



C-533-878
Administrative Review
POR: 01/23/2018-12/31/2018
Public Document
E&C/V: ES

February 17, 2021

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

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

SUBJECT: Decision Memorandum for the Preliminary Results of
Countervailing Duty Administrative Review: Stainless Steel
Flanges from India; 2018

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the countervailing duty (CVD) order on stainless steel flanges from India. The period of review (POR) is January 23, 2018, through December 31, 2018. The review covers two mandatory respondents, Chandan Steel Limited, India (Chandan) and Kisaan Die Tech Pvt. Ltd. (Kisaan), and 46 companies that were not selected for individual examination. We preliminarily find that countervailable subsidies are being provided to producers and exporters of stainless steel flanges from India.

II. BACKGROUND

On October 5, 2018, Commerce published in the *Federal Register* the CVD order on stainless steel flanges from India.¹ On October 1, 2019, Commerce published a notice of opportunity to request an administrative review of the *Order* for the period January 23, 2018, through December 31, 2018.² On December 11, 2019, Commerce initiated an administrative review of the *Order* with respect to 48 companies, including Chandan and Kisaan.³ In addition, we released U.S. Customs and Border Protection (CBP) data to all interested parties under an

¹ See *Stainless Steel Flanges from India: Countervailing Duty Order*, 83 FR 50336 (October 5, 2018) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 84 FR 52068 (October 1, 2019).

³ See *Initiation and Countervailing Duty Administrative Reviews*, 84 FR 67712 (December 11, 2019), as corrected by *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 3014 (January 17, 2020).



administrative protective order and requested comments regarding the data and respondent selection.⁴ We did not receive any comments regarding the data or respondent selection.

In January 2020, we selected Chandan and Kisaan, the two largest publicly-identifiably producers/exporters of subject merchandise by volume, for individual examination in this administrative review.⁵ Also in that month, we issued the initial questionnaire to the Government of India (GOI), and instructed the GOI to forward the questionnaire to the selected mandatory respondents.⁶ We received timely responses to this questionnaire from Chandan⁷ and Kisaan,⁸ and an untimely response from the GOI. Therefore, in February 2020, we rejected the GOI's untimely initial questionnaire response.⁹

Also in February 2020, the Coalition of American Flange Producers (the petitioner) timely filed a request for verification of respondents Chandan and Kisaan, claiming good cause likely exists for Commerce to verify the respondents.¹⁰

From April 2020 through February 2021, we issued supplemental questionnaires to Chandan and Kisaan. We received timely responses to these supplemental questionnaires from Chandan¹¹ and Kisaan¹² from June 2020 through February 2021.

⁴ See Memorandum, "Administrative Review of the Countervailing Duty Order of Stainless Steel Flanges from India: Release of Customs and Border Protection (CBP) Data Query," dated December 20, 2019.

⁵ See Memorandum, "Administrative Review of the Countervailing Duty Order of Stainless Steel Flanges from India: Respondent Selection" dated January 17, 2020.

⁶ See Commerce's Letter, "Administrative Review of the Countervailing Duty Order on Stainless Steel Flanges from India: Countervailing Duty Questionnaire," dated January 17, 2020 (Initial Questionnaire).

⁷ See Chandan's Letter, "Certain Stainless Steel Flanges from India (C-533-878), Affiliated Companies' Questionnaire Response," dated January 29, 2020 (Chandan January 29, 2020 AFFR); *see also* Chandan's Letter, "Certain Stainless Steel Flanges from India (C-533-878), Program Specific Questionnaire Response," dated March 3, 2020 (Chandan March 3, 2020 IQR).

⁸ See Kisaan's Letter, "Stainless Steel Flanges from India: Section III Identification of Affiliated Companies Response of Countervailing Duty Administrative Review," dated February 12, 2020 (Kisaan February 12, 2020 AFFR); *see also* Kisaan's Letter, "Response to Section III of Countervailing Duty Questionnaire of Stainless Steel Flanges from India," dated March 13, 2020 (Kisaan March 13, 2020 IQR).

⁹ See Commerce's Letter, "Administrative Review of Countervailing Duty Order of Stainless Steel Flanges from India: Rejection of Case Brief," dated February 27, 2020. We note that despite the title of this letter, this letter did in fact reject the GOI's untimely filed questionnaire response.

¹⁰ See Petitioner's Letter, "Stainless Steel Flanges from India: Request for Verification," dated February 19, 2020. Due to the imposition of a Global Level 4 travel advisory preventing Commerce personnel from traveling, Commerce does not intend to conduct verification of the information submitted by the respondents in this review.

¹¹ See Chandan's Letter, "Certain Stainless Steel Flanges from India (C-533-878), Section-III Supplemental Questionnaire Response," dated June 17, 2020 (Chandan June 17, 2020 SQR); Chandan's Letter, "Certain Stainless Steel Flanges from India (C-533-878), Third Supplemental Questionnaire Response," dated December 28, 2020 (Chandan December 28, 2020 SQR); Chandan's Letter, "Certain Stainless Steel Flanges from India (C-533-878), Fourth Supplemental Questionnaire Response," dated February 1, 2021; and Chandan's Letter, "Certain Stainless Steel Flanges from India (C-533-878), Section-III Supplemental Questionnaire Response," dated February 9, 2021.

¹² See Kisaan's Letter, "Supplemental Response to Section III of Countervailing Duty Questionnaire of Stainless Steel Flanges from India," dated June 16, 2020 (Kisaan June 16, 2020 SQR); Kisaan's Letter, "Countervailing Duty Questionnaire of Stainless Steel Flanges from India: New Subsidy Allegations Questionnaire," dated July 24, 2020; Kisaan's Letter, "3rd Supplemental Response for Question 2 to 8 of Section III of Countervailing Duty Admin Review of Stainless Steel Flanges from India," dated December 21, 2020 (Kisaan December 21, 2020 SQR); Kisaan's Letter, "3rd Supplemental Response for Question 1 of Section III of Countervailing Duty Admin Review

In April 2020, the petitioner timely filed new subsidy allegations (NSAs).¹³ Also in April 2020, Commerce tolled all deadlines in administrative reviews by 50 days.¹⁴

In July 2020, Commerce uniformly tolled the statutory deadlines in administrative reviews by an additional 60 days.¹⁵ Also in July 2020, Commerce initiated an investigation into several of the NSAs,¹⁶ and issued NSA questionnaires to the respondents.¹⁷ In July and August 2020, we received timely responses to the NSA questionnaire from Chandan,¹⁸ Kisaan,¹⁹ and the GOI.²⁰

On October 8, 2020, Commerce extended the time period for issuing these preliminary results by 120 days, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).²¹ The revised deadline for these preliminary results is now February 17, 2021.

III. SCOPE OF THE ORDER

The scope of the order covers certain forged stainless steel flanges, whether unfinished, semi-finished, or finished (certain forged stainless steel flanges). Certain forged stainless steel flanges are generally manufactured to, but not limited to, the material specification of ASTM/ASME A/SA182 or comparable domestic or foreign specifications. Certain forged stainless steel flanges are made in various grades such as, but not limited to, 304, 304L, 316, and 316L (or combinations thereof). The term “stainless steel” used in this scope refers to an alloy steel containing, by actual weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements.

Unfinished stainless steel flanges possess the approximate shape of finished stainless steel flanges and have not yet been machined to final specification after the initial forging or like operations. These machining processes may include, but are not limited to,

of Stainless Steel Flanges from India,” dated December 28, 2020 (Kisaan December 28, 2020 SQR); and Kisaan’s Letter, “4th Supplemental Response for Section III of the Countervailing Duty Admin Review of Stainless Steel Flanges from India,” dated January 28, 2021 (Kisaan January 28, 2021 SQR); and Kisaan’s Letter, “5th Supplemental Response for Section III of Countervailing Duty Admin Review of Stainless Steel Flanges from India,” dated February 9, 2021.

¹³ See Petitioner’s Letter, “Stainless Steel Flanges from India: New Subsidy Allegations,” dated April 2, 2020; *see also* Commerce’s Letter, “Administrative Review of the Countervailing Duty Order of Stainless Steel Flanges from India: New Subsidy Allegation Supplemental Questions,” dated May 20, 2020; and Petitioner’s Letter, “Stainless Steel Flanges from India: New Subsidy Allegations Supplemental Questionnaire Response,” dated May 27, 2020.

¹⁴ See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments due to COVID-19,” dated April 24, 2020.

¹⁵ See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,” dated July 21, 2020.

¹⁶ See Memorandum, “New Subsidy Allegations,” dated July 9, 2020.

¹⁷ See Commerce’s Letter, “New Subsidy Allegations Questionnaire,” dated July 10, 2020.

¹⁸ See Chandan’s Letter, “New Subsidy Allegations Questionnaire Response,” dated July 31, 2020 (Chandan NSAR).

¹⁹ See Kisaan’s Letter, “Countervailing Duty Questionnaire of Stainless Steel Flanges from India: New Subsidy Allegations Questionnaire,” dated July 24, 2020 (Kisaan NSAR).

²⁰ See GOI’s Letter, “New Subsidy Allegations Questionnaire Response,” dated August 12, 2020 (GOI NSAR).

²¹ See Memorandum, “Stainless Steel Flanges from India: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review,” dated October 1, 2020.

boring, facing, spot facing, drilling, tapering, threading, beveling, heating, or compressing. Semi-finished stainless steel flanges are unfinished stainless steel flanges that have undergone some machining processes.

The scope includes six general types of flanges. They are: (1) weld neck, generally used in butt-weld line connection; (2) threaded, generally used for threaded line connections; (3) slip-on, generally used to slide over pipe; (4) lap joint, generally used with stub-ends/butt-weld line connections; (5) socket weld, generally used to fit pipe into a machine recession; and (6) blind, generally used to seal off a line. The sizes and descriptions of the flanges within the scope include all pressure classes of ASME B16.5 and range from one-half inch to twenty-four inches nominal pipe size. Specifically excluded from the scope of this order are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A351.

The country of origin for certain forged stainless steel flanges, whether unfinished, semi-finished, or finished is the country where the flange was forged. Subject merchandise includes stainless steel flanges as defined above that have been further processed in a third country. The processing includes, but is not limited to, boring, facing, spot facing, drilling, tapering, threading, beveling, heating, or compressing, and/or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the stainless steel flanges.

Merchandise subject to the order is typically imported under headings 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings and ASTM specifications are provided for convenience and customs purposes, the written description of the scope is dispositive.

IV. PERIOD OF REVIEW

The POR is January 23, 2018, through December 31, 2018. While the POR covers only a portion of 2018, we have analyzed data for the period January 1, 2018, through December 31, 2018, to determine the countervailable subsidy rates for the POR.

V. RATE FOR NON-EXAMINED COMPANIES

The Act and Commerce's regulations do not address the establishment of a rate to be applied to individual respondents not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. Generally, Commerce looks to section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents which we did not examine in an administrative review. Section 705(c)(5)(A) of the Act articulates a preference that we are not to calculate an all-others rate using rates which are zero, *de minimis*, or based entirely on facts available. Accordingly, Commerce's usual practice in determining the rate for non-examined respondents has been to weight average the net subsidy rates for the selected

companies, excluding rates that are zero, *de minimis*, or based entirely on facts available.²² Section 705(c)(5)(A)(ii) of the Act also provides that, where all rates are zero, *de minimis*, or based entirely on facts available, we may use “any reasonable method” for assigning the all others rate, including averaging the estimated weighted-average net subsidy rates determined for the exporters and producers individually examined.

As indicated in the accompanying *Federal Register* notice, dated concurrently with this Preliminary Decision Memorandum, we preliminarily determine that Chandan and Kisaan received countervailable subsidies that are at rates above *de minimis*. Therefore, we are applying to the non-selected companies the weighted-average of the net subsidy rates calculated for Chandan and Kisaan using publicly-ranged sales data submitted by the respondents.²³

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.²⁴ In Commerce’s initial questionnaire to the GOI and the mandatory respondents, we notified the respondents to this proceeding that the AUL period would be 14 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service Publication 946 (2017).²⁵ No parties submitted comments challenging this AUL period, and we, therefore, preliminarily determine that a 14-year period is appropriate to allocate benefits from non-recurring subsidies.

Furthermore, for non-recurring subsidies, we applied the “0.5 percent test,” as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of the subsidy approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for the same year. If the amount of the subsidy is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL period.

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) provide 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. Further, 19 CFR

²² See, *e.g.*, *Certain Pasta from Italy: Final Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 37386, 37387 (June 29, 2010).

²³ See Memorandum, “Calculation of Subsidy Rate for Non-Selected Companies Under Review,” dated concurrently with this memorandum.

²⁴ See 19 CFR 351.524(b).

²⁵ See U.S. Internal Revenue Service Publication 946 (2015), “How to Depreciate Property” at Table B-2: Table of Class Lives and Recovery Periods.

351.525(c) provides that benefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm producing the subject merchandise that is sold through the trading company, regardless of affiliation.

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 another corporation 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 of voting ownership interest between two corporations or through common ownership of two (or more) corporations. The *Preamble* to Commerce's regulations further clarifies Commerce's cross-ownership standard:

{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.²⁶

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 ways it could use its own subsidy benefits.²⁷

Chandan

Chandan responded to Commerce's questionnaires on behalf of itself, reporting that it did not have any affiliated companies involved or engaged in the sale, purchase, marketing, or production of subject merchandise.²⁸ While Chandan has multiple subsidiaries, these companies are not involved in the production or sale of subject merchandise, nor in the production of inputs used to manufacture subject merchandise.²⁹ Therefore, we will attribute subsidies received by Chandan to its own sales, in accordance with 19 CFR 351.525(b)(6)(i).

Kisaan

In its initial affiliation response, Kisaan stated that Kisaan Steels Pvt. Ltd (Kisaan Steels) was one of its four shareholders during the AUL period.³⁰ Kisaan Steels was the only shareholder

²⁶ See *Countervailing Duties: Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*Preamble*).

²⁷ See *Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-04 (CIT 2001).

²⁸ See Chandan January 29, 2020 AFFR; see also Chandan March 3, 2020 IQR at 1-4.

²⁹ *Id.*

³⁰ See Kisaan February 12, 2020 AFFR at 6.

engaged in the sales and production of subject merchandise. Kisaan Steels timely submitted a complete questionnaire response.³¹ Record evidence demonstrates that Kisaan Steels no longer was a shareholder of Kisaan as of March 31, 2014.³² Additionally, Kisaan reported that Kisaan Steels did not receive any non-recurring subsidies during the beginning of the AUL period through March 31, 2014. Therefore, we are attributing the subsidies received by Kisaan only to its own sales, in accordance with 19 CFR 351.525(b)(6)(i).

C. Denominators

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, Commerce considers the basis for the respondents' receipt of benefits under each program at issue.³³ As discussed in further detail below under "Programs Preliminarily Determined to be Countervailable," where the program has been found to be countervailable as a domestic subsidy, we used the recipient's total sales as the denominator. Where the program has been found to be contingent upon export performance, we used the recipient's total export sales, export sales of subject merchandise, or export sales of subject merchandise to the United States as the denominator, in accordance with 19 CFR 351.525(b)(4). For a further discussion of the denominators used, *see* the Chandan and Kisaan Preliminary Calculation Memoranda.³⁴

VII. BENCHMARKS AND DISCOUNT RATES

Section 771(5)(E)(ii) of the Act provides that the benefit for loans is the "difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market," indicating that a benchmark must be a market-based rate. In addition, 19 CFR 351.505(a)(3)(i) stipulates that, when selecting a comparable commercial loan that the recipient "could actually obtain on the market," Commerce will normally rely on actual loans obtained by the firm. However, when there are no comparable commercial loans during the period, Commerce "may use a national average interest rate for comparable commercial loans," pursuant to 19 CFR 351.505(a)(3)(ii).

In addition, 19 CFR 351.505(a)(2)(ii) states that Commerce will not consider a loan provided by a government-owned special-purpose bank for purposes of calculating benchmark rates. In the absence of reported long-term loan interest rates, we use the above-discussed interest rates as discount rates for purposes of allocating non-recurring benefits over time pursuant to 19 CFR 351.524(d)(3)(i)(B).

³¹ See Commerce's Letter, "Second Supplemental Questionnaire," dated December 1, 2020; *see also* Kisaan December 28, 2020 SQR; and Kisaan January 28, 2021 SQR.

³² See Kisaan February 12, 2020 AFFR at 6.

³³ See 19 CFR 351.525(b)(1)-(5).

³⁴ See Memorandum, "Preliminary Results Calculations for Chandan Steel Limited," dated concurrently with this memorandum (Chandan Preliminary Analysis Memorandum); *see also* Memorandum, "Preliminary Results Calculations for Kisaan Die Tech Pvt. Ltd.," dated concurrently with this memorandum (Kisaan Preliminary Analysis Memorandum).

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

Based on Chandan's and Kisaan's responses, we preliminarily determine that neither Chandan nor Kisaan took out comparable rupee-denominated long-term loans from commercial banks for most years for which we must calculate benchmark and discount rates.³⁵ Therefore, pursuant to 19 CFR 351.505(a)(3)(ii), we are preliminarily using national average interest rates for Chandan and Kisaan. Specifically, we used national average interest rates from the International Monetary Fund's (IMF's) International Financial Statistics (IFS) as benchmark rates for rupee-denominated short-term and long-term loans for years in which we did not have comparable rupee-denominated long-term loans from commercial banks on the record.³⁶ We preliminarily find that the IFS rates provide a reasonable representation of both short-term and long-term interest rates for rupee-denominated loans.

B. Discount Rates

For allocating the benefit from non-recurring subsidies, we have used the yearly average long-term lending rate in India from the IMF's IFS for the year in which the government agreed to provide the subsidy, consistent with 19 CFR 351.524(d)(3)(i)(A). The discount rates used in our preliminary calculations are provided in the respective preliminary calculation memoranda.³⁷

C. Land Benchmark

Commerce identifies appropriate market-determined benchmarks for measuring the adequacy of remuneration for government-provided goods or services, in accordance with 19 CFR 351.511(a)(2). This section of Commerce's regulations specifies potential benchmarks in hierarchical order by preference: (1) market prices from actual transactions within the country under review (*e.g.*, actual sales, actual imports or competitively-run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under review (tier two); and (3) an assessment of whether the government price is consistent with market principles (tier three). As provided at 19 CFR 351.511(a)(2), the preferred benchmark in the hierarchy is an observed market price from actual transactions within the country under review. This is because such prices generally reflect most closely the prevailing market conditions of the purchaser under review.

Based on this hierarchy, we must first determine whether there are market prices from actual sales transactions involving Indian buyers and sellers that can be used to determine whether the government authority sold land to the respondent for less than adequate remuneration (LTAR).

No party submitted benchmark data. However, Chandan did provide its purchases of land on the open market over the AUL period.³⁸ No other land tier one benchmark data are available on the record. Therefore, for the preliminary results, we will use the average rupee-per-square-meter

³⁵ See Chandan June 17, 2020 SQR at Exhibit CVD-34; and Kisaan March 13, 2020 IQR at Exhibit 11.

³⁶ See Chandan June 17, 2020 SQR at Exhibit CVD-34.

³⁷ See Chandan Preliminary Analysis Memorandum and Kisaan Preliminary Analysis Memorandum.

³⁸ See Chandan December 28, 2020 SQR at Exhibit CVD-69.1.

price paid for these land parcels in the open market and adjust it for inflation or deflation using India's Consumer Price Index, as published by the IMF.

VIII. USE OF FACTS OTHERWISE AVAILABLE AND APPLICATION OF ADVERSE INFERENCES

A. Legal Standard

Sections 776(a)(1) and (2) of the Act provide that Commerce shall, subject to section 782(d) of the Act, apply "facts otherwise available" if necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) 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; (C) significantly impedes a proceeding; or (D) 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 Commerce will so inform the party submitting the response and will, to the extent practicable, provide that party 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. 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. When selecting an adverse facts available (AFA) rate from among the possible sources of information, Commerce's practice is to ensure that the rate is sufficiently adverse so "as to effectuate the statutory purposes of the AFA rule to induce respondents to provide Commerce with complete and accurate information in a timely manner."³⁹ Commerce's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."⁴⁰ At the same time, section 776(b)(1)(B) of the Act states that Commerce is not required to determine, or make any adjustments to, a countervailable subsidy rate based on any assumptions about information the interested party would have provided if the interested party had complied with the request for information.

³⁹ See, e.g., *Drill Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011); see also *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

⁴⁰ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. 103-316, Vol. I at 870 (1994), reprinted at 1994 U.S.C.C.A.N. 4040, 4199.

Section 776(c) of the Act provides that, in general, when Commerce relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.⁴¹ Secondary information is defined as 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 of the Act concerning the subject merchandise.⁴² It is Commerce's practice to consider information to be corroborated if it has probative value.⁴³ In analyzing whether information has probative value, it is Commerce's practice to examine the reliability and relevance of the information to be used.⁴⁴ However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.⁴⁵ Furthermore, Commerce is not required to corroborate any subsidy rate applied in a separate segment of the same proceeding.⁴⁶

Under section 776(d) of the Act, 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 Commerce considers reasonable to use, including the highest of such rates.⁴⁷ Additionally, when selecting an AFA rate, Commerce is not required for purposes of section 776(c) of the Act, 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.⁴⁸

For purposes of these preliminary results, we are applying AFA for the circumstances outlined below.

B. Application of AFA

1. GOI Failure to Provide Timely Initial Questionnaire Response

On January 17, 2020, we issued the initial questionnaire to the GOI.⁴⁹ However, the GOI filed an untimely questionnaire response, which Commerce rejected.⁵⁰ On March 3 and 4, 2020, the GOI filed letters requesting that Commerce reconsider the rejected filing, citing unfamiliarity as a first-time filer in the ACCESS system.⁵¹ We found that it was not appropriate to accept the

⁴¹ See 19 CFR 351.308(d).

⁴² See SAA at 870.

⁴³ *Id.* at 870.

⁴⁴ *Id.* at 869.

⁴⁵ *Id.* at 869-870.

⁴⁶ See section 776(c)(2) of the Act.

⁴⁷ See section 776(d)(1) of the Act.

⁴⁸ See section 776(d)(3) of the Act.

⁴⁹ See Initial Questionnaire.

⁵⁰ See Commerce's Letter "Administrative Review of Countervailing Duty Order of Stainless Steel Flanges from India: Rejection of Case Brief," dated February 27, 2020 (Commerce February 27, 2020 Letter).

⁵¹ See GOI Letters, "Administrative Review of the Countervailing Duty Order on Stainless Steel Flanges from India," dated March 3, 2020; and "Administrative Review of the Countervailing Duty Order on Stainless Steel Flanges from India," dated March 4, 2020.

GOI's untimely submission because the GOI did not provide sufficient evidence that extraordinary circumstances existed such that Commerce would permit the late submission.⁵²

Section 351.302(c) of Commerce's regulations states: "{a}n untimely filed extension request will not be considered unless the party demonstrates that an extraordinary circumstance exists." The regulation defines "extraordinary circumstance" as "an unexpected event that: (i) {c}ould not have been prevented if reasonable measures had been taken, and (ii) {p}recludes a party or its representative from timely filing an extension request through all reasonable means." Commerce's *Extension of Time Limits* states:

Examples of extraordinary circumstances include a natural disaster, riot, war, force majeure, or medical emergency. Examples that are unlikely to be considered extraordinary circumstances include insufficient resources, inattentiveness, or the inability of a party's representative to access the Internet on the day on which the submission was due.⁵³

As explained to the GOI, not familiarizing oneself with the ACCESS system is an error that could have been prevented, if reasonable measures had been taken.⁵⁴ For example, the GOI and/or its law firm could have conducted a test filing at any date between January 17, 2020, when Commerce issued the questionnaire, and February 23, 2020, the date before the questionnaire response was due, to ensure familiarity with the system and timely raise any concerns with Commerce officials.⁵⁵ Thus, pursuant to 19 CFR 351.302, Commerce rejected the untimely response.

On March 20, 2020, the GOI again requested Commerce reconsider its decision and accept the untimely submission.⁵⁶ The GOI did not provide any additional reasons that Commerce did not already consider in its prior responses to the GOI. Therefore, we continue to find it appropriate to reject the GOI's untimely response.

Because the GOI failed to timely provide any information regarding multiple programs in the initial questionnaire response, we preliminarily determine that necessary information is not available on the record with respect to these programs. In these circumstances, we preliminarily find the GOI significantly impeded the review. Thus, Commerce must rely on "facts available" in making our preliminary determination, in accordance with sections 776(a)(1) and 776(a)(2)(A)-(C) of the Act. Further, we preliminarily determine that the GOI failed to cooperate by not acting to the best of its ability to comply with our request for information because the requested information was within the GOI's possession but it failed to provide it to Commerce in a timely manner. 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

⁵² See Commerce February 27, 2020 Letter; see also Commerce's Letter "Administrative Review of the Countervailing Duty Order on Stainless Steel Flanges from India: Request for Reconsideration of Rejected Questionnaire Response," dated March 18, 2020 (Commerce March 18, 2020 Letter).

⁵³ See *Extension of Time Limits*, 78 FR 57790, 57793 (September 20, 2013) (*Extension of Time Limits*).

⁵⁴ See Commerce March 18, 2020 Letter at 2.

⁵⁵ *Id.*

⁵⁶ See GOI's Letter, "Administrative Review of the Countervailing Duty Order on Stainless Steel," dated March 20, 2020.

that the Credit Linked Capital Subsidy Scheme (CLCSS) for Technology Upgradation of Small Scale Industries (SSI) program provides a financial contribution within the meaning of section 771(5)(D)(i) of the Act and that the program is specific within the meaning of section 771(5A)(D) of the Act. Because Kisaan reported usage of this program, we are relying on Kisaan's reported information to calculate the benefit, if any, within the meaning of section 771(5)(E) of the Act.

For the remainder of the programs under review, Commerce has previously determined in the underlying investigation that they provide a financial contribution and are specific; therefore, because the GOI did not provide a response regarding these programs, we are not revisiting the countervailability determinations made in the underlying investigation.

IX. ANALYSIS OF PROGRAMS

A. Programs Preliminarily Determined to be Countervailable

1. GOI Subsidies

a. Duty Drawback Scheme (DDB)

The DDB program provides rebates for duty or tax chargeable on any imported or excisable materials used to manufacture exported goods.⁵⁷ The duty drawback is generally fixed as a percentage of the free-on-board (FOB) price of the exported product.⁵⁸ Drawback rates are calculated based on the average known as the "All Industry Rate" for a given product.⁵⁹

Import duty exemptions on inputs for exported products are not countervailable, as long as the exemption extends only to inputs consumed in the production of the exported product, making normal allowances for waste.⁶⁰ However, the government in question must have in place and apply a system to confirm which inputs are consumed in the production of the exported products and in what amounts.⁶¹ This system must be reasonable, effective for the purposes intended, and based on generally accepted commercial practices in the country of export.⁶² If such a system does not exist, or if it is not applied effectively, and the government in question does not carry out an examination of actual inputs involved to confirm which inputs are consumed in the production of the exported product, the entire amount of any exemption, deferral, remission of drawback is countervailable.⁶³ Commerce has determined, in numerous proceedings, that the

⁵⁷ See Chandan March 3, 2020 IQR at 22.

⁵⁸ *Id.* at 23.

⁵⁹ *Id.* at 22.

⁶⁰ See 19 CFR 351.519(a)(1)(ii).

⁶¹ See *Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination*, 78 FR 50385 (August 19, 2013) (*Shrimp from India Final Determination*), and accompanying Issues and Decision Memorandum (IDM) at "Duty Drawback (DDB)."

⁶² *Id.*

⁶³ See 19 CFR 351.519(a)(4)(i)-(ii).

DDB scheme does not have in place an adequate system for determining the quantity of inputs used in production.⁶⁴

In the underlying investigation of this *Order*, Commerce found that the information provided by the GOI did not support its claim that its system is reasonable or effective for the purposes intended, and determined that DDB confers a countervailable subsidy.⁶⁵ The GOI did not timely submit a questionnaire response regarding this program, therefore, consistent with our determinations in other proceedings,⁶⁶ we conclude for these preliminary results that the GOI's system is neither reasonable nor effective for the purposes intended.

Under the DDB, a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided because rebated duties represent revenue forgone by the GOI. Moreover, as explained above, the GOI provided no information to demonstrate that the DDB system is reasonable and effective in confirming which inputs, and in what amounts, are consumed in the production of the exported product. Therefore, under 19 CFR 351.519(a)(4), the entire amount of the import duty rebate earned during the POR constitutes a benefit. Finally, in the investigation, we found that this program is only available to exporters, making it specific under sections 771(5A)(A) and (B) of the Act.⁶⁷ There is no new information or evidence of changed circumstances that would warrant reconsidering our determination in the underlying investigation that this program is countervailable. Therefore, for these preliminary results, we continue to find this program countervailable.

Under 19 CFR 351.519(a)(4), in the absence of an adequate drawback system, the entire amount of customs and excise duties and service taxes rebated during the POR constitutes a benefit. Pursuant to 19 CFR 351.519(b)(1), we find that benefits from the DDB program are conferred on

⁶⁴ See, e.g., *Shrimp from India Final Determination* IDM at "Duty Drawback"; see also *Certain Quartz Surface Products Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances, In Part*, 85 FR 25398 (May 1, 2020), and accompanying IDM at Comment 6 (noting that "the GOI has not demonstrated on the record of this investigation that it has a system that is reasonable or effective or how the DDB rates are derived"); and *Polyester Textured Yarn from India: Final Affirmative Countervailing Duty Determination*, 84 FR 63848 (November 19, 2019), and accompanying IDM at Comment 3 (finding the DDB program countervailable because "the GOI's response lacks the documentation to support a finding that the GOI has a system in place to confirm which inputs are consumed in the production of the exported products, and in what amounts").

⁶⁵ See *Stainless Steel Flanges from India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 3118 (January 23, 2018) (*Stainless Steel Flanges from India Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM) at 18-19, unchanged in *Stainless Steel Flanges from India: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 83 FR 40748 (August 16, 2018) (*Stainless Steel Flanges from India Final Determination*).

⁶⁶ See, e.g., *Shrimp from India Final Determination* IDM at "Duty Drawback"; *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 44558 (September 25, 2017), and accompanying PDM at 14-15, unchanged in *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Final Affirmative Countervailing Duty Determination*, 82 FR 58172 (December 11, 2017); and *Certain Lined Paper Products from India: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 83 FR 16054 (April 13, 2018), and accompanying IDM at 12-13.

⁶⁷ See *Stainless Steel Flanges from India Preliminary Determination* PDM at 19, unchanged in *Stainless Steel Flanges from India Final Determination*.

the date of exportation of the shipments for which the pertinent drawbacks were earned.⁶⁸ We calculated the benefit on an as-earned basis. Drawbacks under the program are provided as a percentage of the value of the exported merchandise on a shipment-by-shipment basis. As such, it is at the time of exportation that recipients know the exact amount of the benefit (*i.e.*, the value of the drawback).

Chandan and Kisaan reported the benefits earned on exports of subject merchandise to the United States under this program on a transaction-specific basis.⁶⁹ In accordance with 19 CFR 351.525(b)(4) and (5), when a subsidy is tied to a certain product or market, we will attribute that subsidy to only that product or market. For Chandan and Kisaan, we divided the DDB rebates earned on exports of subject merchandise to the United States during the POR by the respective POR exports of subject merchandise sold to the United States.

On this basis, we preliminarily determine a countervailable subsidy rate of 1.87 percent *ad valorem* for Chandan,⁷⁰ and 1.99 percent *ad valorem* for Kisaan.⁷¹

b. Export Promotion of Capital Goods Scheme (EPCGS)

The EPCGS provides for a reduction or exemption of customs duties and excise taxes on imports of capital goods used in the production of exported products.⁷² Under this program, producers pay reduced duty rates on imported capital equipment by committing to earn convertible foreign currency equal to a multiple of the duty saved within a period of a certain number of years.⁷³ The EPCGS program allows the importation of capital goods at zero duty, subject to an export obligation.⁷⁴ Eligibility is not limited to a particular industry sector or region.⁷⁵

Commerce has previously determined that import duty reductions or exemptions provided under the EPCGS program are countervailable export subsidies because: (1) the scheme provides a financial contribution pursuant to section 771(5)(D)(ii) of the Act; (2) recipients receive two different benefits (*see below*) under section 771(5)(E) of the Act; and (3) the program is contingent upon export performance, and is therefore specific under section 771(5A)(A) and (B) of the Act.⁷⁶ Because the GOI failed to timely submit a questionnaire response regarding this program, there is no new information or evidence of changed circumstances that would warrant reconsidering our determination in the underlying investigation that this program is

⁶⁸ See, e.g., *Final Affirmative Countervailing Duty Determination: Certain Cut-To-Length Carbon Quality Steel Plate from India*, 64 FR 73131, 73134, 73140 (December 29, 1999).

⁶⁹ See Chandan March 3, 2020 IQR at 21-27 and Exhibits 13 -13.1; *see also* Chandan June 17, 2020 SQR at 12; Chandan December 28, 2020 SQR at 7 and Exhibit CVD-59.1; Chandan February 1, 2021 SQR at 1; Kisaan March 13, 2020 IQR at 31-35 and Exhibits 12.a through Exhibit 12.e.; Kisaan June 16, 2020 SQR at 11; and Exhibit S1-16; and Kisaan December 21, 2020 SQR at S3-4-5 and Exhibit S3-5.

⁷⁰ See Chandan Preliminary Analysis Memorandum.

⁷¹ See Kisaan Preliminary Analysis Memorandum.

⁷² See *Stainless Steel Flanges from India Preliminary Determination* PDM at 19-20.

⁷³ *Id.* at 20.

⁷⁴ See Kisaan March 13, 2020 IQR at 21.

⁷⁵ See Chandan March 3, 2020 IQR at 38.

⁷⁶ See, e.g., *Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India*, 67 FR 34905 (May 16, 2002) (*PET Film Final Determination*), and accompanying IDM at “EPCGS”; *see also Shrimp from India Final Determination* IDM at 14.

countervailable. Therefore, for these preliminary results, we continue to find this program countervailable.

The first benefit is the amount of unpaid import duties that would have to be paid to the GOI if the accompanying export obligations are not met. The repayment of this liability is contingent on subsequent events and, in such instances, it is Commerce's practice to treat any balance on an unpaid liability that may be waived in the future as an interest-free contingent-liability loan pursuant to 19 CFR 351.505(d)(1).⁷⁷ The second benefit arises based on the amount of duty waived by the GOI on imports of capital equipment covered by the EPCGS licenses for which the export requirement has been met. For those licenses for which companies demonstrate that they have completed their export obligations, we treat the import duty savings as a grant 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).

As noted above, import duty exemptions under this program are approved for the purchase of capital equipment. The *Preamble* states that, if a government provides an import duty exemption tied to major equipment purchases, "it may be reasonable to conclude that, because these duty exemptions are tied to capital assets, the benefits from such duty exemptions should be considered non-recurring ..."⁷⁸ 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.

Chandan reported that it imported capital goods at reduced import duty rates under the EPCGS program during the AUL period, but not during the POR.⁷⁹ Based on record information, Chandan received various licenses which it reported were for the manufacture of subject- and non-subject merchandise.⁸⁰ Chandan provided complete license documentation on the record of this administrative review, including copies of the original licenses issued by the GOI.⁸¹ The licenses submitted by Chandan demonstrated that certain of its licenses were issued solely for the production of subject merchandise.⁸² Thus, based on the information and documentation submitted by Chandan, we were able to determine that the EPCGS licenses are tied to the production of a particular product within the meaning of 19 CFR 351.525(b)(5). As such, we preliminarily find that certain Chandan EPCGS licenses benefited the company's exports of subject merchandise.

Kisaan also reported that it imported capital goods at reduced import duty rates under the EPCGS program under one EPCGS license during the AUL period, which was not fulfilled as of

⁷⁷ See *Glycine from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 44859 (September 4, 2018), and accompanying PDM at "Export Promotion of Capital Goods Scheme," unchanged in *Countervailing Duty Investigation of Glycine from India: Affirmative Final Determination*, 84 FR 18482 (May 1, 2019); see also *Stainless Steel Flanges from India Preliminary Determination* PDM at 20, unchanged in *Stainless Steel Flanges from India Final Determination*.

⁷⁸ See *Preamble*, 63 FR at 65393.

⁷⁹ See Chandan March 3, 2020 IQR at 35-44 and Exhibits CVD-17 through CVD-17.4; see also Chandan June 17, 2020 SQR at 14-15 and Exhibit CVD-39; and Chandan December 28, 2020 SQR at Exhibit CVD-61.1.

⁸⁰ *Id.*

⁸¹ See Chandan March 3, 2020 IQR at Exhibit CVD-17.

⁸² *Id.*

the end of the POR.⁸³ Based on record information, Kisaan's license indicates the imported capital goods were used in the manufacture of subject and non-subject merchandise.⁸⁴ The license application submitted by Kisaan demonstrated that its license was not exclusively issued for the production of subject merchandise.⁸⁵ Thus, based on the information and documentation submitted by Kisaan, we were unable to determine that the EPCGS licenses are tied to the production of a particular product within the meaning of 19 CFR 351.525(b)(5). As such, we preliminarily find that certain Kisaan EPCGS licenses benefited the company's total exports.

Chandan met the export requirements for certain EPCGS licenses prior to December 31, 2018 (the last day of the POR), and the GOI has formally waived the relevant import duties. However, for other licenses, Chandan reported that it had not fulfilled the export obligation as required under the program.⁸⁶ Therefore, although Chandan received a deferral from paying import duties for the capital goods that were imported, the final waiver of the obligation to pay the duties was not demonstrated for a number of these imports.⁸⁷ For its license, Kisaan reported that it had not yet met its export obligation as required under the program.⁸⁸ Therefore, Kisaan received deferrals from paying import duties for the imports of capital goods. Consistent with Commerce's practice and prior determination in the underlying investigation, we are treating unpaid import duty liabilities as interest-free loans.⁸⁹

As discussed above, the time period for fulfilling the export requirement expires a certain number of years after importation of the capital good. To calculate Chandan's and Kisaan's benefits received on licenses where the export obligation has not yet been met, and pursuant to 19 CFR 351.505(d)(1), we utilized the long-term interest rates as discussed in the "Benchmark Interest Rates" section above, because the event upon which repayment of the duties depends occurs more than one year after the date of importation of the capital goods. For each company, we then multiplied the total amount of unpaid duties under each of its licenses by the long-term benchmark interest rate and summed these amounts to determine the total benefit.

To calculate the benefit received from formal waivers of import duties on Chandan's capital equipment imports, 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. Additionally, Chandan indicated that several duties applied to its purchases of capital goods were "countervailing duties" applied under Indian law to imported goods in order to counterbalance excise duty and state taxes charged on domestic sales.⁹⁰ These duties did not confer a benefit because they are refundable to the respondent as Central Value-Added Tax (CENVAT) credits, independent of the EPCGS program.⁹¹ We consider the amount

⁸³ See Kisaan March 13, 2020 IQR at 19-30 and Exhibits 14.a through 14.c.

⁸⁴ *Id.*

⁸⁵ *Id.* at 14.b.

⁸⁶ See Chandan March 3, 2020 at Exhibit 17.1.

⁸⁷ *Id.*

⁸⁸ See Kisaan March 13, 2020 IQR at 19-30 and Exhibits 14.a through 14.c.

⁸⁹ See, e.g., *Stainless Steel Flanges from India Preliminary Determination* PDM at 20, unchanged in *Stainless Steel Flanges from India Final Determination*.

⁹⁰ See Chandan March 3, 2020 IQR at 36-38.

⁹¹ See *Carbon and Alloy Steel Threaded Rod from India: Final Affirmative Countervailing Duty Determination*, 85 FR 8828 (February 18, 2020) (*Carbon Steel Threaded Rod from India Final*), and accompanying IDM at 15.

of duties waived, less the “CENVATable”⁹² duties and the application fees, to be the benefit, and we treated these amounts as grants, pursuant to 19 CFR 351.504.

Further, we preliminarily determine the year of receipt of the benefit to be the year in which the GOI waived the contingent liability on the import duty exemption, pursuant to 19 CFR 351.505(d)(2).⁹³ We performed the “0.5 percent test,” as prescribed under 19 CFR 351.524(b)(2), for the total value of duties waived, for the year in which the GOI granted Chandan the import duty waiver during the AUL period. However, for all years, the amount of uncollected import duties that related to the purchase of capital goods during the POR was less than 0.5 percent of total export sales, therefore, these benefits were expensed to the year of receipt.

The benefit received under the EPCGS program is the sum of: (1) 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; and (2) the benefit attributable to the POR from the formally-waived duties for imports of capital equipment for which the respondent met export requirements by the end of the POR. We then divided the total benefit received by each respondent under the EPCGS program for the POR by their respective total export sales of subject merchandise (for Chandan) or total export sales (for Kisaan).⁹⁴

On this basis, we preliminarily determine a countervailable subsidy rate of 0.02 percent *ad valorem* for Chandan⁹⁵ and 0.01 percent *ad valorem* for Kisaan.⁹⁶

c. Merchandise Export from India Scheme (MEIS)

The MEIS was introduced in the Foreign Trade Policy (FTP) 2015-2020.⁹⁷ Its purpose is “to offset infrastructural inefficiencies and associated cost involved in the export of goods/products, which are produced/manufactured in India.”⁹⁸ Under this program, the GOI calculates a scrip worth a given percentage of the “realized FOB value of exports in free foreign exchange, or on FOB value of exports as given in the shipping bills in free foreign exchange, whichever is less.”⁹⁹ To receive the scrip, the recipient files a separate application for each port of export with the Director General of Foreign Trade.¹⁰⁰ 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.

⁹² “CENVAT” refers to one of India’s value-added tax systems, in which certain duties, *e.g.*, the “Excise Duty,” are refundable. See Chandan March 13, 2020 IQR at 36.

⁹³ See *PET Film Final Determination* IDM at Comment 5.

⁹⁴ See the respective preliminary analysis memoranda for the denominator used to calculate the subsidy rate.

⁹⁵ See Chandan Preliminary Analysis Memorandum.

⁹⁶ See Kisaan Preliminary Analysis Memorandum.

⁹⁷ See Kisaan March 13, 2020 IQR at 31.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ See Chandan March 3, 2020 IQR at 45.

Commerce has found the MEIS program to be countervailable based on its similarities to India's Status Holders Incentive Scrip Scheme (SHIS), which Commerce has also found countervailable.¹⁰¹ For that program, similar to the MEIS program, the GOI provides a scrip to exporters worth a certain percentage of the FOB value of exports. The scrip could then be used as a credit for future import duties or could be transferred to other "Status Holders" to be used as a credit for future import duties.¹⁰²

In the underlying investigation of this *Order*, Commerce found that this program is countervailable because it provides a financial contribution in the form of revenue forgone under section 771(5)(D)(ii) of the Act. Further, Commerce determined that it is specific under section 771(5A)(B) of the Act because eligibility to receive the scrip is contingent upon export.¹⁰³ Commerce found that the MEIS scheme also provided a benefit pursuant to section 771(5)(E) of the Act and 19 CFR 351.519 in the amount of exempted duties on imported inputs or capital equipment. Because the GOI failed to timely submit a questionnaire response regarding this program, there is no new information or evidence of changed circumstances that would warrant reconsidering our determination in the underlying investigation that this program is countervailable. Therefore, for these preliminary results, we continue to find this program countervailable.

Chandan and Kisaan reported that they submitted applications and received approval under the MEIS program upon the export of qualified goods.¹⁰⁴ Chandan and Kisaan reported retaining scrips in their respective records, which the companies later used to pay the import duties owed on raw materials or capital goods.¹⁰⁵

In the underlying investigation, Commerce found the MEIS program is continuous and, thus, recurring, in nature, consistent with 19 CFR 351.524(c)(2)(i).¹⁰⁶ 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.¹⁰⁷ Furthermore, recipients can expect to receive additional subsidies under this same program on an ongoing basis from year to year.¹⁰⁸ We calculated the total benefit to Chandan and Kisaan to be the total value of scrips granted in the POR.¹⁰⁹

Normally, in cases where the benefits are granted based on a percentage value of a shipment, Commerce calculates benefits as having been received as of the date of export.¹¹⁰ However,

¹⁰¹ See *Finished Carbon Steel Flanges from India: Preliminary Affirmative Countervailing Duty Determination*, 81 FR 85928 (November 29, 2016), and accompanying PDM at 16, unchanged in *Finished Carbon Steel Flanges from India: Final Affirmative Countervailing Duty Determination*, 82 FR 29479 (June 29, 2017); see also "SHIS" section, below.

¹⁰² *Id.*

¹⁰³ See *Stainless Steel Flanges from India Preliminary Determination* PDM at 22-23, unchanged in *Stainless Steel Flanges from India Final Determination*.

¹⁰⁴ See Chandan March 3, 2020 IQR at 47; see also Kisaan March 13, 2020 IQR at 32.

¹⁰⁵ See Chandan March 3, 2020 IQR at 57; see also Kisaan March 13, 2020 IQR at 32-33 and 35.

¹⁰⁶ See *Stainless Steel Flanges from India Preliminary Determination* PDM at 23, unchanged in *Stainless Steel Flanges from India Final Determination*.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ See Chandan Preliminary Analysis Memorandum; and Kisaan Preliminary Analysis Memorandum.

¹¹⁰ See 19 CFR 351.519(b)(1).

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 the time at which the benefit was received and the amount of benefit received.¹¹¹

To determine the benefit from this program, we summed Chandan's and Kisaan's reported total value of scrips granted (*i.e.*, the MEIS license value) during the POR, less application fees.¹¹² We divided this sum by Chandan's and Kisaan's respective total export sales during the POR.

On this basis, we preliminarily determine a countervailable subsidy rate of 1.94 percent *ad valorem* for Chandan¹¹³ and 2.49 percent *ad valorem* for Kisaan.¹¹⁴

d. *Interest Equalization Scheme (IES) for Export Financing*

The GOI introduced the IES program effective April 1, 2015, which centers on rupee export financing, or pre-shipment and post-shipment export financing in rupee denomination.¹¹⁵ The Reserve Bank of India (RBI) provides a refund of three percent of interest on rupee-denominated loans for the purpose of pre-shipment and post-shipment export financing.¹¹⁶ The program is available to all exporters or products under specific tariff codes, and to all micro, small, and medium enterprises (MSMEs).¹¹⁷

In the underlying investigation of this *Order*, Commerce found that the IES program is countervailable because it provides a financial contribution in the form of revenue forgone under section 771(5)(D)(ii) of the Act. Further, Commerce determined that it is specific under section 771(5A)(B) of the Act because the benefit is contingent on exports.¹¹⁸ A benefit is also provided

¹¹¹ See, e.g., *Polyethylene Terephthalate Film, Sheet and Strip from India: Preliminary Results And Partial Rescission of Countervailing Duty Administrative Review; 2012*, 79 FR 50616 (August 25, 2014), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 11160 (March 2, 2015); and *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 at Comment 2.

¹¹² See Chandan Preliminary Analysis Memorandum; and Kisaan Preliminary Analysis Memorandum.

¹¹³ See Chandan Preliminary Analysis Memorandum.

¹¹⁴ See Kisaan Preliminary Analysis Memorandum.

¹¹⁵ See *Stainless Steel Flanges from India Preliminary Determination* PDM at 23.

¹¹⁶ *Id.* at 24.

¹¹⁷ *Id.* Although Commerce initiated on the IES and Pre-Shipment and Post-Shipment Export Financing programs separately in the underlying investigation, recently the GOI clarified that the Pre-Shipment and Post-Shipment Export financing refers to specific types of loan for which exporters are eligible to receive the three percent interest rate reduction under IES, and we therefore combined these programs into one program in other proceedings. See *Forged Steel Fluid End Blocks from India: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 85 FR 31452 (May 26, 2020) (*Fluid Blocks from India*), and accompanying PDM at 16, unchanged in *Forged Steel Fluid End Blocks from India: Final Affirmative Countervailing Duty Determination*, 85 FR 79999 (December 11, 2020). The GOI did not provide a timely response regarding this program. For consistency with Commerce's practice, and Chandan's description of the relevant programs, for these preliminary results, we are discussing export financing loans within the context of the IES program only.

¹¹⁸ See *Stainless Steel Flanges from India Preliminary Determination* PDM at 24, unchanged in *Stainless Steel Flanges from India Final Determination*.

under the IES program under section 771(5)(E)(ii) of the Act because the interest rates provided under the program, which are determined by the RBI, are lower than commercially-available interest rates. Because the GOI failed to timely submit a questionnaire response regarding this program, there is no new information or evidence of changed circumstances that would warrant reconsidering our determination in the underlying investigation that this program is countervailable. Therefore, for these preliminary results, we continue to find this program countervailable.

Chandan reported receiving packing credit loans during the POR,¹¹⁹ and Kisaan reported not using this program. Because the IES program is contingent upon exports and provides a recurring benefit, we calculated the benefit where the date of interest equalization was received by Chandan during the POR. We divided this sum by the value of Chandan's total exports in the POR.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.17 percent *ad valorem* for Chandan.¹²⁰

e. SHIS

The SHIS program was introduced in 2009 with the objective to promote investment in upgrading technology in specific sectors.¹²¹ Status Holders under the GOI's listing of specific exported products receive incentive scrips (or credits) in the form of a duty credit.¹²² The SHIS license can only be used for imports of capital goods and it can be transferred to another Status Holder for the import of capital goods.¹²³ Additionally, because this program applies to capital goods, companies were able to apply for benefits up to March 31, 2013, and the AUL period in this proceeding is 14 years, companies may receive residual benefits from this program through 2026.¹²⁴

In the underlying investigation of this *Order*, Commerce found that this program is countervailable because it provides a financial contribution in the form of revenue forgone under section 771(5)(D)(ii) of the Act, given that the duty free import of goods represents revenue forgone by the GOI. Further, Commerce determined that it is specific under sections 771(5A)(A) and (B) of the Act because it is limited to exporters. A benefit is also provided

¹¹⁹ See Chandan December 28, 2020 SQR at 12.

¹²⁰ See Chandan Preliminary Analysis Memorandum.

¹²¹ See Chandan March 3, 2020 IQR at 28.

¹²² *Id.* at 33.

¹²³ See *Polyethylene Terephthalate Film, Sheet and Strip from India: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*, 81 FR 51186 (August 3, 2016), and accompanying PDM at 8-10, unchanged in *Polyethylene Terephthalate Film, Sheet and Strip from India: Countervailing Duty Administrative Review*; 2014, 81 FR 89056 (December 9, 2016); see also *Steel Threaded Rod from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 40712 (July 14, 2014) (*Steel Threaded Rod from India*), and accompanying IDM at "Status Holder Incentive Scrip."

¹²⁴ See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Preliminary Results of Countervailing Duty Administrative Review, 2017-2018*, 85 FR 12897 (March 5, 2020) (*CDMT from India Preliminary Results*), and accompanying PDM, unchanged in *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Final Results of Countervailing Duty Administrative Review, 2017-2018*, 85 FR 66304 (October 19, 2020) (*CDMT from India Final Results*).

under the SHIS program under section 771(5)(E) of the Act and 19 CFR 351.519 in the amount of exempted duties on imported capital equipment.¹²⁵ Because the GOI failed to timely submit a questionnaire response regarding this program, there is no new information or evidence of changed circumstances that would warrant reconsidering our determination in the underlying investigation that this program is countervailable. Therefore, for these preliminary results, we continue to find this program countervailable.

Import duty exemptions under this program are provided solely for the purchase of capital equipment.¹²⁶ The *Preamble* states that, if a government provides an import duty exemption tied to major equipment purchases, “it may be reasonable to conclude that, because these duty exemptions are tied to capital assets, the benefits from such duty exemptions should be considered non-recurring... .”¹²⁷ 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.¹²⁸

The SHIS scrip represents a non-recurring benefit that is not automatically received, and the amount of said benefit is not known to the recipient at the time of receipt of the scrip.¹²⁹ Although 19 CFR 351.519(b)(1) stipulates that we will normally consider the benefit as having been received as of the date of export, 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 source to determine and account for when the benefit is received.¹³⁰

Chandan reported use of the SHIS program in its questionnaire response,¹³¹ while Kisaan reported not using this program during the AUL period. Chandan provided supporting documentation that it received and then sold the scrips it received under a SHIS license to another entity during the AUL period.¹³² Although Chandan transferred its SHIS license scrips, we are attributing the SHIS benefits received by Chandan to its total exports, consistent with our practice.¹³³ We performed the “0.5 percent test,” as prescribed under 19 CFR 351.524(b)(2), for the years in which Chandan received the SHIS scrips and determined to allocate the benefits across the AUL period.¹³⁴ For any years in which the value of the waived import duties was less than 0.5 percent of Chandan’s total export sales, we expensed the value of the scrips to the year of receipt. For those scrips which were not expensed in the year of receipt, we calculated the benefit from these allocable grants using the methodology set forth in 19 CFR 351.524 to

¹²⁵ See *Stainless Steel Flanges from India Preliminary Determination* PDM at 24-25 (citing *Steel Threaded Rod from India* at 17, unchanged in *Stainless Steel Flanges from India Final Determination*).

¹²⁶ *Id.* at 25.

¹²⁷ See *Preamble*, 63 FR at 65393.

¹²⁸ See *Stainless Steel Flanges from India Preliminary Determination* PDM at 25, unchanged in *Stainless Steel Flanges from India Final Determination*.

¹²⁹ *Id.*

¹³⁰ Commerce finds that benefits are conferred when earned, rather than when the credits were used. The CIT upheld this principle with respect to a similar, but discontinued, GOI program, the Duty Entitlement Passbook Scheme (DEPS), in *Essar Steel v. United States*, 395 F. Supp. 2d 1275, 1278 (CIT 2005).

¹³¹ See Chandan March 3, 2020 IQR at Exhibit CVD-22; see also Chandan June 17, 2020 SQR at 34.

¹³² *Id.*

¹³³ See *CDMT from India Preliminary Results* PDM at 16, unchanged in *CDMT from India Final Results*.

¹³⁴ See Chandan Preliminary Analysis Memorandum.

determine the benefit in the POR from these scrips. We summed the benefits allocated to the POR and divided the results by Chandan's total POR export sales.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.11 percent *ad valorem* for Chandan.¹³⁵

f. CLCSS for Technology Upgradation of SSI

In its questionnaire responses, Kisaan reported applying for, and receiving, subsidies operated by the Ministry of Small Scale Industries.¹³⁶ The scheme aims at facilitating technology upgrades by providing upfront capital subsidies to SSIs on loans provided by financial institutions to be used by the SSI for the modernization of production equipment and techniques, such as plant and machinery.¹³⁷ Kisaan reported that the maximum amount of a capital subsidy a company could avail itself of is the lesser of 1,500,000 rupees or 15 percent of the investment in eligible plant and machinery. Kisaan explained it qualified twice for capital investment subsidies because it belongs to the "steel forging industry" category, and eligibility is dependent upon the industry to which a company belongs.¹³⁸ Chandan reported not using this program.

As discussed above, the GOI was non-responsive regarding this program, and, thus, Commerce is relying on AFA with respect to the financial contribution and specificity determinations. As AFA, we preliminarily determine that this program is countervailable because it provides a financial contribution in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act and because it is specific under section 771(5A)(D) of the Act. Further, we find that this program conferred a benefit in the amount of the grant within the meaning of section 771(5)(e) of the Act.

Because payments under the program are one-time grants tied to a company's capital structure, we treated the capital investment subsidy as a non-recurring subsidy pursuant to 19 CFR 351.524(c). We performed the "0.5 percent test," as prescribed under 19 CFR 351.524(b)(2), for the years in which Kisaan received the CLCSS grants. For any year in which the value of the grant was less than 0.5 percent of Kisaan's total sales, we expensed the value of the grant in the year of receipt. For those grants which were not expensed in the year of receipt, we calculated the benefit from these allocable grants using the methodology set forth in 19 CFR 351.524 to determine the benefit in the POR from these grants.¹³⁹ We summed the benefits allocated to the POR and divided the results by Kisaan's total POR sales.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.02 percent *ad valorem* for Kisaan.¹⁴⁰

¹³⁵ *Id.*

¹³⁶ See Kisaan March 13, 2020 IQR at 52-57 and Exhibits 22.a through Exhibit 22.e; see also Kisaan June 16, 2020 SQR at 13-14 and Exhibit S1-22.

¹³⁷ See Kisaan March 13, 2020 IQR at Exhibit 22.a.

¹³⁸ *Id.* at 54.

¹³⁹ See Kisaan Preliminary Analysis Memorandum.

¹⁴⁰ *Id.*

2. State Government Subsidies

State Government of Gujarat (SGOG)

Commerce is examining three programs administered by the SGOG: Preferential Water Rates Under the Gujarat Industrial Development Corporation (GIDC) of 1991 (Preferential Water Rates), Electric Duty Exemption, and Land Under the GIDC. The GIDC is the agency created by the SGOG for facilitating industrial development in the state of Gujarat and establishes industry-ready land with basic infrastructure such as roads, water, and power availability, which is then leased out to manufacturers.¹⁴¹ Chandan reported having active production facilities in GIDC estates.¹⁴² To apply for an allotted plot in a GIDC estate, a company must provide information about the company, manufacturing process, finished products, and utility requirements.¹⁴³

The GOI indicated Chandan is situated at Umargam Industrial Estate, and that Chandan received assistance under the Preferential Water Rates and Electricity Duty Exemption.¹⁴⁴ Chandan reported benefits under all three programs, and it provided documentation demonstrating the operation of each program.

Kisaan indicated it did not have any facilities or locations within Gujarat, and, as such, that it is not eligible to receive benefits under these programs.¹⁴⁵ Therefore, we preliminarily find that Kisaan did not receive any state-specific subsidies from the SGOG.

a. Preferential Water Rates Under the GIDC Water Supply Regulation of 1991

Chandan reported that it procured water from the GIDC through the Umargam Notified Authority Area (UNAA) and provided its water purchase information.¹⁴⁶ The GIDC is fully controlled by the SGOG, which issues binding directives to the GIDC, provides funding to the GIDC, sanctions the budget of the GIDC, and selects the areas where the GIDC will establish industrial estates within Gujarat.¹⁴⁷

Under the GIDC Water Supply Regulation of 1991, all companies located in a GIDC estate where the GIDC provides access to water must use that water.¹⁴⁸ Under the regulations, water is supplied through the GIDC, which controls the supply and sets and alters the rates charged, and it can be made available to companies located outside of the estates.¹⁴⁹ The regulation also states

¹⁴¹ See Chandan March 3, 2020 IQR at 50-51.

¹⁴² *Id.* at Exhibit CVD-23.

¹⁴³ *Id.* at 50-51.

¹⁴⁴ See GOI NSAR at 33-53 and Exhibits 5 and 6.

¹⁴⁵ See Kisaan NSAR at S2-2.

¹⁴⁶ See Chandan NSAR at 4-11 and Exhibits NSA-1 through NSA-5.

¹⁴⁷ See GOI's Letter, "Administrative Review of the Countervailing Duty Order of Certain Stainless Steel Flanges from India: New Subsidy Allegations Supplementary Questionnaire Response-Reg.," dated December 16, 2020 at Exhibit 3.

¹⁴⁸ *Id.* at Exhibit 1.

¹⁴⁹ *Id.*

that, if a water connection is given to premises outside the limits of the estate, water charges shall be calculated at double the prevailing rates for water in the estate.¹⁵⁰

Because the GIDC is the dispensing agency for funds appropriated by the SGOG for the development of industrial estates, it builds estates in locations as directed by the SGOG and administers them according to directives and policies set by the SGOG. The jurisdiction of the authority providing the subsidy is the entire state of Gujarat. The rates set by the GIDC apply only to those enterprises located within its estates. Information provided by the GOI indicates that the GIDC industrial estates are a designated area under the jurisdiction of the SGOG, and that the provision of water at the discounted rate is limited by law to enterprises or industries within a designated geographical region within the jurisdiction of the authority providing the subsidy. We find the program is specific under section 771(5A)(D)(iv) of the Act because it is limited to companies within particular geographic areas within the jurisdiction of the SGOG.

Commerce has previously found that the GIDC, in setting the rates for water in the industrial estates, charged companies located outside the estate double the rate for water that it charges to companies located inside the industrial estates.¹⁵¹ Because the GIDC, as the administering agency of the SGOG, sets the rates and supplies the water used by Chandan, Commerce finds the 50 percent price discount for enterprises within the GIDC industrial estates constitutes a financial contribution in the form of revenue forgone under section 771(5)(D)(ii) of the Act.¹⁵² The record demonstrates that the discount scheme described above was available to, and used by, Chandan and that water was provided to customers outside of the estate at twice the rate.¹⁵³ Accordingly, we find that this program confers a benefit, *i.e.*, the 50 percent discounted rate, within the meaning of section 771(5)(E) of the Act.

To calculate the benefit to Chandan, we compared the actual amount it paid for water during the POR for its facilities located in a GIDC industrial estate, to the amount it would have paid were it not located within the estate. We then divided that difference by Chandan's total sales during the POR.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.02 percent *ad valorem* for Chandan.¹⁵⁴

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *See* Chandan Preliminary Analysis Memorandum.

b. Electricity Duty Exemption in the State of Gujarat

Under the Gujarat Electricity Duty Exemption Scheme, which is established by the Gujarat Electricity Duty Act of 1958, an entity that establishes a new or additional unit of an industrial undertaking in Gujarat is entitled to an exemption from the electricity duty under the program for energy consumed for industrial purposes.¹⁵⁵ Chandan is eligible for a reduction of ten percent of its consumption charges in respect of energy consumed for electro-metallurgical process purposes in Umergaon.¹⁵⁶

We preliminarily find that this program provides a financial contribution in the form of revenue forgone under section 771(5)(D)(ii) of the Act, because the local electricity authority provides an exemption from an electricity duty, which represents revenue forgone by the GOI. Additionally, we find the program specific under section 771(5A)(D) of the Act. Additionally, because the actual recipients are limited in number, we preliminarily find that this program is *de facto* specific, in accordance with section 771(5A)(D)(iii)(I) of the Act.¹⁵⁷ We also preliminarily find this program confers a tax benefit, in accordance with 19 CFR 351.510(a)(1) and section 771(5)(E) of the Act.

