



C-533-874

Administrative Review  
POR: 01/01/2019-12/31/2019  
**Public Document**  
E&C/V: EGH/ES

June 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: Certain Cold-Drawn  
Mechanical Tubing of Carbon and Alloy Steel from India; 2019

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## I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the countervailing duty (CVD) order on certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from India. The period of review (POR) is January 1, 2019, through December 31, 2019. The review covers two mandatory respondents, Goodluck India Limited (Goodluck) and Tube Investments of India Ltd. (TII). We preliminarily find that countervailable subsidies are being provided to Goodluck and TII that are above *de minimis* during the POR.

## II. BACKGROUND

On February 1, 2018, Commerce published in the *Federal Register* the CVD order on cold-drawn mechanical tubing from India.<sup>1</sup> On February 3, 2020, Commerce published a notice of opportunity to request an administrative review of the *Order* for the period January 1, 2019, through December 31, 2019.<sup>2</sup> On April 8, 2020, Commerce initiated an administrative review of the *Order* with respect to 16 companies, including Goodluck and TII.<sup>3</sup> In the *Initiation Notice*, we stated that, in the event that we limited the number of respondents selected for individual examination, we intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR.<sup>4</sup> In April 2020, we released CBP data to all

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<sup>1</sup> See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China and India: Countervailing Duty Orders*, 83 FR 4637 (February 1, 2018) (*Order*).

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 85 FR 5938 (February 3, 2020).

<sup>3</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 19730 (April 8, 2020).

<sup>4</sup> *Id.*, 85 FR at 19730, 19731.



interested parties under an administrative protective order and requested comments regarding the data and respondent selection,<sup>5</sup> and we received comment from TII.<sup>6</sup> Also in April 2020, Commerce tolled all deadlines in administrative reviews by 50 days.<sup>7</sup>

In May 2020, we selected Goodluck and TII, the two companies accounting for the largest volume of entries of subject merchandise into the United States during the POR, for individual examination in this administrative review.<sup>8</sup> 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.<sup>9</sup> The GOI,<sup>10</sup> Goodluck<sup>11</sup> and TII<sup>12</sup> timely submitted responses.

In June 2020, the ArcelorMittal Tubular Products LLC and Webco Industries, Inc. (collectively, the petitioners) timely filed a request for verification of respondents Goodluck and TII, claiming good cause likely exists for Commerce to verify the respondents.<sup>13</sup>

In July 2020, based on a timely withdrawal of the petitioners' requests for review,<sup>14</sup> Commerce rescinded this review with respect to all companies other than the mandatory respondents.<sup>15</sup> Also in July 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days.<sup>16</sup>

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<sup>5</sup> See Memorandum, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India, U.S. Customs Data for Respondent Selection," dated April 15, 2020.

<sup>6</sup> See TII's Letter, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Comments on CBP Data," dated April 22, 2020.

<sup>7</sup> 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.

<sup>8</sup> See Memorandum, "Administrative Review of the Countervailing Duty Order on Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Respondent Selection," dated May 15, 2020.

<sup>9</sup> See Commerce's Letter, "Administrative Review of Countervailing Duty Order on Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Initial Questionnaire," dated May 15, 2020 (Initial Questionnaire).

<sup>10</sup> See GOI's Letter, "Administrative Review of Countervailing Duty Order on Certain Cold-Drawn Mechanical Tubing from India: Initial Questionnaire Response on behalf of Government of India (GOI)," dated July 6, 2020 (GOI July 6, 2020 IQR).

<sup>11</sup> See Goodluck's Letter, "Certain Cold Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Goodluck's Affiliation Response of Countervailing Duty Administrative Review," June 11, 2020 (Goodluck June 11, 2020 AFFR); see also Goodluck's Letter, "Certain Cold Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Goodluck's Section III Response to Section III of Countervailing Duty Administrative Review," dated July 13, 2020 (Goodluck July 13, 2020 IQR).

<sup>12</sup> See TII's Letter, "Cold-Drawn Mechanical Tubing from India: Section III Affiliation Questionnaire Response," dated June 15, 2020 (TII June 15, 2020 AFFR); see also TII's Letter, "Cold-Drawn Mechanical Tubing from India: Section III Questionnaire Response," dated July 13, 2020 (TII July 13, 2020 IQR).

<sup>13</sup> See Petitioners' Letter, "Certain Cold-Drawn Mechanical Tubing from India – Domestic Producers' Request for Verification," dated June 18, 2020.

<sup>14</sup> See Petitioners' Letter, "Certain Cold-Drawn Mechanical Tubing from India – Domestic Producers Partial Withdrawal of Request for 2019 Countervailing Duty Administrative Review," dated June 18, 2020.

<sup>15</sup> Subsequently, Goodluck also withdrew its request for a review. See Goodluck's Letter, "Certain Cold Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Withdrawal of Request for Countervailing Duty Administrative Review for the period of January 01, 2019 to December 31, 2019," dated August 26, 2020. However, because the petitioners requested a review of Goodluck, the review continues for this company.

<sup>16</sup> See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 21, 2020.

From November 2020, through June 2021, we issued supplemental questionnaires to the GOI, Goodluck, and TII. We received timely responses to these supplemental questionnaires from the GOI,<sup>17</sup> Goodluck,<sup>18</sup> and TII<sup>19</sup> during this same period.

On January 11, 2021, 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).<sup>20</sup> The revised deadline for these preliminary results is now June 18, 2021.

On May 19, 2021, the petitioners and TII timely submitted new factual information related to measuring the adequacy of remuneration of, and benefit from, the provision of steel inputs from the Steel Authority of India (SAIL) for less than adequate remuneration (LTAR).<sup>21</sup> On June 1, 2021, Goodluck timely submitted rebuttal new factual information to measure the adequacy of remuneration under this program.<sup>22</sup>

On June 4, 2021, the petitioners filed pre-preliminary results comments.<sup>23</sup> On June 14, 2021, Goodluck responded to these comments.<sup>24</sup>

### III. SCOPE OF THE *ORDER*

The scope of the *Order* covers cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) of circular cross-section, 304.8 mm or more in length, in actual outside diameters less than 331mm, and regardless of wall thickness, surface finish, end finish or industry specification. The subject cold-drawn mechanical tubing is a tubular product with a circular cross-sectional shape that has been cold-drawn or otherwise cold-finished after the initial tube formation in a manner that involves a change in the diameter or wall thickness of the tubing,

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<sup>17</sup> See GOI's Letter, "Certain Cold-Drawn Mechanical Tubing from India (C-533-874), POR: 01/01/2019-12/31/2019: Supplementary Questionnaire Response to Section-II on behalf of Government of India," dated November 19, 2020 (GOI November 19, 2020 SQR); see also GOI's Letter, "Certain Cold-Drawn Mechanical Tubing from India (C-533-874), POR: 01/01/2019-12/31/2019: Second Supplementary Questionnaire Response to Section-II on behalf of Government of India," dated May 10, 2021 (GOI May 10, 2021 SQR).

<sup>18</sup> See Goodluck's Letter, "Goodluck's 1st Supplemental Response to Section III of Countervailing Duty Questionnaire," dated April 7, 2021 (Goodluck April 7, 2021 SQR); see also Goodluck's Letter, "Goodluck's 2nd Supplemental Response to Section III of Countervailing Duty Questionnaire," dated May 17, 2021 (Goodluck May 17, 2021 SQR); and Goodluck's Letter, "Goodluck's Response to Rebuttal Benchmark Supplemental Questionnaire," dated June 8, 2021 (Goodluck June 8, 2021 SQR).

<sup>19</sup> See TII's Letter, "Cold-Drawn Mechanical Tubing from India: Supplemental Questionnaire Response," dated February 15, 2021 (TII February 15, 2021 SQR).

<sup>20</sup> See Memorandum, "Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Extension of Deadline for Preliminary Results of 2019 Countervailing Duty Administrative Review," dated January 11, 2021.

<sup>21</sup> See Petitioners' Letter, "Certain Cold-Drawn Mechanical Tubing from India – Petitioners' Submission of Factual Information to Measure the Adequacy of Remuneration," dated May 19, 2021 (Petitioners' May 19, 2021 Benchmark Submission); and TII's Letter, "Cold-Drawn Mechanical Tubing from India: Benchmark Submission," dated May 19, 2021 (TII's May 19, 2021 Benchmark Submission).

<sup>22</sup> See Goodluck's Letter, "Goodluck's Rebuttal to Petitioners' submission of Factual Information to Measure Adequacy of Remuneration," dated June 1, 2021.

<sup>23</sup> See Petitioners' Letter, "Petitioners' Pre-Preliminary Comments," dated June 4, 2021.

