



C-533-825

Administrative Review  
POR: 01/01/2018 – 12/31/2018  
**Public Document**  
E&C/OI: NC/KP

May 11, 2021

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

**FROM:** Scot Fullerton  
Associate Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Issues and Decision Memorandum for the Final Results of the  
Countervailing Duty Administrative Review of Polyethylene  
Terephthalate Film, Sheet, and Strip from India; 2018

---

## I. SUMMARY

The Department of Commerce (Commerce) analyzed the case and rebuttal briefs submitted by interested parties in the administrative review of the countervailing duty (CVD) order on polyethylene terephthalate film, sheet, and strip (PET film) from India, covering the period of review (POR) January 1, 2018, through December 31, 2018. As a result of this analysis, we have made certain changes to the *Preliminary Results*. We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum. Below is a complete list of the issues for which we received comments from interested parties:<sup>1</sup>

- Comment 1: Whether Commerce Should Find the Package Scheme of Incentives to be a Countervailable Subsidy
- Comment 2: Whether Commerce has Correctly Determined the Benefits under the MEIS Program
- Comment 3: Whether Commerce has Correctly Determined the Benefits under the SEIS Program
- Comment 4: Whether Commerce used the Correct Long-Term Rupee-Denominated Interest Rates

---

<sup>1</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review; 2018*, 85 FR 74679 (November 23, 2020) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).



## **II. BACKGROUND**

On November 23, 2020, Commerce published the *Preliminary Results*.<sup>2</sup> On December 23, 2020, Jindal Poly Films Ltd. (Jindal) submitted a timely-filed case brief.<sup>3</sup> The petitioners<sup>4</sup> submitted a timely-filed rebuttal brief on December 28, 2020.<sup>5</sup> On February 25, 2021, Commerce extended the deadline to issue the final results of this review until May 21, 2021.<sup>6</sup>

## **III. 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 this proceeding is dispositive.

## **IV. PERIOD OF REVIEW**

The POR is January 1, 2018, through December 31, 2018.

## **V. SUBSIDIES VALUATION INFORMATION**

### **A. Allocation Period**

We made no changes to the allocation period and the allocation methodology used in the *Preliminary Results*.<sup>7</sup> No issues were raised by interested parties in case briefs that would lead us to reconsider our preliminary finding regarding the allocation period or the allocation methodology for the respondent companies.

### **B. Attribution of Subsidies**

We made no changes to the methodologies used in the *Preliminary Results* for attributing subsidies.<sup>8</sup> No issues were raised by interested parties in case briefs that would lead us to reconsider our preliminary finding regarding the attribution of subsidies.

---

<sup>2</sup> *Id.*

<sup>3</sup> See Jindal's Letter, "Administrative Review of PET Film from India: Case Brief," dated December 23, 2020 (Jindal's Case Brief).

<sup>4</sup> The petitioners are DuPont Teijin Films, Mitsubishi Polyester Film, Inc., and SKC, Inc. (collectively, the petitioners).

<sup>5</sup> See Petitioners' Letter, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Rebuttal Brief," dated December 28, 2020 (Petitioners' Rebuttal Brief).

<sup>6</sup> See Memorandum "Polyethylene Terephthalate Film, Sheet and Strip from India: Extension of Deadline for Final Results of Countervailing Duty Administrative Review; 2018," dated February 25, 2021.

<sup>7</sup> See *Preliminary Results* PDM at 4.

<sup>8</sup> *Id.* at 5.

### **C. Benchmark Interest Rates**

We made no changes to the benchmarks or discount rates used in the *Preliminary Results*.<sup>9</sup> No issues were raised by interested parties in case briefs that would lead us to reconsider our preliminary finding regarding these benchmark interest rates.

### **D. Denominators**

We made no changes to the denominators used in the *Preliminary Results*.<sup>10</sup> No issues were raised by interested parties in case briefs that would lead us to reconsider our preliminary finding regarding the denominators.

## **VI. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES**

### **A. Legal Standard**

Sections 776(a)(1) and (2) of Tariff Act of 1930, as amended (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

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) 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 adverse facts available (AFA) rate from among the possible sources of information, Commerce’s practice is to ensure that the rate is sufficiently adverse “as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide Commerce with complete and accurate information in a timely manner.”<sup>11</sup> 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.”<sup>12</sup>

Section 776(c)(1) of the Act provides that, when Commerce relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the

---

<sup>9</sup> *Id.* at 6.

<sup>10</sup> *Id.* at 7-8.

<sup>11</sup> 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).

<sup>12</sup> See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. I (1994) (SAA) at 870.

extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”<sup>13</sup> It is Commerce’s practice to consider information to be corroborated if it has probative value.<sup>14</sup> In analyzing whether information has probative value, it is Commerce’s practice to examine the reliability and relevance of the information to be used.<sup>15</sup> However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.<sup>16</sup>

## **B. Application of Facts Otherwise Available**

Commerce relied on “facts otherwise available,” including AFA, for Section 35 for Research and Development (R&D) Expenses (Section 35 R&D Tax Deductions) program in the *Preliminary Results*.<sup>17</sup> For these final results, Commerce continues to rely on AFA with respect to this program.

## **VII. ANALYSIS OF PROGRAMS**

### **A. Programs Determined to be Countervailable**

#### **1. Export Promotion Capital Goods Scheme (EPCGS)**

Jindal submitted comments in its case brief regarding this program. As explained in Commerce’s position under Comment 4, Commerce’s analysis regarding this program remains unchanged from the *Preliminary Results*:

Jindal: 2.29 percent *ad valorem*

#### **2. Status Holder Incentive Scrip (SHIS)**

Jindal submitted comments in its case brief regarding this program. As explained in Commerce’s position under Comment 4, Commerce’s analysis regarding this program remains unchanged from the *Preliminary Results*:

Jindal: 0.28 percent *ad valorem*

#### **3. Advance Authorization Scheme (AAS), aka, Advance License program (ALP)**

No parties submitted comments regarding this program. Commerce’s analysis regarding this program remains unchanged from the *Preliminary Results*:

---

<sup>13</sup> See, e.g., SAA at 870.

<sup>14</sup> See SAA at 870.

<sup>15</sup> See, e.g., SAA at 869.

<sup>16</sup> See SAA at 869-870.

<sup>17</sup> See *Preliminary Results* PDM at 8-13.

Jindal: 3.62 percent *ad valorem*

#### **4. Merchandise Export from India Scheme (MEIS)**

Jindal submitted comments in its case brief regarding this program. As explained in Commerce's position under Comment 2, Commerce's analysis regarding this program remains unchanged from the *Preliminary Results*:

Jindal: 2.35 percent *ad valorem*

#### **5. Services Export from India Scheme (SEIS)**

Jindal submitted comments in its case brief regarding this program. As explained in Commerce's position under Comment 3, Commerce modified its calculation of the subsidy rate for this program from the *Preliminary Results*:

Jindal: 0.23 percent *ad valorem*

#### **6. State Government of Maharashtra Subsidies Under the Package Scheme of Incentives 1993 and 2007 – Industrial Promotion Subsidy (IPS)**

Jindal submitted comments in its case brief regarding this program. As explained in Commerce's position under Comment 1, Commerce's analysis regarding this program remains unchanged from the *Preliminary Results*:

Jindal: 2.80 percent *ad valorem*

#### **7. State Sales Tax Incentive Programs**

No parties submitted comments regarding this program. Commerce's analysis regarding this program remains unchanged from the *Preliminary Results*:

Jindal: 0.10 percent *ad valorem*

#### **B. Programs Determined to be Not Used or to Provide No Benefit during the POR**

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

##### Government of India (GOI) Programs

1. Special Economic Zones (SEAs) formerly known as Export Process Zones/Export Oriented Units (EPZs/EOUs), and all its sub-programs
2. Incremental Exports Incentivization Scheme (IEIS)
3. Duty Drawback Program
4. Duty Free Replenishment Certificate (DFRC)
5. Target Plus Scheme

6. Capital Subsidy
7. Exemption of Export Credit from Interest Taxes
8. Loan Guarantees from the GOI
9. Export Oriented Units
10. Focus Market Scheme/Focus Product Scheme
11. Pre – and Post-Shipment Export Financing in Indian Rupees
12. Section 35 R&D Deductions of the Income Tax Act, 1961
  - Sub-Section 35(iii)
  - Sub-Section 35(iv)
  - Sub-Section 35(2AB)
  - Sub-Section 35DD
13. Section 32 for Investments into new Plants and Machinery (Section 32 Capital Investment Deductions) of the Income Tax Act, 1961, and all its sub-programs
14. Section 80-IA Deductions of the Income Tax Act, 1961 for Enterprises Engaged in Infrastructure Development

#### State Programs

15. Octroi Refund Scheme State of Maharashtra (SOM)
16. Waiving of Interest on Loans by SICOM Limited (SOM)
17. State of Uttar Pradesh Capital Incentive Scheme
16. Infrastructure Assistance Schemes (State of Gujarat)
17. Capital Incentive Scheme Uttaranchel
18. Capital Incentive Schemes (SGOM)
19. Electricity Duty Exemption Scheme (SGOM IPS 2007)
20. Exemption of Electricity Duty on Account of Electricity Generation (State of Gujarat)
21. Interest Subsidy under Special Textile Package of Industrial Policy (State of Madhya Pradesh)<sup>18</sup>
22. State Government of Madhya Pradesh (SGOMP) Industrial Promotion Policy (IPP) 2014

### **VIII. ANALYSIS OF COMMENTS**

#### **Comment 1: Whether Commerce Should Find the Package Scheme of Incentives to be a Countervailable Subsidy**

##### *Jindal's Case Brief*<sup>19</sup>

- Under the Package Scheme Incentives (PSI), district subdivisions in the State of Maharashtra are divided into six different zones based on the level of development in each zone.
- Jindal's manufacturing plant is in the Nashik district of the State of Maharashtra. The area falls under Group D and is automatically entitled to incentives provided by the State of Maharashtra.
- The subsidy is not specific, because it is available to all industries or enterprises within the State of Maharashtra. The subsidy is not limited to certain geographic regions within

<sup>18</sup> We inadvertently listed "State of Mah" in the *Preliminary Results* PDM, which was not a program.

<sup>19</sup> See Jindal's Case Brief at 3-7.

the regional jurisdiction and the group divisions are based on an objective and neutral criterion, *i.e.*, the human development index.

- Commerce reached a conclusion that the program is specific pursuant to section 771(5A)(D)(iv) of the Act, because it is limited to certain geographical regions within the state of Maharashtra. This finding is at odds with the finding by Commerce that the program is available within the entire State of Maharashtra.
- The World Trade Organization Appellate Body found that where regional government bodies grant a subsidy that is available to enterprises throughout the territory over which that regional government has jurisdiction, the subsidy cannot be regionally specific.<sup>20</sup>
- Section 771(5A)(D)(iii) of the Act provides a list of factors that indicate a subsidy would be *de facto* specific if one or more of the conditions enumerated in the code is present. The PSI is not *de facto* specific, because none of the enumerated factors apply in this case.

#### *Petitioners' Rebuttal Comments*<sup>21</sup>

- Under the terms of the PSI program, the regional authority divided the territory under its jurisdiction into different developmental zones, and benefits under the program vary depending on the zone.
- Jindal's participation in the program is based on criteria that include hiring and investment within the geographically grouped zones.
- Commerce found this program to be specific in previous segments of this proceeding and none of the parties presented any evidence of changes to the program, or its application to Jindal.
- Commerce determined that Jindal qualifies for the benefit based on the "mega projects" provision of the PSI. Benefits provided under "mega projects" are tied to determination by a committee rather than criteria or conditions clearly set forth in the relevant statute, regulation, or other official document. Further, Commerce found that the committee granting mega projects has the power to customize and offer special incentives for the prestigious "mega projects" on a case by case basis. Jindal has not provided any evidence to the contrary. Thus, the program cannot be found not countervailable as a matter of law, pursuant to 771(5A)(D) of the Act.

**Commerce Position:** We disagree with Jindal. Commerce previously found this program to be regionally specific.<sup>22</sup> In the *Preliminary Results*, parties provided no new information or evidence that would warrant reconsidering our determination that this program is regionally specific.<sup>23</sup>

---

<sup>20</sup> See Appellate Body Report, United States – Measures Affecting Trade in Large Civil Aircraft (Second Complaint), WT/DS353/AB/R, adopted 23 March 2012.

<sup>21</sup> See Petitioners' Rebuttal Brief at 1-4.

<sup>22</sup> See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*; 2017, 85 FR 14463 (March 12, 2020), and accompanying and accompanying Issues and Decision Memorandum (IDM).

<sup>23</sup> See *Preliminary Results* PDM at 26 ("Pursuant to section 771(5A)(D)(iv) of the Act, the program is specific because it is limited to certain geographical regions within the state of Maharashtra. There is no new information or evidence of changed circumstances that would warrant reconsidering our determinations that this program is countervailable.").

First, we disagree with Jindal's argument that the program cannot be specific because the program covers the entire State of Maharashtra. Section 771(5A)(D)(iv) of the Act stipulates that where a subsidy is "limited to an enterprise or industry located within a designated geographical region within the jurisdiction of the authority providing the subsidy, the subsidy is specific." Record information demonstrates that the program is specific to certain areas within the state and, thus, is specific.

Under the PSI program, 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.<sup>24</sup> Pursuant to this program, the entire State of Maharashtra is divided into six different development zones: A, B, C, D, D+, and "no industry"<sup>25</sup> with benefits under the program varying by zone.<sup>26</sup> Jindal reported that it participated in the PSI under the provisions for "mega projects."<sup>27</sup> Record information indicates that a project qualifies as a "mega project" depending on the project's location within Maharashtra.<sup>28</sup> Thus, we find the benefits provided to a project under this program are determined either by location of the project, or by whether the project qualifies as a "mega project." Statements by Jindal support this finding.<sup>29</sup>

Thus, the type and amounts of benefits a project receives under this program is dependent on the location within the jurisdiction of the State of Maharashtra. Moreover, Jindal did not cite to any new information or evidence of changed circumstances regarding this program on the record of this review that would warrant Commerce reversing its preliminary finding. We note that the GOI has indicated that the program was updated in March 2019,<sup>30</sup> after the POR of this review and, as such, we find that there is no new record information regarding the program applicable to this POR. Therefore, pursuant to section 771(5A)(D)(iv) of the Act, we continue to find this program to be regionally specific for these final results, as benefits are limited to certain regions within Maharashtra.

---

<sup>24</sup> See *Preliminary Results PDM* at 24.

<sup>25</sup> *Id.*

<sup>26</sup> See GOI's Letter, "Countervailing Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from India: Questionnaire: Request for Extension of Time to File Response," dated January 13, 2020 (GOI January 13, 2020 IQR) at 127-134 and Exhibits 30-34.

<sup>27</sup> See Jindal's Letter, "Administrative Review of PET Film from India: Part Response to First Supplemental Questionnaire," dated June 16, 2020 at 59-65 and Exhibits 97-100.

<sup>28</sup> *Id.* at Exhibit 97 ("Mega Projects: Industrial Projects with investment more than Rs. 500 Crores or generating employment for more than 1000 persons in A & B area or investment more than 250 Crores or generating employment for more than 500 persons in rest of Maharashtra.").

<sup>29</sup> *Id.* at 60 ("the type and quantum of incentives to the approved project depends upon the location within the State of Maharashtra.").

<sup>30</sup> See, e.g., GOI January 13, 2020 IQR at 127.



## **Comment 2: Whether Commerce has Correctly Determined the Benefits under the MEIS Program**

### *Jindal's Case Brief*<sup>31</sup>

- Jindal submits that Commerce incorrectly added the value of eight licenses which Jindal purchased from Jindal Films India Limited (JFIL), Jindal's cross-owned affiliate, as JFIL received the licenses pursuant to sales of non-subject merchandise.
- Jindal purchased licenses under the program at a market rate; thus, Commerce should not have found any benefit based on the certificates.
- If Commerce determines that the licenses provided countervailable benefits, Commerce should add JFIL's exports sales to the denominator to determine the subsidy rate for this program.

### *Petitioners' Rebuttal Comments*<sup>32</sup>

- Commerce properly followed its regulations concerning the attribution of subsidies, namely 19 CFR 351.525(b)(6)(v) which states that "... if a corporation producing non-subject merchandise received a subsidy and transferred the subsidy to a corporation with cross-ownership, the Secretary will attribute the subsidy to products sold by the recipient of the transferred subsidy."<sup>33</sup> Thus, the relationship of subsidies to non-subject merchandise does not preclude Commerce from countervailing subsidies under this program where JFIL transferred subsidy benefits to Jindal.
- Jindal asserted that it purchased licenses from JFIL at market value, but has not substantiated those assertions with record evidence. Evidence that license transfers were exempt from India's Goods and Services Tax supports Commerce's determination that JFIL transferred benefits under this scheme to its parent.
- Section 351.525(b)(6)(v) of Commerce's regulations requires that the transferred subsidy be attributed to products sold by the recipient of the transferred subsidy, in this case this means export sales of Jindal, not the combined export sales of Jindal and JFIL.

**Commerce Position:** We disagree with Jindal's arguments. First, regarding Jindal's argument that licenses transferred from JFIL to Jindal are not countervailable because they are tied to non-subject merchandise, we preliminarily found that: (1) JFIL received benefits under the MEIS program during the POR; (2) some of these licenses were transferred to Jindal; and (3) JFIL was a cross-owned affiliate of Jindal.<sup>34</sup> Jindal did not dispute these facts in its case brief. Commerce's regulations stipulate "if a corporation producing non-subject merchandise received a subsidy and transferred the subsidy to a corporation with cross-ownership, the Secretary will attribute the subsidy to products sold by the recipient of the transferred subsidy."<sup>35</sup> Thus, while JFIL may have not produced subject merchandise, the company did receive a subsidy under the MEIS program, that it, in-turn, transferred to our respondent in this administrative review, Jindal.

---

<sup>31</sup> See Jindal's Case Brief at 7-9.

<sup>32</sup> See Petitioners' Rebuttal Brief at 4-5.

<sup>33</sup> *Id.* at 3.

<sup>34</sup> See *Preliminary Results* PDM at 5.

<sup>35</sup> See 19 CFR 351.525(b)(6)(v).

As such, our decision to include the value of the transferred licenses in the preliminary benefit calculation was appropriate.

Next, Jindal argues that the company received no benefit from the licenses transferred from JFIL, as they were purchased from JFIL at market prices. However, as discussed in the *Preliminary Results*, we find that the record evidence indicates a simple transfer of assets from the accounting books of one company to the books of another.<sup>36</sup> Further, Jindal did not provide or cite to any additional information to show that Jindal purchased the licenses at market price. Thus, the record does not support Jindal's assertion that it paid market price to JFIL for the licenses. Therefore, we find there is no basis to change our calculation for this final.

Finally, Jindal argues that should Commerce find that the licenses at issue constitute countervailable benefits and that Commerce should add JFIL's export sales to the denominator to determine Jindal's subsidy rate for this program. However, Commerce's regulations state that, in instances where a subsidy is transferred, Commerce "will attribute the subsidy to products sold by the recipient of the transferred subsidy."<sup>37</sup> As such, the inclusion of JFIL's export sales in the denominator would be inconsistent with Commerce's regulations.

### **Comment 3: Whether Commerce Correctly Determined the Benefits under the SEIS Program**

#### *Jindal's Case Brief*<sup>38</sup>

- Benefits under the SEIS program cannot be tied to subject merchandise, as they relate to the export of services, and not goods.
- Should Commerce determine that the licenses provided countervailable benefits, Commerce should only include the licenses transferred to Jindal in the benefit calculation and should not include the SEIS license sold from JFIL to Jindal. The SEIS license sold to Jindal was purchased at market value from JFIL and, thus, Commerce should not find any benefit based on this license.
- If Commerce determines that the licenses provided countervailable benefits, Commerce should add JFIL's exports sales to the denominator to determine the subsidy rate for this program.

**Commerce Position:** Jindal utilized three SEIS licenses during the POR, one of which was allegedly purchased from JFIL.<sup>39</sup> With regard to the license allegedly purchased from JFIL, in the *Preliminary Results*, pursuant to 19 CFR 351.525(b)(6)(v), we determined that Jindal received benefits under this program in the form of a transfer of a subsidy from a cross-owned entity.<sup>40</sup>

---

<sup>36</sup> See *Preliminary Results* PDM at 20.

<sup>37</sup> See 19 CFR 351.525(b)(6)(v).

<sup>38</sup> See Jindal's Case Brief at 9-12.

<sup>39</sup> See, e.g., JFIL's Letter "Administrative Review of PET Film from India: Part Response to First Supplemental Questionnaire," dated June 17, 2020 at 70.

<sup>40</sup> See *Preliminary Results* PDM at 22.

First, we disagree with Jindal's argument that benefits under the SEIS program cannot be tied to subject merchandise as it relates to export of services, and not goods. While the SEIS program was developed to promote the export of specified services from India,<sup>41</sup> the benefits are provided in the form of scrips (or credit) that can be used for payment of customs duties on imports of inputs or goods, including capital goods, or as payment of excise duties on domestically procured inputs or goods.<sup>42</sup> Further, in the previous review, we found entitlement to benefits derived from SEIS licenses to be irrelevant, as the licenses allow Jindal to import goods or capital goods duty-free in the amount stated on the licenses, and receives a benefit in that amount.<sup>43</sup> Thus, while the scrips earned under this program were based on exporting services, the scrips are used for payment of inputs or goods that may be used in the production of goods, including subject merchandise.

Further, Jindal argued that we should not include the SEIS license "sold" from JFIL to Jindal in the benefit calculation, because it was sold at market value. However, as discussed in the *Preliminary Results*, Jindal did not provide any itemized support for those bank transfers it claims would include payment for the transfer of licenses, nor supporting information for its claim of market value for those transfers from and to its affiliate.<sup>44</sup> Thus, the record does not support Jindal's assertion that it paid market price to JFIL for the licenses. As such, we find it is appropriate to continue to include the SEIS license transferred from JFIL to Jindal in the calculation for these final results. Additionally, upon further review of the preliminary results calculations, Commerce considered the other license that was granted directly from the GOI to Jindal during the POR which was not included in the preliminary benefit calculation.<sup>45</sup> For purposes of these final results, we have also included the value of the license in our benefit calculation for this program.<sup>46</sup>

Finally, Jindal argues that should Commerce find that the SEIS licenses provided constitute countervailable benefits, Commerce should add JFIL's exports sales to the denominator to determine Jindal's subsidy rate for this program. This argument is similar to Jindal's argument at Comment 3 about including JFIL's export sales to the denominator to calculate MEIS rates. Similar to that instance, we find that the inclusion of JFIL's export sales in the denominator would be inconsistent with Commerce's regulations which stipulate that Commerce "will attribute the subsidy to products sold by the recipient of the transferred subsidy"<sup>47</sup> in instances where a subsidy is transferred.

---

<sup>41</sup> See GOI's Letter, "Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet and Strip (PET film) from India; 2018: First Supplemental Questionnaire," dated June 29, 2020 at 51.

<sup>42</sup> *Id.* at 51-61 (FTP 3.07); see also Jindal's Letter, "Administrative Review of PET Film from India: Part Response to First Supplemental Questionnaire," dated June 17, 2020 at 71.

<sup>43</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*; 2017, 85 FR 14463 (March 12, 2020), and accompanying IDM at 27.

<sup>44</sup> See *Preliminary Results* PDM at 21-22.

<sup>45</sup> See Memorandum "Countervailing Duty Administrative Review of the Order on Polyethylene Terephthalate Film, Sheet and Strip from India; Calculations for the 2018 Preliminary Results: Jindal Poly Films Ltd.," dated November 17, 2020.

<sup>46</sup> See Memorandum, "Jindal Final Results Calculation 2018," dated May 21, 2021. The third license reported by Jindal was received from the GOI prior to the POR and thus not included in our calculation for this program.

<sup>47</sup> See 19 CFR 351.525(b)(6)(v).

#### **Comment 4: Whether Commerce used the Correct Long-Term Rupee-Denominated Interest Rates**

##### *Jindal's Case Brief*<sup>48</sup>

- Commerce determined that Jindal did not have comparable commercial long-term rupee-denominated loans for all required years, and for all years in which Commerce did not have company-specific information, Commerce relied on comparable long-term benchmark interest rates from the immediately preceding year as directed by 19 CFR 351.505(a)(2)(iii).
- Commerce mistakenly used a fixed interest rate for non-recurring subsidies under the EPCGS and SHIS programs. Commerce should have used variable interest rates pursuant to 19 CFR 351.505(c)(4).
- There is nothing in the case record to show that these programs consist of fixed interest loans. Commerce should determine the benefit by using the interest rate prevalent for the year for which the benefit is being calculated, *i.e.*, the POR.

##### *Petitioners' Rebuttal Comments*<sup>49</sup>

- The provision relied upon by Jindal, 19 CFR 351.505(c)(4), is irrelevant for the two programs for which Jindal claims Commerce erred in choosing an interest rate, as neither program concerns government-provided long-term, variable rate loans.
- The relevant portion of the benefit is, instead, the unpaid duty liabilities that the GOI had not finally waived as of the end of the POR.
- Consistent with its established practice concerning the EPCGS program, Commerce measured the relevant portion of the benefit as a contingent-liability interest-free loan pursuant to 19 CFR 351.505(d)(1).

**Commerce Position:** We disagree with Jindal that we used an incorrect interest rate regarding the EPCGS and SHIS programs. Consistent with our established practice concerning the two programs at issue, we measured the relevant portion of the benefit as a contingent-liability interest-free loan pursuant to 19 CFR 351.505(d)(1).<sup>50</sup>

In this review, Jindal did not have comparable commercial long-term rupee-denominated loans for all required years; therefore, for those years for which we did not have company-specific information, and where the relevant information was on the record, we relied on comparable long-term rupee-denominated benchmark interest rates from the immediately preceding year, as directed by 19 CFR 351.505(a)(2)(iii). We used the yearly average long-term lending rate in India where Jindal did not report any long-term fixed-rate commercial loans.<sup>51</sup> The relevant portion of the benefit is based on the GOI forgoing collection of duties otherwise payable, which is treated as if the GOI provided Jindal a long-term loan under a fixed rate on the date the GOI forwent the payment of duties under the program. Upon the above reasoning, the interest rate choice was made pursuant to 19 CFR 351.505(d)(1).<sup>52</sup>

---

<sup>48</sup> See Jindal's Case Brief at 12-13.

<sup>49</sup> See Petitioners' Rebuttal Brief at 5-6.

<sup>50</sup> See *Preliminary Results* PDM at 15.

<sup>51</sup> *Id.* at 7.

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

This program has been treated consistently in the investigation related to this order, as well as in subsequent administrative reviews,<sup>53</sup> and Jindal provides no evidence of changed circumstances which would warrant changing our methodology regarding this program. Thus, we continue to find the methodology set forth in 19 CFR 351.524 to be appropriate and find no reason to change the calculation for this program in the final results.

## IX. RECOMMENDATION:

We recommend approving all of the above positions. If these positions are accepted, we will publish the final results in the *Federal Register*.



\_\_\_\_\_  
Agree



\_\_\_\_\_  
Disagree

5/11/2021

X 

Signed by: CHRISTIAN MARSH

Christian Marsh  
Acting Assistant Secretary  
for Enforcement and Compliance

---

<sup>53</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), and accompanying IDM; see also *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*; 2017, 85 FR 14463 (March 12, 2020), and accompanying IDM.