To calculate the benefit, we divided the electricity duty exemption Chandan received in the POR by its total sales during the POR.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.02 percent *ad valorem* for Chandan.¹⁵⁸

B. Programs Preliminarily Determined to Not Confer a Measurable Benefit During the POR

a. SGOG: Land Under GIDC

As noted above, Chandan reported that it received a benefit from this program. The adequacy of remuneration for government-provided goods or services is determined pursuant to 19 CFR 351.511(a)(2). Under 19 CFR 511(a)(2), Commerce measures the remuneration received by a government for goods or services against comparable benchmark prices to determine whether the government provided goods or services for LTAR. These potential benchmarks are listed in hierarchical order by preference as noted in the “Land Benchmark” section. Additionally, it is Commerce’s preference to use a transaction-specific (tier-one) benchmark derived from the country under review. Therefore, we relied on actual transaction prices between private entities in India.

¹⁵⁵ See GOI’s Letter, “Administrative Review of the Countervailing Duty Order of Certain Stainless Steel Flanges from India: Supplementary Questionnaire Response-Reg.,” dated February 3, 2021 (GOI February 3, 2021 SQR) at Exhibit 1.

¹⁵⁶ See Chandan NSAR at 11.

¹⁵⁷ See GOI February 3, 2021 SQR at PDF page 9.

¹⁵⁸ See Chandan Preliminary Analysis Memorandum.

To calculate the benefit, we compared the land transaction benchmark with the prices at which Chandan purchased land from the GIDC. We conducted the “0.5 percent test,” as instructed by 19 CFR 351.524(b)(2), for the relevant years of purchase from the GIDC by dividing the total unallocated benefit for the tracts of land for the corresponding years by the appropriate sales denominator. We did not find that the benefits were greater than 0.5 percent of the relevant sales for any year. Therefore, we did not allocate the benefits over the AUL period and instead expensed the benefit in the year it was received.

On this basis, we preliminarily determine that, even if this program provided a financial contribution and was specific, this program did not confer a measurable benefit to Chandan.¹⁵⁹

b. Advance License Program (ALP)/Advance Authorization Program (AAP)

Chandan reported having AAP/ALP licenses tied to the production and export of non-subject merchandise and submitted copies of its licenses.¹⁶⁰ We reviewed Chandan’s licenses and noted that the items to be exported under the licenses did not include subject merchandise in any instance.¹⁶¹ We preliminarily find that, at the point of bestowal, the GOI granted Chandan the licenses under this program based on the production of and export of non-subject merchandise and, therefore, these licenses are tied to non-subject merchandise within the meaning of 19 CFR 351.525 (b)(5). Thus, based on the information and documentation submitted by Chandan, we were able to determine that the AAP/ALP licenses are tied to the production of a particular product within the meaning of 19 CFR 351.525(b)(5). As such, we preliminarily find that Chandan’s AAP/ALP licenses benefited the company’s exports of non-subject merchandise. This approach is consistent with Commerce’s practice.¹⁶²

C. Programs Preliminarily Determined to Not Be Countervailable

a. Pradhan Mantri Rojgar Protsahan Yojna (PMRPY) Scheme

Kisaan initially reported this program in its questionnaire response.¹⁶³ Kisaan reported that the PMRPY Scheme was created to incentivize employers to hire new employees and to provide them social security. To qualify for this program, all companies must register with the Employees’ Provident Fund Organization (EPFO) and not have hired employees that previously worked for an EPFO-registered employer; further, the new employee must be earning less than or equal to 15,000 rupees per month. The program is open to any company if the employer/new employee meet these criteria. When approved, the GOI will make an 8.33 percent contribution to the Employees’ Pension Scheme for a period of three years.¹⁶⁴

¹⁵⁹ *Id.*

¹⁶⁰ See Chandan March 3, 2020 IQR at 21.1; see also Chandan June 17, 2020 SQR at Exhibit CVD-37; and Chandan December 28, 2020 SQR at 6 and Exhibit CVD-58.

¹⁶¹ See Chandan June 17, 2020 SQR at Exhibit CVD-37; see also Chandan December 28, 2020 SQR at Exhibit CVD-58.

¹⁶² See *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), and accompanying IDM at “Advance License Program/Advance Authorization Program.”

¹⁶³ See Kisaan March 13, 2020 IQR at 57-58.

¹⁶⁴ *Id.*

Consistent with other proceedings,¹⁶⁵ 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 this program is not countervailable.

D. Programs Preliminarily Determined to be Not Used

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

GOI Programs

1. Provision of Steel Inputs by Steel Authority of India Ltd. (SAIL) for LTAR
2. Duty Free Import Authorization Scheme
3. Market Development Assistance Scheme
4. Market Access Initiative
5. Focus Product Scheme
6. GOI Loan Guarantees
7. Status Certificate Program
8. Provision of Stainless Steel, Billet, and Bar by SAIL for LTAR
9. Incremental Exports Incentive Scheme
10. Ministry of Steel Grants
11. Provision of High-Grade Iron Ore for LTAR

Export Oriented Units

12. Duty-Free Import of Goods, Including Capital Goods and Raw Materials
13. Reimbursements of Central Sales Tax (CST) Paid on Goods Manufactured in India
14. Duty Drawback on Fuel Procured from Domestic Oil Companies
15. Exemption from Payment of Central Excise Duty on Goods Manufactured in India and Procured from a Domestic Tariff Area.

Federal Tax Programs

16. Income Deduction Program (80-IB Tax Program)

Special Economic Zones (SEZ)

17. Duty-Free Importation of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts, and Packing Material
18. Exemption from Payment of CST on Purchases of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts, and Packing Material
19. Exemption from Electricity Duty and Cess on Electricity Supplied to an SEZ Unit
20. SEZ Income Tax Exemption

¹⁶⁵ See *Carbon and Steel Threaded Rod from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 84 FR 36570 (July 29, 2019), and accompanying PDM at 28, unchanged in *Carbon Steel Threaded Rod from India Final*.

21. Service Tax Exemption
22. Exemption from Payment of Local Government Taxes and Duties, Such as Sales Tax and Stamp Duties
23. Steel Development Funds Loans

State Government of Andhra Pradesh (SGAP) Subsidies

24. Grant Under the Industrial Investment Promotion Policy: 25 Percent Reimbursement of the Cost of Land in Industrial Estates and Development Areas
25. Grant Under the Industrial Investment Promotion Policy: Reimbursement of Power at the Rate of Rs. 0.75 per Unit
26. Grant under the Industrial Investment Promotion Policy: 50 Percent Subsidy for Expenses Incurred for Quality Certification
27. Grant under the Industrial Investment Promotion Policy: 50 Percent Subsidy on Expenses Incurred in Patent Registration
28. Grant under the Industrial Investment Promotion Policy: 25- or 35-Percent Subsidy in Cleaner Production Measures
29. Tax Incentives under the Industrial Investment Promotion Policy: 100 Percent Reimbursement of Stamp Duty and Transfer Duty Paid for the Purchase of Land and Buildings and the Obtaining of Financial Deeds and Mortgages
30. Tax Incentives under the Industrial Investment Promotion Policy: Reimbursement on Value Added Tax (VAT), CST, and State Goods and Services Tax
31. Tax Incentives under the Industrial Investment Promotion Policy: Exemption from SGAP Non-Agricultural Land Assessment
32. Provision of Goods and Services for LTAR under the Industrial Investment Promotion Policy: Provision of Infrastructure for Industries Located More than 10 Kilometers from Existing Industrial Estates or Development Areas
33. Provision of Goods and Services for LTAR under the Industrial Investment Promotion Policy: Guaranteed Stable Water Prices and Reservation of Municipal Water

SGOG Subsidy Programs

34. VAT/Goods and Services Tax Reimbursement Under the Scheme of Incentive to Industries 2016-2021

State Government of Maharashtra (SGOM) Subsidy Programs

35. Sales Tax Program
36. Infrastructure Assistance for Mega Projects under the Maharashtra Industrial Policy of 2013 and Other SGOM Industrial Promotion Policies to Support Mega Projects
37. Subsidies for Mega Projects under the Package Scheme of Incentives
38. Special Capital Incentive Under Package Scheme of Incentives 1988 Scheme

State Government of Uttar Pradesh Programs

39. Exemption from Entry Tax for the Iron and Steel Industry
40. Investment Promotion Scheme

- 41. Special Assistance for Mega Projects
- 42. Reimbursement of Railway Freight

X. RECOMMENDATION

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



Agree



Disagree

2/17/2021

X



Signed by: CHRISTIAN MARSH

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance