-15.

⁹¹ See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from India: Preliminary Results of Countervailing Duty Administrative Review; 2016*, 83 FR 39677 (August 10, 2018) (*PET Film, Sheet, and Strip from India 16 AR Prelim*), and accompanying preliminary decision memorandum at 9-11 (unchanged in the final results).

⁹² See GOI Initial QR at 69.

⁹³ See GOI First SQR at 15.

⁹⁴ See, e.g., Norma Group Second SQR at 22-23.

As explained in *Steel Threaded Rod from India*, a benefit is provided under the SHIS under 771(5)(E) of the Act and 19 CFR 351.519 in the amount of exempted duties on imported capital equipment. 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.⁹⁵ Although Commerce’s regulations stipulate that we will normally consider the benefit as having been received as of the date of exportation, *see* 19 CFR 351.519(b)(1), 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.⁹⁶

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 Norma (and its affiliates) and RNG received the SHIS scrips and determined to allocate the benefits across the AUL.⁹⁷ 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 0.43 percent *ad valorem* for Norma Group and 0.19 percent *ad valorem* for RNG.

6. State Government of Uttar Pradesh (SGUP) Subsidy Programs

a. Exemption from Entry Tax for the Iron and Steel Industry

Norma and USK reported a benefit under this program based on the exemption of entry taxes of its imports of steel billets for use in its production process.⁹⁸ As discussed above, in the section “Use of Facts Otherwise Available,” we were unable to confirm this program information with the GOI. We therefore find that an adverse inference is warranted in determining whether the GOI provided a financial contribution through these programs. Consequently, as AFA, we preliminarily determine that the GOI conferred a financial contribution and we find this program is specific within the meaning of sections 771(5)(D) and 771(5A)(D) of the Act, respectively.

According to the GOI, under this program, entry tax rates and exemptions are listed in a schedule accompanying the “Uttar Pradesh Tax on Entry of Goods into Local Area Act 2007.”⁹⁹ For items listed on the schedule with a rate of 0 percent, no entry tax is applied. Norma provided sample documentation indicating entry tax was not levied.¹⁰⁰ Further, in *Oil Country Tubular Goods from India*, we found that the exemption of certain steel products from the entry tax is

⁹⁵ See *Steel Threaded Rod from India Final*, and accompanying IDM at “Status Holder Incentive Scrip;” *see also*, GOI Initial QR at 101-102 and 105.

⁹⁶ 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), benefits were conferred when earned, rather than when the credits were used.

⁹⁷ See Norma’s Preliminary Calculation Memorandum.

⁹⁸ See Norma Group’s NSA QR at 6-14.

⁹⁹ See GOI’s NSA QR at 21.

¹⁰⁰ See Norma Group’s NSA QR at 12 and Exhibit S2-3(e).

prompted by SGUP's concern about the effect of tax on "the competitiveness of {the} Iron and Steel Industry of the State."¹⁰¹

Regarding the Exemption from Entry Tax for the Iron and Steel Industry, Norma claims that this program was terminated in July 2017.¹⁰² However, we note that there is no evidence on the record of this proceeding demonstrating that this program has been terminated by an official government act, there has been no replacement program, or that there are no residual benefits provided. Pursuant to Section 351.526 without such evidence we are unable to find the program be terminated. Our findings are consistent with prior India CVD proceedings.¹⁰³

Norma reported that both it and USK received exemptions from entry tax for purchases of billets which were used for the production of subject and non-subject merchandise.¹⁰⁴ Further, there is no application or approval process.¹⁰⁵ Based on this information, we cannot reliably determine that at the time of bestowal of the exemption from entry taxes, that the purchases were tied to production of a particular product within the meaning of 19 CFR 351.525(b)(5). Therefore, we find that all of Norma and USK's exemptions benefit the companies' total sales. Furthermore, Norma's exemption from entry taxes on billets constitutes a benefit pursuant to section 771(5)(E) of the Act.

Additionally, as indicated above, information is missing from the GOI regarding the administration of this program. In the absence of this information, we are calculating a benefit for this program based on an entry rate of 5 percent. Although Norma placed information on the record indicating that the highest entry rate for iron and steel products is one percent, there is no corroborating information from the GOI confirming that this is the applicable rate during the POR. Meanwhile, contrary information on the record indicates that products entering Uttar Pradesh are subject to an entry tax as high as five percent.

Absent such corroborating information, as AFA, we are preliminarily calculating a benefit using the five percent entry rate for Norma and USK. We then divided the total amount of the benefit received by Norma and USK by the combined total sales made by Norma and USK made during the POR. On this basis, we determine a countervailable subsidy of 0.76 percent *ad valorem* for Norma Group.

¹⁰¹ See Petitioners' Letter, "Finished Carbon Steel Flanges from India: Comments on Norma (India) Limited's New Subsidy Allegation Questionnaire Response," dated May 6, 2019 at 3 and Exhibit 1. 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) (*Oil Country Tubular Goods from India*), and accompanying IDM at Comment 15.

¹⁰² See Norma Group's NSA QR at 14.

¹⁰³ See, e.g., *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel From India: Final Affirmative Countervailing Duty Determination*, 82 FR 58172 (December 11, 2017) (*Mechanical Tubing from India*), and accompanying issues and decision memorandum at Comment 7.

¹⁰⁴ See Norma Group's NSA QR at 9-10 and 14.

¹⁰⁵ *Id.* at 12.

B. Programs Preliminarily Determined to be Not Used

We preliminarily determine that respondents did not apply for or receive countervailable benefits during the POR under the following programs:

1. Focus Product Scheme
2. Advanced License Program
3. Advance Authorization Scheme
4. Duty Free Import Authorization Scheme
5. Market Development Scheme
6. Market Access Initiative
7. Status Certificate Program
8. Steel Development Fund Loans
9. Incremental Export Incentivization Scheme
10. Pre-Shipment and Post-Shipment Export Financing
11. Provision for Less Than Adequate Remuneration (LTAR) of Carbon Steel Inputs Provided by Steel Authority of India (SAIL) Used in the Production of Flanges

State Government of Maharashtra (SGOM) Subsidy Programs

12. Infrastructure Assistance for Mega Projects Under the Maharashtra Industrial Policy of 2013 and Other SGOM Industrial Promotion Policies to Support Mega Projects
13. Subsidies for Mega Projects under the Package Scheme of Incentives
14. Maharashtra Package Scheme of Incentives, 2013

Export Oriented United

15. Duty-Free Importation of Capital Goods and Raw Materials
16. Reimbursements of Central Sales Tax (CST) Paid on Goods Manufactured in India
17. Duty Drawback on Fuel Procured from Domestic Oil Companies
18. Exemption from Payment of Central Excise Duty (CED) on Goods Manufactured in India and Procured from a Domestic Tariff Area

State Government of Uttar Pradesh (SGUP) Subsidies

19. Investment Promotion Scheme
20. Special Assistance for Mega Projects

State Government of Punjab (SGP) Subsidies

21. Punjab Fiscal Incentives for Industrial Promotion

B. Programs Preliminarily Determined to Not Be Countervailable

1. Pradham Mantri Rojgar Prothsahan Yojna (PMRPY) Scheme

This program was initially reported by Norma, UMA, and USK in their questionnaire responses.¹⁰⁶ The GOI reported that the PMRPY Scheme was created to incentivize employers to hire new employees and to provide them social security.¹⁰⁷ Under this program, all companies must register with the Employees' Provident Fund Organisation (EPFO), not have hired employees that previously worked for an EPFO-registered employer, and the new employee must be earning less than or equal to 15,000 rupees per month.¹⁰⁸ The program is open to any company if the employer/new employee meet these criteria, the GOI will make an 8.33 percent contribution to the Employees' Pension Scheme for a period of three years.¹⁰⁹

The PMRPY Scheme represents a financial contribution in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act, because the GOI is directly providing funds to employees that would otherwise be paid by Norma, UMA, USK, or RNG. Based on the information initially provided by the GOI in its supplemental response, Commerce preliminarily finds that this program is not specific within the meaning of section 771(5A) of the Act because the EPFO registration is open to public and private sector employers and is not limited to a particular industry, sector or enterprise. Therefore, we preliminarily determine that this program is not countervailable.

¹⁰⁶ See Norma Initial QR at 43; UMA Initial QR at 38, USK Initial QR at 56-57; *see also* Norma Group Second SQR at 13-17, 24-28, and 53-57.

¹⁰⁷ See GOI Second SQR at 9 and Exhibit A.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.* at Exhibit A. We note that for the textile sector, an additional contribution of 3.67 percent is made by the GOI to the Employees Provident Fund (EPF).

IX. CONCLUSION

We recommend applying the above methodology for these preliminary results.



Agree

Disagree

10/8/2019

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance