



C-533-825  
Third Sunset Review  
**Public Document**  
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October 29, 2019

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

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

**RE:** Issues and Decision Memorandum for the Final Results of the  
Expedited Third Sunset Review of the Countervailing Duty Order  
on Polyethylene Terephthalate Film, Sheet, and Strip from India

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## I. SUMMARY

We have analyzed the responses of interested parties in the expedited sunset review of the countervailing duty (CVD) order on polyethylene terephthalate film, sheet, and strip (PET film) from India. We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum. Below is the complete list of the issues that we address in this expedited sunset review:

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
2. Net Countervailable Subsidy Likely to Prevail
3. Nature of the Subsidy

## II. BACKGROUND

On July 1, 2002, the Department of Commerce (Commerce) published, in the Federal Register, the CVD order on PET film from India.<sup>1</sup> On July 1, 2019, Commerce initiated the third sunset review of the *Order* pursuant to section 751(c)(2) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218(c).<sup>2</sup> On July 11 and July 16, 2019, DuPont Teijin Films, Mitsubishi Polyester Film, Inc., and SKC, Inc. (collectively, the petitioners),<sup>3</sup> and Terphane LLC (Terphane), a domestic interested party within the meaning of section 771(9)(c) of the Act

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

<sup>2</sup> See *Initiation of Five-Year (Sunset) Reviews*, 84 FR 31304 (July 1, 2019).

<sup>3</sup> See Petitioners’ Letter, “Polyethylene Terephthalate Film, Sheet, and Strip from India: Notice of Intent to Participate in Sunset Review,” dated July 11, 2019.

(collectively, domestic interested parties),<sup>4</sup> filed timely notices of intent to participate, in accordance with 19 CFR 351.218(d)(1), respectively. On July 31, 2019, Commerce received substantive responses from domestic interested parties, in accordance with 19 CFR 351.218(d)(3)(i).<sup>5</sup> Commerce did not receive a response from the Government of India (GOI) or any Indian producers or exporters.

In accordance with 19 CFR 351.218(e)(1)(ii)(C)(2), when there are inadequate responses from respondent interested parties, we “{n}ormally will conduct an expedited sunset review and, not later than 120 days after the date of publication in the *Federal Register* of the notice of initiation, issue final results of review based on the facts available in accordance with 19 CFR 351.308(f) (*see* section 751(c)(3)(B) of the Act and 19 CFR 351.221(c)(5)(ii)).” Consistent with Commerce regulations and practice, we determine that in the absence of responses from the GOI and other respondent interested parties (*i.e.*, producers and exporters), Commerce is conducting an expedited (120-day) sunset review of the *Order*.

### III. HISTORY OF THE *ORDER*

In the final determination<sup>6</sup> of the investigation, covering the period April 1, 2000 through March 31, 2001, Commerce found an estimated net countervailable subsidy rate of 19.42 percent for Ester Industries Ltd. (Ester), 25.47 percent for Garware Polyester Ltd. (Garware), 20.12 percent for Polyplex Corporation Ltd. (Polyplex), and 21.59 percent for all other producers and exporters of PET film from India based on the following countervailable programs:

1. Pre-Shipment and Post-Shipment Export Financing (GOI);
2. Duty Entitlement Passbook Scheme (DEPS) (GOI);
3. Special Import Licenses (SILs) (GOI);
4. Export Promotion Capital Goods Scheme (EPCGS) (GOI);
5. State Sales Tax Incentive Scheme (State of Maharashtra (SGOM) and State of Uttar Pradesh (SGUP));
6. Electricity Duty Exemption Scheme (SGOM);
7. Capital Incentive Scheme (SGOM); and
8. Waiving of Interest on Loan by SICOM Limited (SGOM).

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<sup>4</sup> See Terphane’s Letter, “Five-Year (“Sunset”) Review of Countervailing Duty Order on Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Notice of Intent to Participate,” dated July 16, 2019.

<sup>5</sup> See Petitioners’ Letter, “Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Substantive Response to the Notice of Initiation,” dated July 31, 2019 (Petitioners’ Substantive Response); *see also* Terphane’s Letter, “Five-Year (“Sunset”) Review of Antidumping Orders on Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India and Taiwan, and Countervailing Duty Order on PET Film, Sheet and Strip from India: Terphane’s Substantive Response,” dated July 31, 2019, expressing full support of the Petitioners’ Substantive Response. In addition, on July 31, 2019, Polyplex USA LLC, also a domestic interested party within the meaning of section 771(9)(c) of the Act, filed a substantive response in support of the petitioners’ positions. *See* Polyplex USA LLC’s Letter, “Polyethylene Terephthalate (PET) Film from India and Taiwan: Response to the Notice of Initiation of Five-Year (Sunset) Reviews and Support for Continuation of the Orders,” dated July 31, 2019.

<sup>6</sup> *See Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India*, 67 FR 34905 (May 16, 2002) (*Final Determination*).

These rates were adjusted for cash deposit purposes to reflect Commerce's determination that one program, the SILs, was terminated. The adjusted rates were 18.43 percent for Ester, 24.48 percent for Garware, 18.66 percent for Polyplex, and 20.40 percent for all others.<sup>7</sup>

The following programs were determined to be not used: Exemption of Export Credit from Interest Taxes, Income Tax Exemption Scheme (Sections 10A, 10B, and 80HHC), Loan Guarantees from the GOI, and Benefits for Export Processing Zones/Export Oriented Units (EOUs). The Advance License Program (ALP) was determined not to confer subsidies in the investigation.

In the *First Sunset Review* on imports of PET film from India, pursuant to section 751(c) of the Act, Commerce found that revocation of the *Order* would likely lead to continuation or recurrence of subsidization.<sup>8</sup> In providing to the International Trade Commission (ITC) the subsidy rate likely to prevail if the *Order* were revoked, we first added the countervailable subsidy rates from the additional subsidy programs found countervailable during the first through third administrative reviews: Duty Free Replenishment Certificate (DFRC),<sup>9</sup> ALP, EOU, and Capital Subsidy, to the net countervailable subsidy rate determined in the original investigation.<sup>10</sup> The rates for these programs were added to each company's rate and to the all-others rate, consistent with Commerce's practice.<sup>11</sup> Based on findings in the investigation and administrative reviews, we also determined that the SILs program had been terminated with no residual benefits past 2006, and found no evidence that this program had been replaced with any new program that was not also reflected in our likelihood findings.<sup>12</sup> Accordingly, we subtracted the rate calculated for this terminated program from the adjusted company-specific rates and the adjusted all-others rate.<sup>13</sup> On May 8, 2008, Commerce published the notice of continuation of the *Order*.<sup>14</sup>

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<sup>7</sup> See *Final Determination*, 67 FR at 34906.

<sup>8</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Expedited Five-Year (Sunset) Review of the Countervailing Duty Order*, 72 FR 57300 (October 9, 2007) (*First Sunset Review*), and accompanying Issues and Decision Memorandum (IDM).

<sup>9</sup> This program was introduced in 2001 and was not examined in the investigation.

<sup>10</sup> See *First Sunset Review*, IDM at 7. An additional program, the 80HHC program, was found to be used in the first administrative review (2001-2002). However, in the third administrative review (2004), this program was found to be terminated effective March 31, 2004. See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 72 FR 6530 (February 12, 2007) (*Final Results 2004*).

<sup>11</sup> See, e.g., *Hot-Rolled Carbon Steel Flat Products from Argentina, India, Indonesia, South Africa, and Thailand: Final Results of Expedited Five-Year (Sunset) Reviews of the Countervailing Duty Orders*, 71 FR 70960 (December 7, 2006) (*Hot-Rolled Steel Final Sunsets*), and accompanying IDM at "Net Countervailable Subsidy Likely to Prevail."

<sup>12</sup> See *First Sunset Review*, IDM at 8.

<sup>13</sup> Because the 80HHC program was identified as a countervailable subsidy in the first administrative review and it was found to be terminated during the third administrative review, the rate from this program is not reflected in the rates from the investigation and, thus, it was not necessary to make any adjustments for this in the *First Sunset Review*.

<sup>14</sup> See *Continuation of Countervailing Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from India*, 73 FR 26080 (May 8, 2008).

On August 5, 2013, Commerce issued the expedited final results of the *Second Sunset Review* of the *Order*.<sup>15</sup> Pursuant to section 751(c) of the Act, Commerce found that revocation of the *Order* would be likely to lead to continuation or recurrence of subsidization. In providing to the ITC the subsidy rate likely to prevail if the *Order* were revoked, Commerce's practice is to first add to the net countervailable subsidy rate determined in the *First Sunset Review*, the countervailable subsidy rates from any additional subsidy programs found countervailable in the final results of the fourth through ninth administrative reviews subsequent to the final results of the prior sunset review. Commerce did not find any new countervailable subsidy rates from additional subsidy programs found countervailable during the fourth through ninth administrative reviews. As such, Commerce did not add any rates for additional programs as part of the rates reported to the ITC in the *Second Sunset Review*.

However, Commerce conducted one new shipper review (NSR) since the continuation of the *Order* in the *First Sunset Review* but before the *Second Sunset Review*. In the final results of the NSR of SRF Limited (SRF),<sup>16</sup> Commerce determined that the Special Economic Zones (SEZs), formerly known as Export Process Zones (EPZ) provided countervailable subsidies to producers and exporters of subject merchandise. In the final results of the *Second Sunset Review*, Commerce inadvertently did not include the calculated rate of this new program found in the NSR in its calculation of the subsidy rate likely to prevail if the *Order* were revoked.<sup>17</sup> Commerce has now added the cumulative rate of the SEZs to each company's rate and to the all-others rate, consistent with its practice.<sup>18</sup>

Further, in the *Second Sunset Review*,<sup>19</sup> Commerce determined that the Capital Subsidy program, found countervailable in the 2001-2002 administrative review,<sup>20</sup> provided a non-recurring countervailable subsidy to Polyplex in 1989, the year in which the capital grant was received, and the benefits were allocated over 18 years, the company-specific average-useful live (AUL). In accordance with the *Policy Bulletin*, ". . . a subsidy for which the benefits are allocated over time, {Commerce} normally will determine that a countervailable subsidy will continue to exist when the benefit stream, as defined by {Commerce}, will continue beyond the end of the end of the sunset review, without regard whether the program that gave rise to the long-term benefit continues to exist."<sup>21</sup> In the *Second Sunset Review*, Commerce determined that the benefit ceased to exist before the conclusion of that sunset review, and subtracted the rate calculated for this fully-allocated benefit under this program from the adjusted company-

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<sup>15</sup> See *Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Final Results of the Expedited Second Sunset Review of the Countervailing Duty Order*, 78 FR 47276 (August 5, 2013) (*Second Sunset Review*), and accompanying IDM.

<sup>16</sup> *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty New Shipper Review*, 76 FR 30910 (May 27, 2011) (*New Shipper Review*).

<sup>17</sup> See *Second Sunset Review*, IDM at 4.

<sup>18</sup> See, e.g., *Hot-Rolled Steel Final Sunsets*, IDM at "Net Countervailable Subsidy Likely to Prevail."

<sup>19</sup> See *Second Sunset Review*, IDM at 7-8.

<sup>20</sup> See *Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 69 FR 51063 (August 17, 2004) (*Final Results 2001-2002*), and accompanying IDM at "Capital Subsidy."

<sup>21</sup> See *Policies Regarding the Conduct of Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871, 18874 (April 16, 1998) (*Policy Bulletin*).

specific rates and the adjusted all-others rate.<sup>22</sup> On August 6, 2014, Commerce published the notice of continuation of the *Order*.<sup>23</sup>

Commerce conducted a tenth administrative review covering the period January 1, 2011 through December 31, 2011. For the sole respondent in that review, SRF, Commerce calculated a net countervailable subsidy rate of 2.64 percent.<sup>24</sup> That rate was based on the following countervailable programs: Pre-Shipment and Post-Shipment Export Financing Program, EPCGS, and SEZ.<sup>25</sup>

Commerce conducted the 11th administrative review covering the period January 1, 2012 through December 31, 2012. In the final results of that review, Commerce calculated a net countervailable subsidy rate of 7.66 percent for Jindal and 2.03 percent for SRF.<sup>26</sup> These rates were based on the following countervailable programs: Pre-Shipment and Post-Shipment Export Financing Program, EPCGS, Duty Drawback Program (DDB), Status Holder Incentive Scheme (SHIS), SEZ, State and Union Territory Sales Tax Incentive Programs, and State Government of Maharashtra (SGOM) Subsidies Under the Package Scheme of Incentives (PSI) 1993 and 2007.<sup>27</sup> We first added the countervailable subsidy rates from the additional subsidy programs found countervailable in this administrative review, *i.e.*, the DDB, the SHIS, and the SGOM PSI, to the net countervailable subsidy rates determined in the *Second Sunset Review*. Further, Commerce determined that the Duty Entitlement Passbook Scheme (DEPS/DEPB), which Commerce found countervailable in the investigation, terminated in this review, with no residual benefits remaining or a successor program in place.<sup>28</sup> Accordingly, we subtracted the rate calculated for this program in the investigation from the adjusted company-specific rates and the adjusted all-others rate. Because the company-specific sales figures are no longer available to Commerce to weight-average the rates calculated for this program and the three respondents, Commerce derived the adjustment for the all-others rate by taking the simple average of the rates calculated for the respondents in the investigation to apply to the all-others rate.

Commerce conducted the 12th administrative review covering the period January 1, 2013 through December 31, 2013. In the final results of that review, Commerce calculated a net countervailable subsidy rate of 8.90 percent for Jindal, 2.11 percent for SRF, and 6.09 percent for all respondent companies not selected for individual review.<sup>29</sup> These rates were based on the

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<sup>22</sup> See *Second Sunset Review*, IDM at 12.

<sup>23</sup> See *Polyethylene Terephthalate Film, Sheet and Strip from India and Taiwan: Continuation of Antidumping and Countervailing Duty Orders*, 79 FR 45762 (August 6, 2014).

<sup>24</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 11412 (February 28, 2014) (*Final Results 2011*), and accompanying IDM.

<sup>25</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Preliminary Results of Countervailing Duty Administrative Review; 2011*, 78 FR 48147 (August 7, 2013), and accompanying IDM at 5-14, unchanged in *Final Results 2011*.

<sup>26</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review, 2012*, 80 FR 11163 (March 2, 2015) (*Final Results 2012*), and accompanying IDM.

<sup>27</sup> *Id.*, IDM at “Programs Determined to be Countervailable.”

<sup>28</sup> *Id.*, IDM at “Programs Determined to be Terminated.”

<sup>29</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review; 2013*, 81 FR 7753 (February 16, 2016), and accompanying IDM.

following countervailable programs: EPCGS, Advance Authorization Schemes (AAS), aka Advance License Program (ALP), DDB, SHIS, SEZ, State and Union Territory Sales Tax Incentive Programs, and SGOM PSI 1993 and 2007.<sup>30</sup>

Commerce conducted the 13th administrative review covering the period January 1, 2014 through December 31, 2014. In the final results of that review, Commerce calculated a net countervailable subsidy rate of 5.52 percent for Jindal and 2.16 percent for SRF.<sup>31</sup> These rates were based on the following countervailable programs: EPCGS, AAS, aka ALP, SHIS, SEZ, State and Union Territory Sales Tax Incentive Programs, and SGOM Subsidies Under the Package Scheme of Incentives (PSI) 1993 and 2007.<sup>32</sup>

Commerce conducted the 14th administrative review covering the period January 1, 2015 through December 31, 2015. In the final results of that review, Commerce calculated a net countervailable subsidy rate of 5.26 percent for Jindal and 5.79 percent for SRF.<sup>33</sup> These rates were based on the following countervailable programs: EPCGS, AAS, aka ALP, SHIS, SEZ, Merchandise Export from India Scheme (MEIS), State and Union Territory Sales Tax Incentive Programs, and SGOM PSI 1993 and 2007.<sup>34</sup> We added the countervailable subsidy rate calculated for an additional subsidy program found countervailable in this administrative review, *i.e.*, the MEIS, to the net countervailable subsidy rates determined in the *Second Sunset Review*.<sup>35</sup>

Commerce conducted the 15th administrative review covering the period January 1, 2016 through December 31, 2016. In the final results of that review, Commerce calculated a net countervailable subsidy rate of 11.26 percent for Jindal, 7.54 percent for SRF, and 9.40 percent for all other companies not selected for individual examination.<sup>36</sup> These rates were based on the following countervailable programs: EPCGS, AAS, aka ALP, SHIS, SEZ, DDB, MEIS, Incremental Exports Incentivization Scheme (IEIS), Section 35 Research and Development (R&D) Deductions of the Income Tax Act, 1961 (Section 35 R&D Deductions), sub-sections 35(1)(iii) and (iv), and 35(2A) and 35DD, Section 32 for Investments into new Plants and Machinery of the Income Tax Act, 1961 (Section 32 Capital Investment Deductions), sub-section 32AC, State and Union Territory Sales Tax Incentive Programs, and SGOM PSI 1993 and 2007.<sup>37</sup> We added the countervailable subsidy rate calculated for the additional subsidy programs found countervailable in this administrative review, *i.e.*, the IEIS, the Section 35 R&D Deductions, sub-sections 35(1)(iii) and (iv), and 35(2A) and 35DD, and the Section 32

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<sup>30</sup> *Id.*, IDM at “Programs Determined to be Countervailable.”

<sup>31</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review, 2014*, 81 FR 89056 (December 9, 2016), and accompanying IDM.

<sup>32</sup> *Id.*, IDM at “Programs Determined to be Countervailable.”

<sup>33</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review, 2015*, 83 FR 5612 (February 8, 2018), and accompanying IDM.

<sup>34</sup> *Id.*, IDM at “Programs Determined to be Countervailable.”

<sup>35</sup> *Id.*

<sup>36</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review, 2016*, 84 FR 10789 (March 22, 2019) (*Final Results 2016*), and accompanying IDM.

<sup>37</sup> *Id.*, IDM at “Programs Determined to be Countervailable.”

Capital Investment Deductions, sub-section 32AC, to the net countervailable subsidy rates determined in the *Second Sunset Review*.<sup>38</sup>

Further, Commerce is currently conducting the 15th administrative review covering the period January 1, 2017 through December 31, 2017. Respondents in that review are Jindal and SRF. Commerce issued the preliminary results of that review on September 6, 2019.<sup>39</sup> In addition, Commerce initiated the 2018 administrative review of the *Order* on September 9, 2019.<sup>40</sup>

#### **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.

#### **V. DISCUSSION OF THE ISSUES**

In accordance with section 751(c)(1) of the Act, Commerce is conducting this review to determine whether revocation of the *Order* would be likely to lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that in making this determination Commerce shall consider: (1) the net countervailable subsidy determined in the investigation and any subsequent reviews, and (2) whether any changes in the programs which gave rise to the net countervailable subsidy have occurred that are likely to affect the net countervailable subsidy.

Pursuant to section 752(b)(3) of the Act, Commerce shall provide to the ITC the net countervailable subsidy likely to prevail if the order were revoked. In addition, consistent with section 752(a)(6) of the Act, Commerce shall provide to the ITC information concerning the nature of the subsidy and whether the subsidy described is in Article 3 or Article 6.1 of the 1994 World Trade Organization (WTO) Agreement on Subsidies and Countervailing Measures (ASCM).

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<sup>38</sup> *Id.*

<sup>39</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*; 2017, 84 FR 48105 (September 12, 2019), and accompanying PDM.

<sup>40</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 47242, 47251 (September 9, 2019).

## 1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy

### Interested Parties' Comments

The domestic interested parties argue that subsidization of PET film from India would likely continue or recur if Commerce revoked the *Order* because: “(1) {Commerce} has found that Indian companies continue to receive countervailable subsidies after issuance of the order at levels well above *de minimis*, despite the imposition of countervailing duties; and (2) there have been no changes to the programs giving rise to {Commerce’s} countervailing duty determination that are likely to affect the net countervailable subsidy rates.”<sup>41</sup> The petitioners state that, since the issuance of the *Order*, Commerce has conducted numerous administrative reviews and a NSR, and consistently found Indian companies receiving countervailable subsidies.<sup>42</sup> In particular, the administrative reviews covering this five year period, Commerce found subsidy rates ranging from 2.11 percent to 11.26 percent for Indian respondents, *i.e.*, clearly well above the *de minimis* rate.<sup>43</sup>

Further, the petitioners contend that, absent any changes to the programs that materially affect that net countervailable subsidy, revocation of the *Order* is likely leading to the continuation or recurrence of countervailable subsidies.<sup>44</sup> The petitioners cite to the legislative history of section 751(B)(1) in the Statement of Administrative Action (SAA):

Continuation of a program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies. Temporary suspension or partial termination of a subsidy program also will be probative of continuation or recurrence of countervailable subsidies, absent significant evidence to the contrary.<sup>45</sup>

The petitioners point out that nearly all subsidy programs found countervailable in the investigation continue to exist, and the programs alleged but not used in the investigation, also still exist. Only three programs, the SILs, the Capital Subsidy,<sup>46</sup> and the DEPS/DEPB have been found terminated, have no residual benefits, and have no likelihood of reinstatement or replacement.<sup>47</sup> The status of the additional subsidies found countervailable in the reviews leading up to the *First Sunset Review* and the *Second Sunset Review* remain largely unchanged, indicating that (1) Indian producers/exporters of subject merchandise still receive subsidies with the *Order* in place, and (2) the number of subsidy programs has increased.<sup>48</sup>

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<sup>41</sup> See Petitioners’ Substantive Response at 3-4.

<sup>42</sup> *Id.* at 4.

<sup>43</sup> *Id.* at 4-5.

<sup>44</sup> *Id.* at 5-6.

<sup>45</sup> *Id.* at 6 (citing SAA, H. Doc. No. 316, 103d Cong., 2d Session, Vol. 1 (1994) at 888).

<sup>46</sup> In the *Second Sunset Review*, Commerce determined that the benefit to respondent Polyplex Corporation has been fully allocated over the company’s AUL, and no residual benefits continue to exist.

<sup>47</sup> See Petitioners’ Substantive Response at 7.

<sup>48</sup> *Id.* at 7-9.



## Commerce's Position

According to the SAA, Commerce will consider the net countervailable subsidies in effect after the issuance of the order and whether the relevant subsidy programs have been continued, modified, or eliminated.<sup>49</sup> The SAA adds that continuation of a program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies.<sup>50</sup> Additionally, the presence of programs that have not been used, but also have not been terminated without residual benefits or replacement programs, is also probative of the likelihood of continuation or recurrence of a countervailable subsidy.<sup>51</sup> Where a subsidy program is found to exist, Commerce will normally determine that revocation of the CVD order is likely to lead to continuation or recurrence of a countervailable subsidy regardless of the level of subsidization.<sup>52</sup>

As Commerce has stated in other sunset determinations, two conditions must be met in order for a subsidy program not to be included in determining the likelihood of continued or recurring subsidization: (1) the program must be terminated; and (2) any benefit stream must be fully allocated.<sup>53</sup> Commerce has further stated that, in order to determine whether a program has been terminated, Commerce will consider the legal method by which the government eliminated the program and whether the government is likely to reinstate the program.<sup>54</sup> Commerce normally expects a program to be terminated by means of the same legal mechanism used to institute it.<sup>55</sup> Where a subsidy is not bestowed pursuant to a statute, regulation or decree, Commerce may find no likelihood of continued or recurring subsidization if the subsidy in question was a one-time, company-specific occurrence that was not part of a broader government program.<sup>56</sup>

In conclusion, based on the facts on the record, Commerce determines that there is a likelihood of recurrence of countervailable subsidies because the record in this proceeding indicates that the subsidy programs found countervailable during the investigation continue to exist, with the exception of the SILs program and the DEPS/DEPB, which Commerce previously found to be terminated with no residual benefits and found no replacement

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<sup>49</sup> See SAA, H. Doc. No. 316, 103d Cong., 2d Session, Vol. 1 (1994) at 888.

<sup>50</sup> *Id.*

<sup>51</sup> See, e.g., *Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil: Final Results of Full Sunset Review of Countervailing Duty Order*, 75 FR 75455 (December 3, 2010), and accompanying IDM Comment 1.

<sup>52</sup> *Id.*

<sup>53</sup> See, e.g., *Preliminary Results of Full Sunset Review: Certain Corrosion-Resistant Carbon Steel Flat Products from France*, 71 FR 30875 (May 31, 2006), and accompanying IDM at 5-7, unchanged in *Corrosion-Resistant Carbon Steel Flat Products from France; Final Results of Full Sunset Review*, 71 FR 58584 (October 4, 2006).

<sup>54</sup> See, e.g., *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Full Third Sunset Review of Countervailing Duty Order*, 76 FR 70411 (November 14, 2011), and accompanying IDM at Comment 1.

<sup>55</sup> See, e.g., *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from India*, 66 FR 49635 (September 28, 2001), and accompanying IDM at Comment 7.

<sup>56</sup> See, e.g., *Stainless Steel Plate in Coils from Belgium: Final Results of Full Sunset Review and Revocation of the Countervailing Duty Order*, 76 FR 25666 (May 5, 2011), and accompanying IDM at Comment 1.

program.<sup>57</sup> Furthermore, all of the remaining subsidy programs found countervailable during the investigation provide recurring benefits. The 80HHC program and the Capital Subsidy were not used until the first review and, prior to the *First Sunset Review*, were found to have been terminated or the benefit fully allocated and ceased to exist.<sup>58</sup>

In addition, Commerce noted in the *First Sunset Review* that four more programs were found to confer countervailable subsidies in subsequent administrative reviews: Capital Subsidy, ALP, EOU program, and DFRC.<sup>59</sup> Consequently, Commerce found in the *First Sunset Review* that countervailable subsidies would be likely to continue or recur in the event that the *Order* was revoked for seven of the eight programs determined to be countervailable in the investigation,<sup>60</sup> and for four programs determined to be countervailable in subsequent reviews.<sup>61</sup> Since the *First Sunset Review*, and leading up to the *Second Sunset Review*, Commerce did not find any other programs conferring countervailable subsidies in any administrative reviews. Also, in the *Second Sunset Review*, Commerce determined that the benefits under the Capital Subsidy Program had been fully allocated.<sup>62</sup> The program provided a non-recurring countervailable benefit was allocated over 18 years, the company-specific AUL. However, in order to remove a non-recurring subsidy program from the determination that subsidization is likely to continue or recur the program must be terminated, and the benefit must be fully allocated prior to the sunset review.<sup>63</sup> Accordingly, in the *Second Sunset Review*, Commerce determined that the benefit received under the Capital Subsidy had been fully allocated, and thus, ceased to exist, and subtracted the subsidy rate for the Capital Subsidy from the company-specific rates of respondents from the investigation and the all-others rate. Consequently, Commerce found that countervailable subsidies would be likely to continue or recur in the event that the *Order* was revoked for seven of the eight programs determined to be countervailable in the investigation,<sup>64</sup> and for three programs determined to be countervailable in subsequent reviews.<sup>65</sup>

Since the *Second Sunset Review*, Commerce, as noted above, determined in the *Final Results 2012*, that the DEPS/DEPB, one of the programs found countervailable in the investigation, to be terminated with no residual benefits remaining.<sup>66</sup> However, Commerce found eight additional programs to be countervailable since the *Second Sunset Review*.<sup>67</sup>

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<sup>57</sup> See *First Sunset Review*, IDM at 8; see also *Final Results 2012*, IDM at “Programs Determined to be Terminated.”

<sup>58</sup> See *Final Results 2012*, IDM at “Income Tax Exemption Scheme 80 HHC;” see also *Second Sunset Review*, IDM at 9.

<sup>59</sup> See *First Sunset Review*, IDM at “Likelihood of Continuation or Recurrence of a Countervailable Subsidy.”

<sup>60</sup> These programs were: (1) Pre- and Post-Shipment Export Financing; (2) DEPS; (3) EPCGS; (4) State Sales Tax Incentive Programs (SGOM, SGUP, and SGOU); (5) SGOM Electricity Duty Exemption Scheme; (6) SGOM Capital Incentive Scheme; and (7) Waiving of Interest on Loan by SICOM Ltd. (SGOM).

<sup>61</sup> These programs were: (1) ALP; (2) EOU; (3) Capital Subsidy; and (4) DFRC.

<sup>62</sup> See *Final Results 2001-2002*, IDM at “Capital Subsidy;” see also *Final Results 2004*, IDM at “Capital Subsidy.”

<sup>63</sup> See *Policy Bulletin*, 73 FR at 18875-76.

<sup>64</sup> These programs were: (1) Pre- and Post-Shipment Export Financing; (2) DEPS; (3) EPCGS; (4) State Sales Tax Incentive Programs (SGOM, SGUP, and SGOU); (5) SGOM Electricity Duty Exemption Scheme; (6) SGOM Capital Incentive Scheme; and (7) Waiving of Interest on Loan by SICOM Ltd. (SGOM).

<sup>65</sup> These programs were: (1) ALP; (2) EOU; (3) DFRC.

<sup>66</sup> See *Final Results 2012*, IDM at “Programs Determined to be Terminated.”

<sup>67</sup> These programs were: (1) Special Economic Zones (SEZs) formerly known as Export Process Zones/Export Oriented Units (EPZs); (2) Duty Drawback Program (DDB); (3) Status Holder Incentive Scheme (SHIS); (4)

In the instant review, Commerce did not receive a response from the GOI, or any other respondent interested party. Consistent with Commerce's practice, absent argument or evidence to the contrary, we find that countervailable programs, many of which are prohibited export subsidies, continue to exist and be used.<sup>68</sup> Furthermore, with the exception of the three subsidy programs noted above that Commerce found were terminated, there is no information on the record that the programs at issue in the instant sunset review have been terminated without residual benefits, recurrence or replacement programs or found non-countervailable. Furthermore, as above, subsequent to the *Second Sunset Review* alone, Commerce found an additional eight additional subsidy programs countervailable, evidence that respondent producers/exporters of subject merchandise continue to benefit from government subsidies.

Based on the above facts, it is reasonable to determine that countervailable subsidy programs continue to exist and are being utilized. Specifically, the continuation of programs is highly probative of the likelihood of the continuation or recurrence of countervailable subsidies. Therefore, because we find that the countervailable programs examined in this proceeding continue to exist and be used, and because the foreign government and other respondent interested parties did not participate in this sunset review before Commerce, and absent argument or evidence to the contrary, Commerce determines that revocation of the *Order* would likely lead to a continuation or recurrence of a countervailable subsidy for all respondent interested parties.

## **2. Net Countervailable Subsidy Likely to Prevail**

### Interested Parties' Comments

The petitioners contend that section 752(b)(3) of the Act requires that Commerce determine and report to the ITC the magnitude of the net countervailable subsidy that is likely to prevail if an order is revoked.<sup>69</sup> Further, the petitioners want Commerce to continue calculating the countervailable subsidy rates likely to prevail pursuant to section 752(b)(3) of the Act and the guidance provided in the *Policy Bulletin*,<sup>70</sup> and as Commerce did in the prior two sunset reviews, calculate company-specific subsidy rates likely to prevail based on the final determination of the original investigation, adjusted to account for programs Commerce found terminated and programs found countervailable in subsequent segments of the proceeding.<sup>71</sup> Therefore, Commerce should reach the same conclusions that revocation of the

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Merchandise from India Scheme (MEIS); (5) Incremental Exports Incentivization Scheme (IEIS); (6) Section 32 Capital Investment Deductions of the Income Tax Act, 1961; (7) Section 35 R&D Deductions of the Income Tax Act, 1961; and (8) State Government of Maharashtra Subsidies Under the Package Scheme of Incentives 1993 and 2007: Industrial Promotion Subsidy (IPS).

<sup>68</sup> See, e.g., *Final Results of Expedited Sunset Review of Countervailing Duty Order: Sulfanilic Acid from India*, 70 FR 53168 (September 7, 2005), and accompanying IDM at Comment 1.

<sup>69</sup> See Petitioners' Substantive Response at 9-10.

<sup>70</sup> See *Policy Bulletin*, 63 FR at 18875-76.

<sup>71</sup> See Petitioners' Substantive Response at 10-11.

*Order* would be likely to lead to continuation or recurrence of countervailable subsidies at these countervailable subsidy rates.<sup>72</sup>

### Commerce's Position

Commerce normally will provide the ITC the net countervailable subsidy that was determined in the investigation as the subsidy rate likely to prevail if the order is revoked because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place.<sup>73</sup> Section 752(b)(1)(B) of the Act provides, however, that Commerce will consider whether any change in the program which gave rise to the net countervailable subsidy determination in the investigation or subsequent reviews has occurred that is likely to affect the net countervailable subsidy. Therefore, although the SAA and House Report provide that Commerce normally will select a rate from the investigation, this rate may not be the most appropriate if, for example, the rate was derived (in whole or part) from subsidy programs which were found in subsequent reviews to be terminated, there has been a program-wide change, or the rate ignores a program found to be countervailable in a subsequent administrative review.<sup>74</sup>

Consistent with the SAA and Commerce's *Policy Bulletin*, Commerce has started with the rates found in the *Second Sunset Review* in finding that countervailable subsidies would be likely to continue or recur in the event that the *Order* were revoked for seven of the eight programs determined to be countervailable in the investigation,<sup>75</sup> and for three out of four programs determined to be countervailable, in subsequent reviews, and included in the rates calculated in the *Second Sunset Review*.<sup>76</sup> Further, consistent with Commerce's established practice for adjusting the company-specific rates in sunset reviews when warranted by findings in the intervening administrative reviews, we subtracted the rate for the terminated DEPS/DEPB from the company-specific rates and from the all-others rate determined in the *Second Sunset Review*, and added the above listed eight additional programs determined countervailable in subsequent reviews to the company-specific rates and the all-others rate.

### **3. Nature of the Subsidy**

Consistent with section 752(a)(6) of the Act, Commerce is providing the following information to the ITC concerning the nature of the subsidies and whether the subsidies are

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<sup>72</sup> *Id.*

<sup>73</sup> See SAA at 890; see also House Report, H.R. Rep. No. 103-826 (1994) (House Report) at 64.

<sup>74</sup> See, e.g., *Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Final Results of Expedited Second Sunset Review*, 75 FR 62101 (October 7, 2010), and accompanying IDM at Comment 2.

<sup>75</sup> These programs were: (1) Pre- and Post-Shipment Export Financing; (2) EPCGS; (3) State Sales Tax Incentive Programs (SGOM, SGUP, and SGOU); (4) SGOM Electricity Duty Exemption Scheme; (5) SGOM Capital Incentive Scheme; and (6) Waiving of Interest on Loan by SICOM Ltd. (SGOM). Commerce determined the SIL to be terminated in the *First Sunset Review*, IDM at 2.

<sup>76</sup> These programs were: (1) ALP; (2) EOU; (3) Capital Subsidy; and (4) DFRC. Commerce determined in the *Second Sunset Review* that the Capital Subsidy was fully allocated over the AUL, and that no residual benefits continued to exist, and therefore subtracted the calculated rate for the Capital Subsidy from the rates likely to prevail.

subsidies as described in Article 3 or Article 6.1 of the WTO ASCM. We note that Article 6.1 of the ASCM expired effective January 1, 2000.

The following programs fall within the definition of an export subsidy under Article 3.1 of the ASCM, as receipt of benefits under these programs are contingent upon export activity:

1. Pre-Shipment and Post-Shipment Export Financing: The Reserve Bank of India (RBI), through commercial banks, provides short-term pre-shipment financing, or "packing credits," to exporters. Upon presentation of a confirmed export order or letter of credit to a bank, companies may receive pre-shipment loans for working capital purposes, *i.e.*, for the purchase of raw materials, warehousing, packing, and transporting of export merchandise.

Post-shipment export financing consists of loans in the form of discounted trade bills or advances by commercial banks. Exporters qualify for this program by presenting their export documents to their lending bank. The credit covers the period from the date of shipment of the goods to the date of realization of export proceeds from the overseas customer. Under the Foreign Exchange Management Act of 1999, exporters are required to realize export proceeds within 180 days from the date of shipment, which is monitored by the RBI. Post-shipment financing is, therefore, a working capital program used to finance export receivables. Therefore, pre- and post-shipment export financing constitute countervailable export subsidies.

2. Duty Free Replenishment Certification Scheme: The DFRC scheme was introduced by the GOI in 2001 and is administered by the Director-General for Foreign Trade. The DFRC is a duty replenishment scheme that is available to exporters for the subsequent import of inputs used in the manufacture of goods without payment of basic customs duty. Exporters receive a license entitling them to subsequent duty-free imports of certain inputs used in the production of the exported product, as identified in the standard input-output norm (SION). Within 24 months following the receipt of a license, a company must: (1) export manufactured products listed in the GOI's export policy book, against which there is a SION for inputs required in the manufacture of the export product; and (2) have realized the payment of export proceeds in the form of convertible foreign currency. The application must be filed within six months of the realization of the profits. DFRC licenses are transferrable, yet the transferee is limited to importing only those products, and in the quantities specified on the license.

3. Export Promotion Capital Goods Scheme: The EPCGS provides for a reduction or exemption of customs duties and an exemption from excise taxes on imports of capital goods. Under this program, producers may import capital equipment at reduced rates of duty by undertaking to earn convertible foreign exchange equal to four to five times the value of the capital goods within a period of eight years. For failure to meet the export obligation, a company is subject to payment of all or part of the duty reduction, depending on the extent of the export shortfall. The company is also subject to the payment of penalty interest.

4. Advance Authorization Scheme (AAS), formerly Advance License Program (ALP): Under the AAS, 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 SIONs established by the GOI. Advance intermediate licenses and special import licenses are also used to import inputs duty-free.

5. Export Oriented Units: A company that is designated as an EOU is eligible to receive various forms of assistance in exchange for committing for five years to export all of the products it produces, excluding rejects and certain domestic sales. Companies designated as EOUs may receive the following benefits: (a) duty-free importation of capital goods and raw materials; (b) reimbursement of central sales tax (CST) paid on materials procured within India; (c) purchase of materials and other inputs free of central excise duty; and (d) receipt of duty drawback on furnace oil procured from domestic oil companies.

(a) Duty-Free Importation of Capital Goods and Raw Materials: Under this program, an EOU is entitled to import, duty-free, capital goods and raw materials for the production of exported goods in exchange for committing to export all of the products it produces, with the exception of sales in the Domestic Tariff Area, over five years.

(b) Reimbursement of Central Sales Tax Paid on Materials Procured Domestically: Under this program, EOUs are entitled to reimbursements of the CST paid on materials procured domestically. This reimbursement is available on purchases of both raw materials and capital goods.<sup>77</sup>

6. Special Economic Zone (SEZ), formerly Export Processing Zones (EPZs): The nature of an SEZ is to provide a long-term and stable policy framework with a minimum of regulatory regime and to provide an expeditious and single window clearance mechanism for all eligible to apply for an SEZ. An SEZ may be established jointly or individually by the central government, the state government, or a person, *i.e.*, companies like SRF, to manufacture goods or provide services, or both, as well as to serve as a Free Trade and Warehousing Zone.

Companies/persons or governments that want to set-up an SEZ in an identified area, can 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

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<sup>77</sup> Commerce found Purchase of Materials and Other Inputs Free of Central Excise Duty not countervailable. *See Final Affirmative Countervailing Duty Determination: Carbazole Violet Pigment 23 from India*, 69 FR 67321 (November 17, 2004), and accompanying IDM at “Programs found not Countervailable.” Indian PET film producers/exporters have not received benefits under the Receipt of Duty Drawback on Furnace Oil Procured from Domestic Oil Companies.

period of five years from the commencement of production. In return, the companies inside the SEZ are eligible to receive various forms of assistance.<sup>78</sup>

7. Duty Drawback Scheme (DDB): 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. 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. The DDB is generally fixed as a percentage of the free on-board (FOB) price of the exported product.<sup>79</sup>

8. Status Holder Incentive Scheme (SHIS): The SHIS scheme was introduced in 2009 with the objective to promote investment in upgrading technology in specific sectors. Status Holders under the GOI’s listing of specific exported products receive incentive scrip (or credit) equal to one percent of the FOB value of the exports.<sup>80</sup>

9. Merchandise Export from India Scheme (MEIS): The MEIS was introduced on April 1, 2015, in the Foreign Trade Policy (FTP) 2015-2020. Its purpose is to offset infrastructural inefficiencies and associated costs involved in export of goods/products, which are produced/manufactured in India, especially those having high export intensity, employment potential and thereby enhancing India’s export competitiveness. Under this program, the GOI issues a scrip worth either two, three, or five percent of the FOB value of the exports in free foreign exchange realized or received, or on the “FOB value of exports in free foreign exchange, as given on the shipping bills in free foreign exchange, whichever is less.” To receive the scrip, a recipient must file an electronic application and supporting shipping documentation for each port of export with Director General of Foreign Trade (DGFT). 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.<sup>81</sup>

10. Incremental Exports Incentivization Scheme (IEIS): The IEIS was introduced in 2012, in the FTP 2009-2014. The purpose of the program is to reward companies that increased their export performance in the application year, relative to the previous year. 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, with a maximum credit of 10,000,000 rupees per company.

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) during the period April 1, 2013 to March 31, 2014, relative to April 1, 2012 to March 31, 2013. In addition, a recipient must demonstrate that it increased its overall exports in the same period. 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

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<sup>78</sup> See *New Shipper Review*.

<sup>79</sup> See *Final Results 2012*.

<sup>80</sup> *Id.*

<sup>81</sup> See *Final Results 2015*.

performance increase with the DGFT. 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.<sup>82</sup>

11. Section 32 Capital Investment Deductions of the Income Tax Act, 1961: Sub-Section 32AC(1A): This sub-section is linked to investments into new assets. It provides for a deduction from taxable income for investment in a new plant and machinery of 15 percent of the actual cost of a new plant and machinery if it exceeds a specified amount from the taxable income. Firms claiming a deduction under Sub-Section 1 of Section 32AC are not eligible for this section.

12. Section 35 R&D Deductions: Sub-Section 35(iv): This sub-section allows for deductions granted for capital expenditures on scientific research that relate to the business activities of the claimant.<sup>83</sup>

13. Section 35 R&D Deductions: Sub-Section 35(2AB): This sub-section grants deductions to companies engaged in bio-technology businesses or any manufacturing business (other than listed on a specific schedule 11) that incurs expenditures on scientific and in-house R&D facilities, as approved by the prescribed authority. Excluded are expenditures for land and buildings. Once registered, the expenditure incurred for R&D has to be accounted for in a separate set of books of accounts.<sup>84</sup>

The following programs do not fall within the meaning of Article 3.1 of the WTO ASCM. However, they could be subsidies described in Article 6.1 of the WTO ASCM if the amount of the subsidy exceeds five percent, as measured in accordance with Annex IV of the WTO ASCM. They also could fall within the meaning of Article 6.1 if they constitute debt forgiveness or are subsidies to cover operating losses sustained by an industry or enterprise. However, there is insufficient information on the record of this review in order for Commerce to make such a determination. We are, however, providing the ITC with the following program descriptions:

1. State Sales Tax/Union Territory Central Sales Tax (CST) Incentive Programs: In previous CVD administrative reviews, Commerce determined that various 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 one hundred percent owned by the GOI) manufacturers in selected industries and located in designated regions, to purchase from suppliers located in certain regions of certain states without paying sales taxes. Over the life of the *Order*, respondents have received benefits under the programs administered by the states of Chattisgarh, Daman, Delhi, Gujarat, Himachal Pradesh, Karnataka, Punjab, Rajasthan, SOM, Tamilnadu, Union Territory of Dadra & Nagarhaveli, Uttaranchal/Uttar Pradesh (SOU/SUP), and West Bengal.

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<sup>82</sup> See *Final Results 2016*.

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*



2. SGOM Capital Incentive Scheme: In the investigation, Commerce determined that one respondent received grants under this program through the SGOM 1988 package scheme of incentives. The benefits of this program, grants of up to 3,000,000 rupees, are available to certain privately-owned (*i.e.*, not one hundred percent owned by the GOI) industries that make capital investments in specific regions of Maharashtra.
3. Waiving of Interest on Loan by SICOM Limited: SICOM, a public entity, had made an intercorporate deposit with a respondent. During the period of investigation SICOM waived the interest owed by the respondent on this intercorporate deposit.
4. SGOM Electricity Duty Exemption Scheme: The SGOM Electricity Duty Exemption Scheme provides for an exemption from the payment of tax on electricity charges through this program. The benefits of this program are limited to industries located within designated geographical regions within the SGOM.
5. SGOM Package Scheme of Incentives (PSI) 1993 & 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, Annex 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. Commerce previously determined this program to be countervailable.

The IPS, at paragraph 5.1, is part of the PSI-2007 and is offered for new or expanding projects. Commerce has previously determined this program to be countervailable. 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.<sup>85</sup>

## VI. FINAL RESULTS OF SUNSET REVIEW

Commerce finds that revocation of the *Order* would be likely to lead to continuation or recurrence of countervailable subsidies at the rates listed below:

Manufacturers/Exporters	Subsidy rates (percent <i>ad valorem</i> )
Ester Industries Ltd.	20.46
Garware Polyester Ltd.	26.70
Polyplex Corporation Ltd.	15.82
All Others	22.50

<sup>85</sup> See *Final Results 2012*.

## VII. RECOMMENDATION

Based on our analysis of the substantive responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of this review in the *Federal Register* and notify the ITC of our findings.



\_\_\_\_\_  
Agree



\_\_\_\_\_  
Disagree

10/29/2019

X 

Signed by: CHRISTIAN MARSH

\_\_\_\_\_  
Christian Marsh  
Deputy Assistant Secretary  
for Enforcement and Compliance