<sup>24</sup> See Goodluck's Letter, "Goodluck's Rebuttal to Petitioner's Pre-Preliminary Results Comment," dated June 14, 2021.

or both. The subject cold-drawn mechanical tubing may be produced from either welded (*e.g.*, electric resistance welded, continuous welded, *etc.*) or seamless (*e.g.*, pierced, pilgered or extruded, *etc.*) carbon or alloy steel tubular products. It may also be heat treated after cold working. Such heat treatments may include, but are not limited to, annealing, normalizing, quenching and tempering, stress relieving or finish annealing. Typical cold-drawing methods for subject merchandise include, but are not limited to, drawing over mandrel, rod drawing, plug drawing, sink drawing and similar processes that involve reducing the outside diameter of the tubing with a die or similar device, whether or not controlling the inside diameter of the tubing with an internal support device such as a mandrel, rod, plug or similar device. Other cold-finishing operations that may be used to produce subject merchandise include cold-rolling and cold-sizing the tubing.

Subject cold-drawn mechanical tubing is typically certified to meet industry specifications for cold-drawn tubing including but not limited to:

- (1) American Society for Testing and Materials (ASTM) or American Society of Mechanical Engineers (ASME) specifications ASTM A-512, ASTM A-513 Type 3 (ASME SA513 Type 3), ASTM A-513 Type 4 (ASME SA513 Type 4), ASTM A-513 Type 5 (ASME SA513 Type 5), ASTM A-513 Type 6 (ASME SA513 Type 6), ASTM A-519 (cold-finished);
- (2) SAE International (Society of Automotive Engineers) specifications SAE J524, SAE J525, SAE J2833, SAE J2614, SAE J2467, SAE J2435, SAE J2613;
- (3) Aerospace Material Specification (AMS) AMS T-6736 (AMS 6736), AMS 6371, AMS 5050, AMS 5075, AMS 5062, AMS 6360, AMS 6361, AMS 6362, AMS 6371, AMS 6372, AMS 6374, AMS 6381, AMS 6415;
- (4) United States Military Standards (MIL) MIL-T-5066 and MIL-T-6736;
- (5) foreign standards equivalent to one of the previously listed ASTM, ASME, SAE, AMS or MIL specifications including but not limited to:
  - (a) German Institute for Standardization (DIN) specifications DIN 2391-2, DIN 2393-2, DIN 2394-2;
  - (b) European Standards (EN) EN 10305-1, EN 10305-2, EN 10305-4, EN 10305-6 and European national variations on those standards (*e.g.*, British Standard (BS EN), Irish Standard (IS EN) and German Standard (DIN EN) variations, *etc.*);
  - (c) Japanese Industrial Standard (JIS) JIS G 3441 and JIS G 3445; and
- (6) proprietary standards that are based on one of the above-listed standards.

The subject cold-drawn mechanical tubing may also be dual or multiple certified to more than one standard. Pipe that is multiple certified as cold-drawn mechanical tubing and to other specifications not covered by this scope, is also covered by the scope of this *Order* when it meets the physical description set forth above.

Steel products included in the scope of the *Order* is products in which: (1) Iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

For purposes of this scope, the place of cold-drawing determines the country of origin of the subject merchandise. Subject merchandise that is subject to minor working in a third country that occurs after drawing in one of the subject countries including, but not limited to, heat treatment, cutting to length, straightening, nondestructive testing, deburring or chamfering, remains within the scope of this *Order*.

All products that meet the written physical description are within the scope of the *Order* unless specifically excluded or covered by the scope of an existing order. Merchandise that meets the physical description of cold-drawn mechanical tubing above is within the scope of the *Order* even if it is also dual or multiple certified to an otherwise excluded specification listed below.

The following products are outside of, and/or specifically excluded from, the scope of the *Order*:

- (1) Cold-drawn stainless steel tubing, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;
- (2) products certified to one or more of the ASTM, ASME or American Petroleum Institute (API) specifications listed below:
  - ASTM A-53;
  - ASTM A-106;
  - ASTM A-179 (ASME SA 179);
  - ASTM A-192 (ASME SA 192);
  - ASTM A-209 (ASME SA 209);
  - ASTM A-210 (ASME SA 210);
  - ASTM A-213 (ASME SA 213);
  - ASTM A-334 (ASME SA 334);
  - ASTM A-423 (ASME SA 423);
  - ASTM A-498;
  - ASTM A-496 (ASME SA 496);
  - ASTM A-199;
  - ASTM A-500;
  - ASTM A-556;
  - ASTM A-565;
  - API 5L; and
  - API 5CT

except that any cold-drawn tubing product certified to one of the above excluded specifications will not be excluded from the scope if it is also dual – or multiple-certified to any other specification that otherwise would fall within the scope of the *Order*.

The products subject to the *Order* are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.31.3000, 7304.31.6050, 7304.51.1000, 7304.51.5005, 7304.51.5060, 7306.30.5015, 7306.30.5020, 7306.50.5030. Subject merchandise may also enter under numbers 7306.30.1000 and 7306.50.1000. The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the *Order* is dispositive.

#### **IV. PERIOD OF REVIEW**

The POR is January 1, 2019, through December 31, 2019.

#### **V. 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.<sup>25</sup> 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 15 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service Publication 946 (2017).<sup>26</sup> No parties submitted comments challenging this AUL period, and we, therefore, preliminarily find that a 15-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 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.

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<sup>25</sup> See 19 CFR 351.524(b).

<sup>26</sup> See U.S. Internal Revenue Service Publication 946 (2017), "How to Depreciate Property" at Table B-2: Table of Class Lives and Recovery Periods.

The *CVD 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.<sup>27</sup>

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.<sup>28</sup>

### *Goodluck*

Goodluck 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.<sup>29</sup> While Goodluck has multiple subsidiaries, they do not meet any of the attribution regulations, including the production or sale of subject merchandise, or the production of a primarily dedicated input used in the production of a downstream product.<sup>30</sup> Therefore, we will attribute subsidies received by Goodluck to its own sales, in accordance with 19 CFR 351.525(b)(6)(i).

### *TII*

TII 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.<sup>31</sup> While TII has multiple subsidiaries, they do not meet any of the attribution regulations, including the production or sale of subject merchandise, or the production of a primarily dedicated input used in the production of a downstream product.<sup>32</sup> Therefore, we will attribute subsidies received by TII to its own sales, in accordance with 19 CFR 351.525(b)(6)(i).

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<sup>27</sup> See *Countervailing Duties: Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).

<sup>28</sup> See *Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-04 (CIT 2001).

<sup>29</sup> See Goodluck June 11, 2020 AFFR at 7-8; see also Goodluck July 13, 2020 IQR at 4.

<sup>30</sup> *Id.*

<sup>31</sup> See TII June 15, 2020 AFFR at 3-6; see also TII July 13, 2020 IQR at 4.

<sup>32</sup> *Id.*

### 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.<sup>33</sup> As discussed in further detail below under "Programs Preliminarily Found 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. For the remaining programs tied to export performance, we preliminarily used export sales exclusive of deemed exports as the denominator for the calculations of those program benefits.<sup>34</sup> As companies may fulfill their export obligations under certain export subsidy programs with deemed exports, *i.e.*, the good supplied does not physically leave the country, those deemed exports may be included in the denominator for those programs permitting deemed exports (*e.g.*, Export Promotion of Capital Goods Scheme (EPCGS)) to fulfill a respondent's export obligations. Therefore, we preliminarily used export sales inclusive of deemed exports as the denominator for the benefit calculation for the EPCGS program only.<sup>35</sup> For a further discussion of the denominators used, *see* the Goodluck<sup>36</sup> and TII<sup>37</sup> Preliminary Analysis Memoranda.

## VI. BENCHMARKS AND INTEREST RATES

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

### A. Long-Term Rupee Denominated Loans

Based on Goodluck's and TII's responses, we preliminarily find that neither Goodluck nor TII took out comparable rupee-denominated long-term loans from commercial banks for the years

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<sup>33</sup> See 19 CFR 351.525(b)(1)-(5).

<sup>34</sup> See Memorandum, "Preliminary Results Calculations for Goodluck India Limited," dated concurrently with this memorandum (Goodluck Preliminary Analysis Memorandum); *see also* Memorandum, "Preliminary Results Calculations for Tube Investments of India Ltd.," dated concurrently with this memorandum (TII Preliminary Analysis Memorandum).

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

<sup>36</sup> See Goodluck Preliminary Analysis Memorandum

<sup>37</sup> See TII Preliminary Analysis Memorandum.

for which we must calculate benchmark and discount rates.<sup>38</sup> Therefore, pursuant to 19 CFR 351.505(a)(3)(ii), we are preliminarily using national average interest rates for Goodluck and TII. Specifically, we used national average interest rates from the International Monetary Fund (IMF)’s International Financial Statistics (IFS) as benchmark rates for rupee-denominated long-term loans. We preliminarily find that the IFS rates provide a reasonable representation of 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 preliminary calculation memoranda.<sup>39</sup>

## **C. Input Benchmarks**

As discussed below, we selected benchmarks for determining the benefit from the provision of steel inputs from SAIL for LTAR in accordance with 19 CFR 351.511. Section 351.511(a)(2) sets forth the basis for identifying comparative benchmarks for determining whether a government good or service is provided for LTAR. These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*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 investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three).<sup>40</sup>

In the underlying investigation, Commerce determined that SAIL is a governmental authority providing a financial contribution based on adverse facts available (AFA), in accordance with sections 776(a) and (b) of the Act.<sup>41</sup> In this review and consistent with the investigation, the GOI did not provide information regarding SAIL and the market distortion information for the steel industry in India. We, therefore, based on AFA, preliminarily determine in this administrative review that SAIL is a “government authority” and steel market distorted. Therefore, prices from its domestic input producers do not constitute market-determined prices. As provided in the regulations, the preferred benchmark in the hierarchy is an observed market price for the good at issue from actual transactions within the country under investigation.<sup>42</sup> However, under these

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<sup>38</sup> See Goodluck July 13, 2020 IQR at 31 and Exhibit 11.f and TII July 13, 2020 IQR at 43 and Exhibit CVD-36.

<sup>39</sup> See Goodluck Preliminary Analysis Memorandum; and TII Preliminary Analysis Memorandum.

<sup>40</sup> See 19 CFR 351.511(a)(2).

<sup>41</sup> See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 44558 (September 25, 2017) (*Cold-Drawn Mechanical Tubing Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM) at 11, 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) (*Cold-Drawn Mechanical Tubing Final Determination*), and accompanying Issues and Decision Memorandum (IDM).

<sup>42</sup> See, *e.g.*, *Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products from Canada*, 67 FR 15545 (April 2, 2003), and accompanying IDM at “Provincial Stumpage Programs Determined to Confer Subsidies: Market-Based

circumstances, a tier one benchmark would not be appropriate. We are, therefore, relying on “tier two” (world market) prices for the input benchmark for this program.

We received data submissions from the petitioner to consider using as “tier two” benchmarks for hot-rolled steel. Specifically, the petitioner submitted pricing data from UN Comtrade for Harmonized Tariff System subheadings of the material TII purchased from SAIL as potential benchmarks for hot-rolled steel.<sup>43</sup> We preliminarily determine that the UN Comtrade data may serve as a world market benchmark price for hot-rolled steel that would be available to purchasers of hot-rolled steel in India. We note that Commerce has relied on pricing data from UN Comtrade in previous CVD proceedings.<sup>44</sup>

The petitioner also provided monthly pricing data for use as potential benchmarks for ocean freight rates from a variety of world ports in and out of India in 2019, as reported by Drewry Maritime Research.<sup>45</sup> In addition, the petitioners provided the World Bank Group’s 2020 Doing Business Report for India for inland freight and transportation costs for India.<sup>46</sup> We preliminarily determine the Drewry Maritime Research data and World Bank Group’s 2020 Doing Business Report for India data may serve as benchmarks for ocean freight and inland freight/transportation cost for India, respectively.

TII submitted extracts of monthly price data reported from the SIAM Monthly Monitor (SIAM).<sup>47</sup> After reviewing the data from SIAM, it is unclear whether these data represent world market exports at commercially-available prices. First, the data from SIAM are not commercially-available prices, and SIAM states that this information is not meant to influence commercial transactions.<sup>48</sup> Second, we are not able to determine which countries were used to determine these prices. Furthermore, it is not clear whether these prices are import or export prices, and, because we are using tier two benchmarks, import prices should not be included. Therefore, we have not relied on the SIAM data as benchmarks in this review.

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Benchmark” (“Thus, the preferred benchmark in the hierarchy is an observed market price for the good, in the country under investigation, from a private supplier”).

<sup>43</sup> See Petitioners’ May 19, 2021 Benchmark Submission.

<sup>44</sup> See *Certain Aluminum Foil from the People’s Republic of China: Preliminary Results of the Countervailing Duty Administrative Review and Rescission of Review, in Part; 2017-2018*, 85 FR 38861 (June 29, 2020), and accompanying PDM, unchanged in *Certain Aluminum Foil from the People’s Republic of China: Final Results of the Countervailing Duty Administrative Review and Rescission of Review; 2017-2018*, 86 FR 12171 (March 2, 2021), and accompanying IDM.

<sup>45</sup> See Petitioners’ May 19, 2021 Benchmark Submission.

<sup>46</sup> *Id.* at 5.

<sup>47</sup> See TII’s May 19, 2021 Benchmark Submission.

<sup>48</sup> *Id.*

## VII. ANALYSIS OF PROGRAMS

### A. Programs Preliminarily Found to be Countervailable

#### GOI Subsidies

##### a. *EPCGS*

The EPCGS allows for the import of capital goods for pre-production, production, and post-production at zero percent customs duty.<sup>49</sup> Under this program, producers pay reduced duty rates on imported capital equipment by committing to earn convertible foreign currency equal to six times the value of the capital goods within a period of six years.<sup>50</sup> Once a company has met its export obligation, the GOI will formally waive the duties on the imported goods.<sup>51</sup> Eligibility is not limited to a particular sector or region.<sup>52</sup> The GOI indicated the EPCGS has been updated since the investigation in this proceeding due to the July 2017 introduction of the new Goods and Services Tax (GST), reforming the indirect tax structure.<sup>53</sup> However, the GOI did not indicate any changes that would impact the countervailability of this program.<sup>54</sup> As a result, we primarily find that the essential structure of this program remains unchanged, and we continue to find this program countervailable.

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 sections 771(5A)(A) and (B) of the Act.<sup>55</sup> There is no new information or evidence of changed circumstances that would warrant reconsidering our determinations in previous segments of this proceeding that this program is countervailable. Therefore, for these preliminary results, we continue to find this program countervailable.

The first benefit is the amount of unpaid import duties that would have to be paid to the GOI if the accompanying export obligations are not met. The repayment of this liability is contingent on subsequent events and, in such instances, it is Commerce's practice to treat any balance on an unpaid liability that may be waived in the future as an interest-free contingent-liability loan pursuant to 19 CFR 351.505(d)(1).<sup>56</sup> The second benefit arises based on the amount of duty

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<sup>49</sup> See GOI July 6, 2020 IQR at 16.

<sup>50</sup> *Id.* at 17.

<sup>51</sup> *Id.* at 30.

<sup>52</sup> *Id.* at 15.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* at 14-41 and Exhibits 4 through 8.

<sup>55</sup> 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 *Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination*, 78 FR 50385 (August 19, 2013) (*Shrimp from India Final Determination*), and accompanying IDM at 14.

<sup>56</sup> See *Glycine from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final*

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 *CVD 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 ...”<sup>57</sup> 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.

Goodluck reported that it imported capital goods at reduced import duty rates under the EPCGS program during the AUL period, but not during the POR.<sup>58</sup> Based on record information, Goodluck received various licenses which it reported were for the manufacture of non-subject merchandise.<sup>59</sup> Goodluck provided complete license documentation on the record of this administrative review, including a copy of an original license issued by the GOI.<sup>60</sup> Specifically, Goodluck demonstrated that its non-transferable licenses were issued for use in a plant which does not produce subject merchandise. Furthermore, the licenses submitted by Goodluck established that they were issued solely for the production of non-subject merchandise.<sup>61</sup> Thus, based on the information and documentation submitted by Goodluck, 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). We further determine that Goodluck’s licenses are tied to the production of non-subject merchandise, and, as such, Goodluck’s EPCGS licenses do not benefit the company’s exports of subject merchandise.

TII reported that it imported capital goods at reduced import duty rates under the EPCGS program during both the POR and AUL period.<sup>62</sup> Based on record information, TII received various licenses which it reported were for the manufacture of subject and non-subject merchandise.<sup>63</sup> TII provided complete license documentation on the record of this administrative

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*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 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 PDM at 20, 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*).

<sup>57</sup> See *CVD Preamble*, 63 FR at 65393.

<sup>58</sup> See Goodluck July 13, 2020 IQR at 18.

<sup>59</sup> *Id.* at Exhibit 9(a).

<sup>60</sup> *Id.* at Exhibit 9(c).

<sup>61</sup> *Id.*

<sup>62</sup> See TII July 13, 2020 IQR at 30-43 and Exhibits CVD-21 through CVD 26.

<sup>63</sup> *Id.*

review, including copies of the original licenses issued by the GOI.<sup>64</sup> The licenses submitted by TII demonstrated that certain of its licenses were issued solely for the production of subject merchandise.<sup>65</sup> Thus, based on the information and documentation submitted by TII, 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 TII EPCGS licenses benefited the company's exports of subject merchandise.

TII met the export requirements for certain EPCGS licenses prior to December 31, 2019 (the last day of the POR), and the GOI has formally waived the relevant import duties. However, for other licenses, TII reported that it had either not yet met its export obligation under the license or it had fulfilled the export obligation as required under the program, but the GOI has not formally waived the relevant import duties.<sup>66</sup> Consistent with Commerce's practice and prior determination in prior segments of this proceeding, we are treating any unpaid import duty liabilities during the POR as interest-free loans.<sup>67</sup>

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 TII's benefits received on licenses where the export obligation has not yet been met or where the GOI had not yet waived the relevant import duties, and pursuant to 19 CFR 351.505(d)(1), we utilized the long-term interest rates as discussed in the "Benchmark and 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. We then multiplied the total amount of unpaid duties under each of TII's licenses by the long-term benchmark interest rate for the year in which the capital good was imported and summed these amounts to determine the total benefit.

To calculate the benefit received from formal waivers of import duties on TII'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, TII 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.<sup>68</sup> 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.<sup>69</sup> We consider the amount

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<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> See, e.g., *Stainless Steel Flanges from India Preliminary Determination* PDM at 20, unchanged in *Stainless Steel Flanges from India Final Determination*; see also *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) (*Cold-Drawn Mechanical Tubing Preliminary Results*), and accompanying PDM at 19, 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) (*Cold-Drawn Mechanical Tubing Final Results*), and accompanying IDM

<sup>68</sup> See TII July 13, 2020 IQR at 40.

<sup>69</sup> See *Carbon and Alloy Steel Threaded Rod from India: Final Affirmative Countervailing Duty Determination*, 85 FR 8828 (February 18, 2020) (*Steel Threaded Rod from India Final*), and accompanying IDM at 15.

of duties waived, less the “CENVATable”<sup>70</sup> duties and the application fees, to be the benefit, and we treated these amounts as grants, pursuant to 19 CFR 351.504.

Further, consistent with the approach followed in previous investigations, 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).<sup>71</sup> 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 TII the import duty waiver during the AUL period. However, for all years, the amount of waived 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 TII 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 TII under the EPCGS program for the POR by its total export sales of subject merchandise.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.26 percent *ad valorem* for TII.<sup>72</sup>

b. *Duty Drawback Scheme (DDB)*

According to the GOI, the DDB program provides rebates for duty or tax chargeable on any imported or excisable materials used to manufacture exported goods.<sup>73</sup> Specifically, the duties and tax rebated under the program are the Customs and Central Excise Duties for inputs used to manufacture exported goods.<sup>74</sup> The duty drawback is generally fixed as a percentage of the free-on-board (FOB) price of the exported product.<sup>75</sup> Drawback rates are calculated based on averages known as the “All Industry Rates” or “AIRs” for a given product. The GOI indicated that this program has modified been since the investigation due to the 2017 GST introduction.<sup>76</sup> However, the GOI did not indicate any changes that would impact the countervailability of this program.<sup>77</sup> As a result, we preliminarily find that the essential structure of the DDB program remains unchanged, and we continue to find this program countervailable.

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

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<sup>70</sup> See TII July 13, 2020 IQR at 40.

<sup>71</sup> See *PET Film Final Determination* IDM at Comment 5.

<sup>72</sup> See TII Preliminary Analysis Memorandum.

<sup>73</sup> See GOI July 6, 2020 IQR at 45.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.* at 52.

<sup>76</sup> See GOI May 10, 2021 SQR at 9.

<sup>77</sup> See GOI July 6, 2020 IQR at 40 – 75 and Exhibits 9 through 14.

normal allowances for waste.<sup>78</sup> 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.<sup>79</sup> This system must be reasonable, effective for the purposes intended, and based on generally accepted commercial practices in the country of export.<sup>80</sup> 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, or remission of drawback is countervailable.<sup>81</sup> Commerce has determined, in numerous proceedings, that the DDB scheme does not have in place an adequate system for determining the quantity of inputs used in production.<sup>82</sup>

In previous segments of this proceeding, we 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.<sup>83</sup> Based on the GOI's information in its questionnaire responses and lacking the documentation to support the GOI's narrative,<sup>84</sup> and consistent with other proceedings,<sup>85</sup> we conclude for these preliminary results that the GOI has not supported its claim that its system is reasonable or effective for the purposes intended. Our findings are consistent with our findings in prior India CVD proceedings.<sup>86</sup>

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 information does not support its claim that the DDB system is

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<sup>78</sup> See 19 CFR 351.519(a)(1)(ii).

<sup>79</sup> See *Shrimp from India Final Determination* IDM at "Duty Drawback (DDB)."

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

<sup>81</sup> See 19 CFR 351.519(a)(4)(i)-(ii).

<sup>82</sup> See, e.g., *Shrimp from India Final Determination* IDM at "Duty Drawback (DDB)"; 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").

<sup>83</sup> See *Cold-Drawn Mechanical Tubing Preliminary Determination* PDM at 14-15, unchanged in *Cold-Drawn Mechanical Tubing Final Determination*; see also *Cold-Drawn Mechanical Tubing Preliminary Results* PDM at 14, unchanged in *Cold-Drawn Mechanical Tubing Final Results*

<sup>84</sup> See GOI July 6, 2020 IQR at 45-47; see also GOI May 10, 2021 SQR at 9-10.

<sup>85</sup> See *Cold-Drawn Mechanical Tubing Preliminary Determination* PDM at 14-15, unchanged in *Cold-Drawn Mechanical Tubing Final Determination*. We found, as AFA, that this program was countervailable in the underlying investigation. However, consistent with our determinations in other proceedings, we now find that the GOI's responses regarding this program do not warrant the application of AFA, but, instead, the GOI's responses were insufficient to establish that the GOI has a system in place for this program that is reasonable or effective for the purposes intended; therefore, we find this program countervailable on that basis. See, e.g., *Shrimp from India Final Determination* IDM at "Duty Drawback (DDB)."

<sup>86</sup> See, e.g., *Shrimp from India Final Determination* IDM at "Duty Drawback (DDB)"; *Cold-Drawn Mechanical Tubing Preliminary Determination* PDM at 14-15, unchanged in *Cold-Drawn Mechanical Tubing Final Determination*; 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.

reasonable and effective in confirming which inputs, and in what amounts, are consumed in the production of the exported product. Therefore, under 19 CFR 351.519(a)(4), the entire amount of the import duty rebate earned during the POR constitutes a benefit. Finally, this program is only available to exporters; therefore, it is specific under sections 771(5A)(A) and (B) of the Act. 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 as of the date of export of the shipment for which the pertinent drawbacks are earned.<sup>87</sup> We calculated the benefit on an as-earned basis upon export because drawback under the program is provided as a percentage of the value of the exported merchandise on a shipment-by-shipment basis. As such, it is at this point that recipients know the exact amount of the benefit (*i.e.*, the value of the drawback).

Goodluck and TII reported the benefits earned on exports of subject merchandise to the United States under this program on a transaction-specific basis.<sup>88</sup> 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 Goodluck and TII, we divided the DDB rebates earned on exports of subject merchandise to the United States during the POR by the POR total exports of subject merchandise sold to the United States.

On this basis, we preliminarily find a countervailable subsidy rate of 1.81 percent *ad valorem* for Goodluck<sup>89</sup> and 1.94 percent *ad valorem* for TII.<sup>90</sup>

*c. Income Tax Deductions for Research and Development Expenses (Section 35 (2AB))*

The GOI's response stated that section 35(2AB) of the Income Tax Act of 1961 provides a tax deduction to cover expenses related to scientific research for Indian companies engaged in the bio-technology sector or in any business engaged in the manufacturing or production of eligible items.<sup>91</sup> The company can claim the deduction of any expenditure incurred on scientific research (with the exception of land or building cost), on in-house research and development.<sup>92</sup>

In the previous administrative review of this proceeding, Commerce found that this program is countervailable because the tax deductions provide a financial contribution in the form of

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<sup>87</sup> See, e.g., *Final Affirmative Countervailing Duty Determination: Certain Cut-To-Length Carbon Quality Steel Plate from India*, 64 FR 73131, 73134 and 73140 (December 29, 1999).

<sup>88</sup> See Goodluck July 13, 2020 IQR at 32-36 and Exhibit 12(a); see also Goodluck May 17, 2021 SQR at 3 and Exhibits S2-3(a) and (b); and TII July 13, 2020 IQR at 44-48 and Exhibit CVD-37.

<sup>89</sup> See Goodluck Preliminary Analysis Memorandum.

<sup>90</sup> See TII Preliminary Analysis Memorandum.

<sup>91</sup> See GOI July 6, 2020 IQR at 61.

<sup>92</sup> *Id.* at 67 and Exhibit 15.

revenue forgone under section 771(5)(D)(ii) of the Act.<sup>93</sup> Furthermore, Commerce found that this program is specific under section 771(5A)(D)(i) of the Act, because it is limited to certain enterprises or industries or certain groups of enterprises or industries. Lastly, Commerce found that this program confers a benefit within the meaning of section 771(5)(E) of the Act and 19 CFR 351.509 and 19 CFR 351.519 in the amount of tax payments that are exempted. There is no new information or evidence of changed circumstances that would warrant reconsidering our determination in the underlying proceeding that this program is countervailable. Therefore, for these preliminary results, we continue to find this program countervailable.

TII claimed a benefit under this program by disclosing deductions under this program for the POR.<sup>94</sup> To determine the subsidy rate, we took the amount of the benefits provided to TII under this program for the POR and divided it by TII's total POR sales.<sup>95</sup>

On this basis, we preliminarily find a countervailable subsidy rate of 0.16 percent *ad valorem* for TII.<sup>96</sup>

d. *Provision of Steel Inputs by SAIL for LTAR*

TII reported purchases of steel inputs from SAIL, a government-owned and -controlled steel producer.<sup>97</sup> As discussed further below, Goodluck demonstrated its reported purchases of steel inputs from SAIL were not used as inputs in the production of subject merchandise.<sup>98</sup>

Regarding this program, the GOI stated that it did not have any involvement in the purchase or sales decisions of SAIL, and it declined to provide additional information about this program.<sup>99</sup> As a result, we will not re-examine the countervailability of this program in the current review. Our findings are consistent with our findings in prior India CVD proceedings.<sup>100</sup> Consistent with our findings in the underlying investigation, and based on the record of this review, we continue to find that the GOI conferred a financial contribution through the provision of steel inputs from SAIL under section 771(5)(D) of the Act, and we find that the program is specific within the meaning of section 771(5A)(D) of the Act.

Commerce has generally stated that it does not trace the use of subsidies. Rather, Commerce looks at the purpose of the subsidy at the time of bestowal. Commerce's regulations at 19 CFR 351.525(b)(5)(i) state that, "(i)f a subsidy is tied to the production or sale of a particular product, the Secretary will attribute the subsidy only to that product." In making this determination,

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<sup>93</sup> See *India Cold-Drawn Mechanical Tubing Preliminary Results* PDM at 23, unchanged in *India Cold-Drawn Mechanical Tubing Final Results* IDM.

<sup>94</sup> See TII July 13, 2020 IQR at 48-51 and Exhibits CVD-41 and CVD-42.

<sup>95</sup> See TII Preliminary Analysis Memorandum.

<sup>96</sup> *Id.*

<sup>97</sup> See TII February 15, 2021 SQR at Exhibit CVD-168.

<sup>98</sup> See Goodluck July 13, 2020 IQR at 36-38 and Exhibits 3 (e), (f), 13(a), and 13(b); see also Goodluck April 7, 2021 SQR at 7-9; and Exhibits S1-11.a through 11.g.

<sup>99</sup> See GOI July 6, 2020 IQR at 81.

<sup>100</sup> See, e.g., *Carbon and Alloy 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) (*Steel Threaded Rod 2018 Preliminary Determination*), and accompanying PDM at 8-10, unchanged in *Steel Threaded Rod from India Final*.

Commerce analyzes the purpose of the subsidy based on information available at the time of bestowal.<sup>101</sup> In this administrative review, unlike in prior segments of this proceeding, we preliminarily determine that Goodluck demonstrated that its reported purchases of steel inputs from SAIL were not, and could not be, used as inputs in the production of subject merchandise.<sup>102</sup> Specifically, Goodluck reported that the steel inputs purchased from SAIL were exclusively used in non-subject merchandise due to the inputs' structural shape.<sup>103</sup> Goodluck provided photographs differentiating hot rolled steel coil (the input used to produce subject merchandise) from the structural steel and billets that Goodluck's other divisions purchased from SAIL during the POR.<sup>104</sup> The required dimensions necessary for producing subject merchandise are incompatible with the SAIL-purchased inputs. The purchase invoices, photographs, and details of Goodluck's purchases consistently demonstrate that Goodluck's steel inputs purchases were not, and could not be, used in the production of subject merchandise during the POR. For these reasons, we preliminarily find that Goodluck did not receive a benefit from this program.

As discussed above under "Input Benchmarks," we continue to find that the steel market is distorted and that a tier one benchmark would not be appropriate. Therefore, we are preliminarily selecting external benchmark prices, *i.e.*, "tier two" or world market prices, consistent with 19 CFR 351.511(a)(2)(iii) and the *CVD Preamble*.<sup>105</sup>

Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under "tier two," Commerce will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Accordingly, to derive the benchmark prices we included, as appropriate, any ocean freight and inland freight that would be incurred to deliver inputs to TII's production facilities. We then added to the benchmark prices the appropriate import duties applicable to imports of the respective steel inputs into India, as provided by the GOI.<sup>106</sup> Additionally, we added the appropriate GST to the benchmark prices.<sup>107</sup>

We compared these monthly benchmark prices to the purchase prices that TII reported for individual domestic transactions from SAIL. We determined the benefit as the difference between the benchmark prices and the prices reported by TII. We divided the total benefits received by TII's total POI sales.<sup>108</sup>

On this basis, we preliminarily find a countervailable subsidy rate of 0.03 percent *ad valorem* for TII.<sup>109</sup>

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<sup>101</sup> See *CVD Preamble*, 63 FR at 65403; see also *Supercalendered Paper from Canada: Final Affirmative Countervailing Duty Determination*, 80 FR 63535 (October 20, 2015), and accompanying IDM at 26-27.

<sup>102</sup> See Goodluck July 13, 2020 IQR at 36-38 and Exhibits 3 (e), (f), 13(a), and 13(b); see also Goodluck April 7, 2021 SQR at 7-9; Exhibits S1-11.a through 11.g; and Goodluck June 8, 2021 SQR at Attachments 1 through 3.

<sup>103</sup> See Goodluck July 13, 2020 IQR at 36.

<sup>104</sup> See Goodluck April 7, 2021 IQR at 8 and Exhibit 11.g.

<sup>105</sup> See *CVD Preamble*, 63 FR at 65401.

<sup>106</sup> See GOI's Letter, "Certain Cold-Drawn Mechanical Tubing from India (C-533-874), POR: 01/01/2019-12/31/2019: Third Supplemental Questionnaire Response to Section-II on behalf of Government of India," dated June 2, 2021 at 36.

<sup>107</sup> See GOI July 6, 2020 IQR at 96.

<sup>108</sup> See TII Preliminary Analysis Memorandum.

<sup>109</sup> *Id.*

e. *Advance Authorization Program (AAP)*

The AAP is administered by the Directorate General of Foreign Trade.<sup>110</sup> Under this program, exporters may import, duty free, specified quantities of materials required to manufacture products that are subsequently exported.<sup>111</sup> The exporting companies, however, remain contingently liable for the unpaid duties until they have fulfilled the export requirement.<sup>112</sup> The GOI provided information on its guidelines for measuring the consumption of imported inputs used in the production of goods under this program.<sup>113</sup> TII used AAP licenses during the POR to import certain materials duty free.<sup>114</sup> Goodluck provided documentation demonstrating its AAP licenses were tied to non-subject merchandise and could not be used in the production of cold-drawn mechanical tubing.<sup>115</sup>

Import duty exemptions on inputs for exported products are not countervailable so long as the exemption extends only to inputs consumed in the production of the exported product, making normal allowances for waste.<sup>116</sup> 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.<sup>117</sup> This system must be reasonable, effective for the purposes intended, and based on generally accepted commercial practices in the country of export.<sup>118</sup> 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, or remission of drawback is countervailable.<sup>119</sup>

In the 2003 administrative review of countervailing duty order on *PET Film from India*, the GOI indicated that it had revised its Foreign Trade Policy and Handbook of Procedures for this program during 2005.<sup>120</sup> Commerce acknowledged that certain improvements to the system were made. However, Commerce found that, based on the information submitted by the GOI and examined during previous reviews of that proceeding, and no information having been submitted for that review demonstrating that the GOI had revised its laws or procedures governing this program since those earlier reviews, systemic issues continued to exist during that POR.<sup>121</sup> Specifically, in the 2003 review, Commerce stated that it continued to find the program countervailable based on:

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<sup>110</sup> See GOI July 6, 2020 IQR at 102.

<sup>111</sup> *Id.* at 115.

<sup>112</sup> See TII July 13, 2020 IQR at 60-61.

<sup>113</sup> See GOI July 6, 2020 IQR at 97-100.

<sup>114</sup> *Id.* at 57-66 and Exhibits CVD-53 through 56; and TII February 15, 2021 SQR at 10-11 and Exhibit CVD-170.

<sup>115</sup> See Goodluck July 13, 2020 IQR at 36-38 and Exhibits 3 (e), (f), 13(a), and 13(b); *see also* Goodluck April 7, 2021 SQR at 7-9; and Exhibits S1-11.a through 11.g.

<sup>116</sup> See 19 CFR 351.519(a)(1)(ii).

<sup>117</sup> See *Shrimp from India Final Determination* at “Duty Drawback (DDB).”

<sup>118</sup> *Id.*

<sup>119</sup> See 19 CFR 351.519(a)(4)(i)-(ii).

<sup>120</sup> See *Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 71 FR 7534 (February 13, 2006) (*PET Film from India*), and accompanying IDM at 3-5.

<sup>121</sup> *Id.*

the GOI's lack of a system or procedure to confirm which inputs are consumed in the production of the exported products and in what amounts that is reasonable and effective for the purposes intended, as required under 19 CFR 351.519. Specifically, we still have concerns with regard to several aspects of the {AAP} including (1) the GOI's inability to provide the SION calculations that reflect the production experience of the PET Film industry as a whole; (2) the lack of evidence regarding the implementation of penalties for companies not meeting the export requirements under the {AAP} or for claiming excessive credits; and, (3) the availability of {AAP} benefits for a broad category of "deemed" exports.<sup>122</sup>

Since the 2003 PET Film review, Commerce has in several other proceedings made determinations consistent with this treatment.<sup>123</sup> In the current administrative review, record evidence shows<sup>124</sup> there has been no change to the AAP program and, therefore, we preliminarily find that the program confers a countervailable subsidy because: (1) a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided under the program, given that the GOI exempts the respondents from payment of import duties that would otherwise be due; (2) the GOI does not have in place, and does not apply, a system that is reasonable and effective for the purposes intended in accordance with 19 CFR 351.519(a)(4), to confirm which inputs, and in what amounts, are consumed in the production of the exported products, making normal allowance for waste, nor did the GOI carry out an examination of actual inputs involved to confirm which inputs are consumed in the production of the exported product, and in what amounts; thus, the entire amount of the import duty deferral or exemption provided to the respondent constitutes a benefit under section 771(5)(E) of the Act; and (3) this program is specific under section 771(5A)(B) of the Act because it is contingent upon exportation. Further, this preliminary finding is consistent with our finding with respect to the AAP in prior segments of this proceeding, and there is no new information or evidence of changed circumstances that would warrant reconsidering those determinations. Therefore, for these preliminary results, we continue to find this program countervailable.

Pursuant to 19 CFR 351.524(c)(1), the exemption of import duties on raw material inputs normally provides a recurring benefit.<sup>125</sup> Under this program, during the POR, TII did not have to pay certain import duties for inputs that were used in the production of subject merchandise.<sup>126</sup> Thus, we are treating the benefit provided under the AAP as a recurring benefit.

TII imported inputs under the AAP for the production of subject and non-subject merchandise duty free during the POR. In response to Commerce's questionnaire, TII provided supporting documentation regarding its AAP license.<sup>127</sup> The information provided affirmatively

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<sup>122</sup> *Id.*

<sup>123</sup> See, e.g., *Certain Oil Country Tubular Goods from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 41967 (July 18, 2014) (*OCTG from India Final*), and accompanying IDM; see also *Certain Lined Paper Products from India: Final Results of Countervailing Duty Administrative Review; Calendar Year 2012*, 80 FR 19637 (April 13, 2015), and accompanying IDM.

<sup>124</sup> See GOI July 6, 2020 IQR at 98-116 and Exhibits 18 through 21.

<sup>125</sup> See, e.g., *OCTG from India Final* IDM.

<sup>126</sup> See TII July 13, 2020 IQR at 56-66 and Exhibits CVD-51 through CVD-56.

<sup>127</sup> *Id.*

demonstrates that the licenses provided to TII were tied to the production and export of subject merchandise within the meaning of 19 CFR 351.525(b)(5).

To calculate the subsidy rate, we first determined the total value of import duties exempted in the POR for TII under licenses tied to subject merchandise. We then divided the resulting benefit by TII's total export sales of subject merchandise. On this basis, we preliminarily find a countervailable subsidy rate of 0.55 percent *ad valorem* for TII.<sup>128</sup>

As noted above, Goodluck indicated that the AAP licenses it received were tied to non-subject merchandise.<sup>129</sup> As a result, we preliminarily find that Goodluck did not receive any benefit under this program.

f. *Merchandise Export from India Scheme (MEIS)*

The GOI stated that the MEIS was introduced by the Foreign Trade Policy (FTP) 2015-2020.<sup>130</sup> Its purpose is to “promote the manufacture and export of notified goods/products.”<sup>131</sup> Under this program, the GOI issues a scrip worth a given percentage of the FOB value of the “exports in free foreign exchange, or on the FOB value of exports, as given on the shipping bills in free foreign exchange, whichever is less.”<sup>132</sup> To receive the scrip, a recipient must file an electronic application and supporting shipping documentation for each port of export with the Director General of Foreign Trade (DGFT).<sup>133</sup> 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.

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.<sup>134</sup> 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.<sup>135</sup>

This program provides a financial contribution in the form of revenue forgone under section 771(5)(D)(ii) of the Act. Further, Commerce has found that it is specific under section 771(5A)(A) and (B) of the Act because eligibility to receive the scrip is contingent upon

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<sup>128</sup> See TII Preliminary Analysis Memorandum.

<sup>129</sup> See Goodluck July 13, 2020 IQR at 38-43 and Exhibits 14(a) through (d); see also Goodluck April 7, 2021 SQR at 6-7 and Exhibits S1-9.a through S1-10.c.

<sup>130</sup> See GOI July 6, 2020 IQR at 117.

<sup>131</sup> *Id.*

<sup>132</sup> *Id.*

<sup>133</sup> *Id.*

<sup>134</sup> See *Finished Carbon Steel Flanges from India: Preliminary Affirmative Countervailing Duty Determination*, 81 FR 85928 (November 29, 2016) (*Carbon Steel Flanges from India Preliminary Determination*), and accompanying PDM at 16, unchanged in *Finished Carbon Steel Flanges from India: Final Affirmative Countervailing Duty Determination*, 82 FR 29479 (June 29, 2017) (*Carbon Steel Flanges from India Final Determination*); see also “SHIS” section, below.

<sup>135</sup> *Id.*

export.<sup>136</sup> Commerce has 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.<sup>137</sup> There is no new information or evidence of changed circumstances that would warrant reconsidering our determination in prior segments of this proceeding that this program is countervailable. Therefore, for these preliminary results, we continue to find this program countervailable.

Goodluck and TII reported that they submitted applications and received approval under the MEIS program upon the export of qualified goods.<sup>138</sup> Goodluck indicated that it sold all of its scrip, or licenses, in the market and accounted for these sales in its receivables using the “exact license value.”<sup>139</sup> TII reported that it retains its scrip in its records, which it later uses to pay the import duties owed on raw materials or capital goods.<sup>140</sup>

In *Steel Flanges from India*, Commerce found the MEIS program is continuous and, thus, recurring, in nature, consistent with 19 CFR 351.524(c)(2)(i).<sup>141</sup> This program provides a recurring benefit because, unlike the scrip in the SHIS scheme, the scrips provided under this program are not tied to capital assets.<sup>142</sup> Furthermore, recipients can expect to receive additional subsidies under this same program on an ongoing basis from year to year.<sup>143</sup> We calculated the benefit to Goodluck and TII to be the total value of scrips granted during the POR.

Normally, in cases where the benefits are granted based on a percentage value of a shipment, Commerce calculates benefits as having been received as of the date of export.<sup>144</sup> However, because the MEIS benefit, *i.e.*, the scrip amount, is not automatic and is not known to the exporter until well after the exports are made, the MEIS licenses, which contain the date of validity and the duty exemption amount as issued by the GOI, are the best source to determine the time at which the benefit was received and the amount of benefit received.<sup>145</sup>

To determine the benefit from this program, we summed Goodluck’s and TII’s respective reported total value of scrips granted (*i.e.*, the MEIS license value) during the POR, less

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<sup>136</sup> See *India Cold-Drawn Mechanical Tubing Preliminary Results* PDM at 16, unchanged in *India Cold-Drawn Mechanical Tubing Final Results*.

<sup>137</sup> *Id.*

<sup>138</sup> See Goodluck July 13, 2020 IQR at 44-48; and TII July 13, 2020 IQR at 68-73.

<sup>139</sup> See Goodluck July 13, 2020 IQR at 46.

<sup>140</sup> See TII August 13, 2020 IQR at 68-73.

<sup>141</sup> See *Carbon Steel Flanges from India Preliminary Determination* PDM at 16, unchanged in *Carbon Steel Flanges from India Final Determination*.

<sup>142</sup> *Id.*

<sup>143</sup> *Id.*

<sup>144</sup> See 19 CFR 351.519(b)(1).

<sup>145</sup> 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.

application fees.<sup>146</sup> We divided this sum by Goodluck's and TII's respective total export sales during the POR.

On this basis, we preliminarily find a countervailable subsidy rate of 2.93 percent *ad valorem* for Goodluck<sup>147</sup> and 2.65 percent *ad valorem* for TII.<sup>148</sup>

g. *SHIS*

The GOI indicated the SHIS program was introduced in 2009 with the objective to promote investment in upgrading technology in specific sectors.<sup>149</sup> Status Holders under the GOI's listing of specific exported products receive incentive scrip (or credit) equal to one percent of the FOB value of the exports in the form of a duty credit.<sup>150</sup> 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.<sup>151</sup> Additionally, because this program applies to capital goods, companies were able to apply for benefits up to March 31, 2013. The AUL period in this proceeding is 15 years; therefore, companies may receive residual benefits from this program through 2029.<sup>152</sup>

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 because 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 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.<sup>153</sup> There is no new information or evidence of changed circumstances that would warrant reconsidering our prior determination 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.<sup>154</sup> The *CVD 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 ..."<sup>155</sup> In accordance with 19 CFR 351.524(c)(2)(iii) and past

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<sup>146</sup> See Goodluck Preliminary Analysis Memorandum; and TII Preliminary Analysis Memorandum.

<sup>147</sup> See Goodluck Preliminary Analysis Memorandum.

<sup>148</sup> See TII Preliminary Analysis Memorandum.

<sup>149</sup> See GOI July 6, 2020 IQR at 136.

<sup>150</sup> *Id.*

<sup>151</sup> *Id.*

<sup>152</sup> *Id.* at 139 explaining that March 31, 2014, was the last date for filing a SHIS application for the 2012-2013 year (*i.e.*, the last year benefits were available under this program).

<sup>153</sup> See *Cold-Drawn Mechanical Tubing Preliminary Determination* PDM at 18, unchanged in *Cold-Drawn Mechanical Tubing Final Determination*; see also *Steel Flanges from India Preliminary Determination* PDM at 18 (citing *Steel Threaded Rod from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 40712 (July 14, 2014), and accompanying IDM at "Status Holder Incentive Scrip")), unchanged in *Steel Flanges from India Final Determination*.

<sup>154</sup> See GOI July 6, 2020 IQR at 136.

<sup>155</sup> See *CVD Preamble*, 63 FR at 65393.

practice, we are treating these import duty exemptions on capital equipment as non-recurring benefits.<sup>156</sup>

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.<sup>157</sup> 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.<sup>158</sup>

Goodluck reported using SHIS and provided certain supporting documentation.<sup>159</sup> The GOI provided information corroborating that Goodluck received benefits during the AUL period.<sup>160</sup> Information provided by Goodluck indicates that its SHIS license scrip was issued for the purchase of capital goods used for the production of exported goods, so we are attributing the SHIS benefits received by Goodluck to its total exports.<sup>161</sup> We performed the “0.5 percent test,” as prescribed under 19 CFR 351.524(b)(2), for the total value of the exempted customs duties for the years in which Goodluck received the SHIS scrip and determined to allocate the benefits across the AUL period.<sup>162</sup> We then calculated the benefits according to the calculation provided for in 19 CFR 351.524(d)(1). We summed the benefits for the POR and divided the results by Goodluck’s total POR export sales.

TII did not report applying for or receiving any SHIS scrip directly from the Indian government.<sup>163</sup> Instead, TII reported that it purchased SHIS scrip from third parties and used it to offset the cost of import duties during the AUL period.<sup>164</sup> Because TII purchased its licenses at market value from third parties, we preliminarily determine that TII did not receive a benefit from this program.

On this basis, we preliminarily find a countervailable subsidy rate of 0.22 percent *ad valorem* for Goodluck.<sup>165</sup>

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<sup>156</sup> See *Cold-Drawn Mechanical Tubing Preliminary Determination* PDM at 18, unchanged in *Cold-Drawn Mechanical Tubing Final Determination*; see also *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), and accompanying PDM at 17-18, unchanged in *Forged Steel Fluid End Blocks from India: Final Affirmative Countervailing Duty Determination*, 85 FR 79999 (December 11, 2020), and accompanying IDM.

<sup>157</sup> *Id.*

<sup>158</sup> 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).

<sup>159</sup> See Goodluck July 13, 2020 IQR at 50-53 and Exhibits 16(a) through 16(c).

<sup>160</sup> See GOI July 6, 2020 at Exhibit 26.

<sup>161</sup> See Goodluck July 6, 2020 at 53 and Exhibit 16 (a).

<sup>162</sup> See Goodluck Preliminary Analysis Memorandum.

<sup>163</sup> See TII July 13, 2020 IQR at 75, noting that TII has purchased SHIS licenses from third parties prior to the POR.

<sup>164</sup> *Id.*

<sup>165</sup> See Goodluck Preliminary Analysis Memorandum.

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

The GOI introduced the IES program effective April 1, 2015. This program centers on rupee-denominated export financing.<sup>166</sup> Under this program, 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.<sup>167</sup> According to the GOI, this scheme is available to certain products that are exported under specific tariff codes, as identified by the RBI, and for all exports made by Micros, Small & Medium enterprises (MSMEs).<sup>168</sup> The GOI stated that the three percent interest equalization, as charged by the bank, is specific to the merchandise under consideration and is contingent upon exports.<sup>169</sup> Both Goodluck and TII reported receiving assistance under this program during the POR.<sup>170</sup>

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) of the Act. Further, Commerce determined that it is specific under section 771(5A)(B) of the Act because it is limited to exporters.<sup>171</sup> A benefit is also provided under the IES program under section 771(5)(E)(ii) of the Act because the interest rates, which are determined by the RBI, provided under this program are lower than commercially-available interest rates. 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.

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 the respondents during the POR. We divided this sum by the total export sales in the POR for each respective respondent.

On this basis, we preliminarily find a countervailable subsidy rate of 0.28 percent *ad valorem* for Goodluck<sup>172</sup> and 1.97 percent *ad valorem* for TII.<sup>173</sup>

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<sup>166</sup> See GOI July 6, 2020 IQR at 166.

<sup>167</sup> *Id.*

<sup>168</sup> *Id.*

<sup>169</sup> See GOI July 6, 2020 IQR at 166 and Exhibit 28.a.

<sup>170</sup> See Goodluck July 13, 2020 IQR at 55-58 and Exhibit 18 (a) through Exhibit (d); and TII July 13, 2020 IQR at 77-81 and Exhibits CVD-63 through CVD-67.

<sup>171</sup> See *Cold-Drawn Mechanical Tubing Preliminary Determination* PDM at 23, unchanged in *Cold-Drawn Mechanical Tubing Final Determination*.

<sup>172</sup> See Goodluck Preliminary Analysis Memorandum.

<sup>173</sup> See TII Preliminary Analysis Memorandum.

i. *Service Exports from India Scheme (SEIS)*

The SEIS is part of the Foreign Trade Policy which is intended to facilitate imports and promote exports, in both services and goods.<sup>174</sup> The scheme provides duty scrips as an incentive to eligible service providers who are providing services from India to the rest of the world.<sup>175</sup> The duty scrips are calculated at three to five percent of the net foreign exchange earned in the fiscal year. The GOI-issued licenses can be utilized for payment of Custom duties on imports of inputs or goods, including capital goods, or as payment of excise duties on domestically-procured inputs or goods.<sup>176</sup>

We determine that the program is specific within the meaning of sections 771(5A)(A) and (B) of the Act because, as the GOI reports, eligibility to receive the scrips is contingent upon export.<sup>177</sup> As Commerce determined for the SHIS program and the MEIS, this scheme provides a financial contribution in the form of revenue forgone under section 771(5)(D)(ii) of the Act because the scrips provide exemptions from paying duties associated with the import of goods, which represents revenue forgone by the GOI.<sup>178</sup> A benefit is also provided under the SEIS scheme 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.<sup>179</sup> Because in this scheme the benefit is calculated based on foreign exchange earnings, we determine that the license, which contains the date of validity and the amount of duty exemption, as issued by the GOI, is the best source for determining the benefit.

TII reported that it benefitted from SEIS during the POR.<sup>180</sup> We calculated the benefit of each license by multiplying the Net Foreign exchange by the rate of entitlement provided in the license application (3 percent) to get the entitlement in U.S. dollars. We then multiplied the entitlement in U.S. dollars by the conversion rate provided in the license application to get the entitlement in Rupees. We then summed the entitlement in Rupees for each license to get the total benefit attributable to the POR and divided the sum by TII's total export sales.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.14 percent *ad valorem* for TII.<sup>181</sup>

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<sup>174</sup> See TII July 13, 2020 IQR at 154-159 and Exhibits CVD-148 through CVD-158; and GOI November 19, 2020 SQR at 66.

<sup>175</sup> See GOI July 6, 2020 IQR at Exhibit 1, Exhibit 13, and Exhibit 23.

<sup>176</sup> *Id.* at 158.

<sup>177</sup> See GOI November 19, 2020 SQR at 66.

<sup>178</sup> See TII July 13, 2020 IQR at 154 and Exhibit CVD-148.

<sup>179</sup> *Id.*

<sup>180</sup> See TII July 13, 2020 IQR at 157.

<sup>181</sup> See TII Preliminary Analysis Memorandum.

## **State Government Subsidies**

### **State Government of Uttar Pradesh (SGUP)**

Commerce is examining two programs administered by the SGUP: Electric Duty Exemption, and the Stamp Duty Exemption. The GOI indicated that neither mandatory respondent received assistance under Stamp Duty Exemption program.<sup>182</sup> However, Goodluck reported benefits under both programs, and it provided documentation demonstrating the operation of them.<sup>183</sup>

In the underlying investigation of this *Order*, Commerce found that these programs are countervailable because they each provide a financial contribution in the form of revenue forgone under section 771(5)(D) of the Act. Further, Commerce determined that they each are specific under section 771(5A)(D) of the Act,<sup>184</sup> and we found that these programs conferred a benefit pursuant to section 771(5)(E) of the Act. There is no new information or evidence of changed circumstances that would warrant reconsidering our determination in the underlying investigation that these programs are countervailable. Therefore, for these preliminary results, we continue to find these programs countervailable.

TII indicated that it did not have any facilities or locations within Uttar Pradesh, and, as such, that it is not eligible to receive benefits under these programs.<sup>185</sup> Therefore, TII did not receive any state-specific subsidies from the SGUP.

#### *i. Electric Duty Exemption in the State of Uttar Pradesh*

The SGUP has exempted electricity duties from new industrial units in the state.<sup>186</sup> Goodluck reported that several manufacturing facility units were exempted from the payment of electricity duty during the POR, thus conferring a benefit pursuant to section 771(5)(E) of the Act.<sup>187</sup> To calculate the benefit, we divided the electricity duty exemption Goodluck received in the POR by its total sales during the POR.

On this basis, we preliminarily find a countervailable subsidy rate of 0.08 percent *ad valorem* for Goodluck.<sup>188</sup>

#### *ii. Stamp Duty Exemption in the State of Uttar Pradesh*

Goodluck stated it benefited from a one-time stamp duty exemption associated with the purchase of land in Uttar Pradesh.<sup>189</sup> Because these exemptions are tied to the purchase of land, we applied the “0.5 percent test” for non-recurring subsidies, as described in 19 CFR 351.524(b)(2).

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<sup>182</sup> See GOI July 6, 2020 IQR at 190.

<sup>183</sup> See Goodluck July 13, 2020 IQR at 59-63 and Exhibits 20 (a) through Exhibits 22.

<sup>184</sup> See *Cold-Drawn Mechanical Tubing Preliminary Determination* PDM at 27-28, unchanged in *Cold-Drawn Mechanical Tubing Final Determination*.

<sup>185</sup> See TII July 13, 2020 IQR at 82.

<sup>186</sup> See Goodluck July 13, 2020 IQR at 59-61.

<sup>187</sup> *Id.* at 60.

<sup>188</sup> See Goodluck Preliminary Analysis Memorandum.

<sup>189</sup> See Goodluck July 13, 2020 IQR at 63-64 and Exhibit 22.

To determine whether to allocate these grants over the AUL period, we divided the total amount of the exemptions received during each respective year of the AUL period by Goodluck's total export sales values for each respective year. On this basis, because these benefits were received before the POR and did not pass "0.5 percent test" in each year they were received, we find that all of the benefits Goodluck received from this program were expensed prior to the POR.

## **B. Programs Preliminarily Found to Not Confer a Measurable Benefit During the POR**

1. GOI Programs: Income Tax Deductions Under Section 80-JJAA
2. GOI Programs: Incremental Exports Incentive Scheme (IEIS)
3. SGOM Program: 2007 State Government of Maharashtra Electric Duty Exemption Scheme
4. Sales Tax Deferral Under 1997 Industrial Promotion Subsidy Program<sup>190</sup>

## **C. Programs Preliminarily Found to Not Be Countervailable**

### *Pradham Mantri Roigar Prothsahan Yoina (PMRPY) Scheme*

Goodluck initially reported this program in its questionnaire response.<sup>191</sup> Goodluck 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.<sup>192</sup>

Consistent with other proceedings,<sup>193</sup> 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 Found 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. Market Access Initiative
2. Market Development Assistance Scheme

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<sup>190</sup> In the underlying investigation, Commerce referred to this program as the "Industrial Promotion Subsidy (IPS)/ Sales Tax Program." See Countervailing Duty Initiation Checklist: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India (May 9, 2017) (Initiation Checklist) at 29.

<sup>191</sup> See Goodluck July 13, 2020 IQR at 82-86 and Exhibits 26(a) through Exhibit 26(c).

<sup>192</sup> *Id.*

<sup>193</sup> See *Steel Threaded Rod 2018 Preliminary Determination* PDM at 28, unchanged in *Steel Threaded Rod Final*.

3. Duty Free Import Authorization Scheme
4. Focus Product Scheme
5. GOI Loan Guarantees
6. Steel Development Fund Loans
7. Provision of High-Grade Iron Ore for LTAR
8. Alternative Fuels for Surface Transportation Program

#### Federal Tax Programs

9. Deduction Under 32-AC of the Income Tax Act
10. Income Tax Deductions Under Section 80-IA
11. Section 80-IC Tax Deduction for Assessment Year 2019-2020 (Fiscal Year 2018-2019)

#### Special Economic Zones

12. Duty Free Importation of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts, and Packing Material
13. Exemption from Payment of Central Sales Tax on Purchases of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts, and Packing Material
14. Exemption from Stamp Duty of all Transactions and Transfers of Immovable Property within the Special Economic Zone (SEZ)
15. Exemption from Electric Duty and Cess (a tax or levy) Thereon on the Sale or Supply to the SEZ Unit
16. SEZ Income Tax Exemption Scheme (Section 10A)
17. Discounted Land Fees in an SEZ

#### Export Oriented Units

18. Duty Free Import of Goods, Including Capital Goods and Raw Materials
19. Reimbursements of Central Sales Tax Paid on Goods Manufactured in India
20. Duty Drawback on Fuel Procured from Domestic Oil Companies
21. Exemption from Payment of Central Excise Duty on Goods Manufactured in India Procured from a Domestic Tariff Area

#### State Government of Gujarat

22. Electric Duty Exemption
23. Value-Added Tax/State Goods & Service Tax Reimbursement

#### State Government of Haryana

24. Haryana Sales Tax Deferral

#### State Government of Maharashtra

25. Subsidies for Mega Projects under the Package Scheme of Incentives
26. Maharashtra Package Scheme of Incentives, 2013
  - a. Industrial Promotion Subsidy/ Sales Tax Program
  - b. Interest Subsidy
  - c. Electric Duty Exemption
  - d. Waiver of Stamp Duty

- e. Incentives to Strengthening Micro-, Small-, and Medium – Sized and Large-Scale Industries
- f. Incentives for Mega/Ultra Mega Projects

State Government of Uttar Pradesh

- 27. Investment Promotion Scheme
- 28. Special Assistance for Mega Projection
- 29. Exemption from Entry Tax for the Iron and Steel Industry

State Government of Tamil Nadu

- 30. Sales Tax Deferral Program
- 31. Capital Investment Subsidy

State Government of Uttarakhand

- 32. Uttarakhand GST (Goods & Services Tax) Waiver Program
- 33. Uttarakhand Capital Investment Subsidy Scheme

**VIII. RECOMMENDATION**

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



\_\_\_\_\_  
Agree



\_\_\_\_\_  
Disagree

6/17/2021

X



Signed by: CHRISTIAN MARSH

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