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International Trade Administration
Washington, D.C. 20230

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CVD Review
POR: CY 2011
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Office III: JSC, EBG

DATE: May 6, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Final Results of Countervailing Duty Review: Certain Lined Paper Products from India

I. Summary

On October 22, 2013, the Department published the *Preliminary Results* of this countervailing duty (CVD) administrative review.[1] As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013. Therefore, all deadlines in this segment of the proceeding have been extended by 16 days.[2]

On December 9, 2013, A.R. Printing & Packaging India Private Limited (AR Printing)[3] and Petitioners[4] filed case briefs. On December 16, 2013, Petitioners and AR Printing filed rebuttal briefs. No interested party requested a hearing. On February 20, 2014, the Department issued a memorandum extending the time period for issuing the final results of this administrative review from March 7, 2014, to May 6, 2014.[5]

We analyzed the comments submitted in the case and rebuttal briefs. The "Analysis of Comments" section below contains summaries of these comments and the Department's positions on the issues raised in the briefs.

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[1] *See Certain Lined Paper Products From India: Preliminary Results of Countervailing Duty Administrative Review; Calendar Year 2011*, 78 FR 62584 (October 22, 2013) (*Preliminary Results*), and accompanying Issues and Decision Memorandum, dated September 30, 2013 (Preliminary Decision Memorandum).
[2] *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (October 18, 2013) (Tolling Memo).
[3] Also known as A.R. Printing & Packaging (India) Pvt. Ltd.
[4] Petitioners are the Association of American School Paper Suppliers (Petitioners).
[5] *See* Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, titled "Certain Lined Paper Products from India: Extension of Time Limit for Final Results of Countervailing Duty Administrative Review," dated February 20, 2014.

For the reasons discussed below, we recommend that the Department make no changes to the approaches taken in the *Preliminary Results*. *See* the Preliminary Decision Memorandum for additional information concerning the subsidy programs examined in this administrative review.[6]

II. Period of Review

The period for which we are measuring countervailable subsidies, *i.e.*, the period of review (POR), is January 1, 2011, through December 31, 2011.

III. Scope of the Order

The scope of this order includes certain lined paper products, typically school supplies,[7] composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets,[8] including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8-3/4 inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or "tear-out" size), and are measured as they appear in the product (*i.e.*, stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this order whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.
Specifically excluded from the scope of this order are:

- unlined copy machine paper;
- writing pads with a backing (including but not limited to products commonly known as "tablets," "note pads," "legal pads," and "quadrille pads"), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;

[6] *See also* the Memorandum to Eric B. Greynolds, Program Manager, Office III, Operations, "Calculations for the Preliminary Results; AR Printing & Packaging (India) Pvt. Ltd. (AR Printing): Certain Lined Paper Products from India; 2011," (September 30, 2013) (Preliminary Calculations Memorandum).
[7] For purposes of this scope definition, the actual use or labeling of these products as school supplies or non-school supplies is not a defining characteristic.
[8] There shall be no minimum page requirement for loose leaf filler paper.

- three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- index cards;
- printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- newspapers;
- pictures and photographs;
- desk and wall calendars and organizers (including but not limited to such products generally known as "office planners," "time books," and "appointment books");
- telephone logs;
- address books;
- columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- lined business or office forms, including but not limited to: preprinted business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- lined continuous computer paper;
- boxed or packaged writing stationery (including but not limited to products commonly known as "fine business paper," "parchment paper," and "letterhead"), whether or not containing a lined header or decorative lines;
- Stenographic pads ("steno pads"), Gregg ruled,[9] measuring 6 inches by 9 inches;

Also excluded from the scope of this order are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™.[10]
- Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™.[11]

- FiveStar® Advance™: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal

[9] "Gregg ruling" consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book.
[10] Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.
[11] Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1" wide elastic fabric band. This band is located 2-3/8" from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar® Advance™.[12]

FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™.[13]

Merchandise subject to this order is typically imported under headings 4811.90.9035, 4811.90.9080, 4820.30.0040, 4810.22.5044, 4811.90.9050, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2050, 4820.10.2060, and 4820.10.4000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.[14]

IV. Attribution of Subsidies

The Department has made no changes to the methodologies used in the *Preliminary Results* for attributing subsidies. Issues raised by interested parties in case and rebuttal briefs regarding the attribution of subsidies are addressed in the "Analysis of Comments" section below. For

[12] Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.
[13] Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.
[14] *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia*, 71 FR 56949 (September 28, 2006).

descriptions of the methodologies used for these final results, *see* the *Preliminary Results* and Preliminary Decision Memorandum at 6.

V. Allocation Period

The Department made no changes to the allocation period and the allocation methodology used in the *Preliminary Results* and no issues were raised by interested parties in case briefs regarding the allocation period or the allocation methodology. For a description of allocation period and the methodology used for these final results, *see* the *Preliminary Results* and Preliminary Decision Memorandum at 5-6.

VI. Subsidies Valuation Information – Benchmarks and Discount Rates

The Department made no changes to benchmarks or discount rates used in the *Preliminary Results* and no issues were raised by interested parties in case briefs regarding benchmarks or discounts rates.[15]

VII. ANALYSIS OF PROGRAMS

A. Programs Determined to be Countervailable

The Department considered parties' comments and made no changes to its preliminary determinations with regard to the following programs. For the descriptions, analyses, and calculation methodologies of these programs, *see* the *Preliminary Results*.[16] The issues raised by interested parties in case and rebuttal briefs are addressed in the "Analysis of Comments" section below. The final company-specific program rates for each of the following programs are unchanged from *Preliminary Results* and are as follows:

1. Pre-Shipment Export Financing
   AR Printing: 0.09 percent *ad valorem*

2. Duty-Free Import of Capital Goods and Raw Materials for Export Oriented Units (EOUs)
   AR Printing: 2.85 percent *ad valorem*

B. Programs Determined to be Terminated

The Department made no changes to its preliminary determinations with regard to the following programs.[17] For the descriptions, analyses, and calculation methodologies of these programs, *see* the *Preliminary Results* and Preliminary Decision Memorandum at 10-12. No issues were raised

[15] For a description of the benchmarks and discount rates used for these final results, *see* the Preliminary Decision Memorandum at 6-7.
[16] *See* Preliminary Decision Memorandum 8-10.
[17] We find that AR Printing did not use any of the programs found to be terminated in this review. *See* Preliminary Decision Memorandum 10-12. Therefore, it was not necessary for the Department to address the issue of program-wide changes, as provided under 19 CFR 351.526.

in case briefs regarding these programs. Therefore, for these final results, we continue to determine that the following programs do not confer a benefit during the POR:

1. Target Plus Scheme (TPS)
2. Duty Free Replenishment Certificate Scheme (DFRCS)
3. Income Tax Exemptions Under 80 HHC
4. Exemption of Export Credit from Interest Taxes

C. Programs Preliminarily Determined to be Not Used

The Department made no changes to its preliminary determinations with regard to the following programs. No issues were raised by interested parties in case briefs regarding these programs. We continue to determine that, for these final results, the following programs were not used during the POR:

1. Advance License Program
2. Duty Entitlement Passbook Scheme
3. Export Promotion Capital Goods Scheme
4. Export Processing Zones
5. Income Tax Exemption Scheme
6. Market Development Assistance
7. Status Certificate Program
8. Market Access Initiative
9. Loan Guarantees from the GOI
10. Income Deduction Program, 80 IB Tax Program
11. State Government of Gujarat Provided Tax Incentives
12. State Government of Maharashtra Sales Tax Program
13. Electricity Duty Exemptions Under the State Government of Maharashtra Package Scheme of Incentives of 1993
14. Refunds of Octroi Under PSI of 1993, Maharashtra Industrial Policy
15. Infrastructure Subsidies to Mega Projects
16. Land for Less than Adequate Remuneration

VIII. Analysis of Comments

Below is a complete list of the issues in this administrative review for which we received case brief and rebuttal comments from interested parties.

Comment 1: Whether the Department Should Countervail Long-Term Policy Loans Provided by the State Bank of India (SBI)

Petitioners' Case Brief

- In the *Preliminary Results*, the Department failed to countervail long-term loans provided by the SBI.
- The Department has repeatedly found that the SBI is a state-owned policy bank and does not provide market-based loans.[18]
- Section of 771(5)(D)(i) of the Tariff Act of 1930, as amended (the Act), recognizes that direct loans and loan guarantees from government authorities constitute a financial contribution in the form of a direct transfer of funds.
- In *Certain Hot-Rolled Carbon Steel Flat Products from India*, the Department countervailed loans that were guaranteed by the SBI under the GOI's Loan Guarantee program.[19] In this review, AR Printing received a direct loan from the SBI.
- Whether the SBI guarantees a loan or directly issues a loan makes no difference under the statute. Both activities constitute a financial contribution and confer a benefit. Thus, consistent with *Certain Hot-Rolled Carbon Steel Flat Products from India*, the Department should find the direct loan the SBI issued to AR Printing to be a countervailable subsidy.

AR Printing's Rebuttal Brief

- Nowhere in the *Certain Hot-Rolled Carbon Steel Flat Products from India* proceeding does the Department state that the SBI "does not provide market economy loans."[20]
- The long-term loan AR Printing obtained from the SBI was on market-based terms and conditions.
- The loans were made on a personal guarantee of the directors of the company.[21]
- AR Printing also obtained a long-term loan from a private commercial bank in the same month that it obtained the long-term loan from the SBI. The rate of interest charged on the private loan was lower than the interest charged by the SBI.[22]

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[18] *See Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from India*, 66 FR 49635 (September 28, 2001) (*Certain Hot-Rolled Carbon Flat Products from India*) and accompanying Issues and Decision Memorandum, dated September 28, 2001 (Certain Hot-Rolled Carbon Steel Flat Products IDM).

[19] *See* Certain Hot-Rolled Carbon Steel Flat Products IDM at "Loan Guarantees from the GOI."

[20] *Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Determination with Final Antidumping Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from India*, 66 FR 20240, 20249 (April 20, 2001) (*Preliminary Determination of Certain Hot-Rolled Carbon Flat Products from India*); *see also Certain Hot-Rolled Carbon Flat Products from India and* Certain Hot-Rolled Carbon Steel Flat Products IDM.

[21] *See* AR Printing's February 4, 2013, Initial Questionnaire Response (AR Printing IQR) at Exhibit 7 and AR Printing's September 7, 2013, Second Supplemental Questionnaire Response (AR Printing Second Supp QNR Response) at Exhibit S2-2.

[22] *See* AR Printing IQR at 14(c).

Department's Position: Petitioners' reliance on *Certain Hot-Rolled Carbon Products from India* is misplaced. In *Certain Hot-Rolled Carbon Products from India*, the Department determined that the GOI provides loan guarantees on a case-by-case basis to "public sector companies" in particular industrial sectors.[23] Information supplied by AR Printing indicates that it is a privately-held company.[24] Therefore, while the Department has countervailed loan guarantees offered by state-owned lending institutions under the GOI's Loan Guarantee program, we find that AR Printing does not meet the necessary criteria to be eligible for benefits under the GOI's Loan Guarantee program considered in *Certain Hot-Rolled Carbon Products from India.*

Furthermore, we disagree with Petitioners' assertion that AR Printing's receipt of a direct loan from the SBI is, in and of itself, a countervailable subsidy. Pursuant to 19 CFR 351.505(a)(6)(ii):

> The Secretary will not investigate a loan provided by a government-owned bank absent a specific allegation that is supported by information reasonably available to petitioners.

Petitioners did not submit a new subsidy allegation in this review alleging and providing information reasonably available that direct loans issued by the SBI constitute a financial contribution, confer a benefit, and are specific, as described under sections 771(5) and (5A) of the Act.

Thus, because AR Printing does not meet the eligibility criteria for the GOI's Loan Guarantee program considered in *Certain Hot-Rolled Carbon Products from India* and petitioners did not provide a supported new subsidy allegation with regard to the long-term loan issued by the SBI to AR Printing, for these final results we have no basis to find that AR Printing received preferential financing from the SBI under the GOI's Loan Guarantee program or that the long-term loan issued by the SBI to AR Printing constitutes a separate subsidy program for us to have analyzed.

Comment 2: Whether the Department Should Revise AR Printing's Sales Denominator

Petitioners' Case Brief

- In the final results, the Department should limit AR Printing's sales denominator to sales of merchandise produced by AR Printing. To do otherwise is inconsistent with the Department's regulations.[25]
- AR Printing was involved in a paper product circumvention scheme during the period of review (POR) in which the Department determined that AR Printing purchased jumbo rolls

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[23] *See Preliminary Determination of Certain Hot-Rolled Carbon Flat Products from India,* 66 FR at 20249, unchanged *Certain Hot-Rolled Carbon Steel Flat Products from India*, 66 FR at 49635.

[24] *See* AR Printing IQR at 3-4.

[25] *See* 19 CFR 351.525(b)(7) (stating that for multinational companies that have production facilities in two or more countries, the Department must attribute a subsidy to products produced by the firm within the country of the government that granted the subsidy) and 351.527(a) (stating that a subsidy does not exist if the Department determines that the funding for the subsidy is supplied in accordance with a program funded by a government of a country other than the country in which the recipient firm is located).

of tissue paper to length, cut and processed that tissue paper in India, and exported the merchandise to United States. [26] The Department found that for purposes of the Chinese AD tissue paper order, the merchandise was Chinese in origin.

- The tissue paper produced in China and at issue in the *Preliminary Determination of Tissue Paper from the PRC* accounts for a significant portion of AR Printing's total sales.[27]
- Because the attribution of AR Printing's Indian subsidy benefits to the sales of Chinese-origin tissue paper would result in significant distortion of the subsidy rate, the Department should remove such sales from the denominator in the subsidy calculation.

AR Printing's Rebuttal Brief

- All sales reported in the Initial QNR Response are of merchandise produced by AR Printing.[28]
- For the purpose of reporting the sales value, AR Printing has considered the sales value of two export sales transactions where in AR Printing has sold the cut-to-length sparkle tissue paper products (which are non-subject merchandise) as produced by AR Printing and of Indian origin because AR Printing procured the jumbo roll of sparkle tissue paper from an Indian mill. However, in the production process some PRC-origin sparkle tissue paper was inadvertently co-mingled with the two export sales pertaining to sparkle tissue paper products.
- As a result of the verification that took place in the context of the circumvention proceeding involving tissue paper from the PRC, the Department noted that since the formation of AR Printing in 2005, the company has only made two purchases of PRC-origin sparkle tissue paper and the PRC-origin tissue paper were mixed with the Indian-origin sparkle paper for two export sales.[29]
- Thus, the Department has accepted that the entire quantity of sparkle tissue paper that was purchased from the PRC was not exported to the United States.
- The Department should not reduce the sales denominator of AR Printing in the manner advocated by Petitioners.
- However, if the Department determines to follow Petitioners' proposed approach, then the Department should also remove from the net subsidy rate calculation any subsidy benefits associated with the importation of the PRC-origin jumbo rolls of tissue paper.

Department's Position: In the *Preliminary Results* and in the Final Results, we are countervailing two subsidy programs: the Pre-Shipment Export Financing program and the Duty-Free Import of Capital Goods and Raw Materials for Export Oriented Units (EOUs) program. Per the Department practice[30] and consistent with the facts on the record of the instant

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[26] *See Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order; Certain Tissue Paper Products from the People's Republic of China*, 78 FR 14514 (March 6, 2013) (*Preliminary Determination of Tissue Paper from the PRC*).

[27] *See* AR Printing IQR at Exhibit 5(b) at 23.

[28] *See* AR Printing IQR at Exhibit 6.

[29] *See* AR Printing Second Supp QNR Response at S2-1, which includes the verification report issued in the circumvention proceeding involving tissue paper from the PRC.

[30] *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment With Final Antidumping Duty Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin From India (Preliminary Determination of PET Resin from India)*, 69 FR 52866, 52870 (August 30, 2004) (unchanged in the *Final Affirmative Countervailing Duty Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin From India*,

review, we find the benefits conferred under the two subsidy programs at issue are not tied to the export sales of a particular product or to sales to a particular foreign market. Rather, we find that the receipt of the benefits under the two programs is contingent upon export activity, in general.[31] Therefore, consistent with 19 CFR 351.525(b)(2), which states that the Department will attribute untied export-contingent subsidies only to the products "exported by the firm," we are using the total export sales of AR Printing during the POR (both subject and non-subject merchandise) as our sales denominator for these two programs.

In the *Final Determination of Tissue Paper from the PRC*,[32] the Department determined that Chinese jumbo rolls were further cut and processed into tissue paper in India by AR Printing and exported to the United States, but that the merchandise was considered Chinese in origin and subject to the AD order on tissue paper from the PRC. The fact that the tissue paper sales at issue were considered subject to the AD order on PRC tissue paper does not change the fact that exports of that merchandise were among AR Printing's export sales. And, consistent with 19 CFR 351.525(b)(2), we are using the total value of export sales AR Printing made during the POR as the denominator for purposes of calculating the net subsidy rate attributable to AR Printing under the two subsidy programs at issue in the instant review. Because AR Printing sold the merchandise and realized these sales as part of its overall export sales during the POR,[33] we are therefore not removing those sales from the calculation of the benefit AR Printing received from the two export-oriented subsidy programs at issue.

Comment 3: Whether AR Printing was Uncreditworthy in 2010

Petitioners' Case Brief

- Petitioners filed a timely allegation regarding the uncreditwothiness of AR Printing.[34]
- In the *Preliminary Results*, the Department declined to initiate an investigation of the allegation erroneously concluding that that AR Printing did not receive long-term loans from government banks and a long-term loan received for a transportation vehicle was dispositive evidence that AR Printing was creditworthy.[35]
- AR Printing received long-term loans from the SBI and, as such, did receive long-term loans from the Government of India.
- AR Printing received a small long-term loan in 2010 that was not of commercial significance from a non-state owned bank. This loan is not commercially comparable to the SBI loan at issue and, thus, should be used as a basis for finding that AR Printing was creditworthy in 2010.
- The Department should turn to other factors to determine if AR Printing was creditworthy, specifically the company's current ratio and quick ratio, which the

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70 FR 13460 (March 21, 2005) (*Final Determination of PET Resin from India*), and accompanying Issues and Decision Memorandum, dated March 21, 2005 (PET Resin Investigation I&D Memorandum).

[31] *See* Preliminary Decision Memorandum at 8-9.

[32] *See Certain Tissue Paper Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 78 FR 40101 (July 3, 2013) and accompanying Issues and Decision Memorandum, dated June 27, 2013, at Comment 1 (*Final Determination of Tissue Paper from the PRC*).

[33] *See* AR Printing IQR at 10.

[34] *See* August 16, 2013 Letter from Petitioners to the Department.

[35] *See* Decision Memorandum for Preliminary Results: Countervailing Duty (CVD) Administrative Review: *Certain Lined Paper Products from India,* dated September 30, 2013 (IDM Memo), at 8.

Department used as the basis of its creditworthy analysis in *Solar Cells and Modules from the PRC* and *Citric Acid from the PRC*.[36]

- The current and quick ratios of AR Printing, along with the fact that AR Printing received no comparable commercial financing from private sources in 2010, demonstrate that AR Printing was uncreditworthy during 2010.

AR Printing's Rebuttal Brief

- The loan obtained by AR Printing from the SBI was on commercial terms.
- In the *Preliminary Results*, the Department determined that that AR Printing did not receive any allocable subsidies, thereby rendering Petitioners' creditworthy allegations moot.
- AR Printing obtained another long-term loan from Kotak Mahindra at the same time it obtained a loan from SBI. The two loans were on similar terms and the interest rate charged by SBI is actually higher than that of Kotak Mahindra, thereby demonstrating that AR Printing was creditworthy in 2010.
- The Department should continue to consider Petitioners' uncreditworthy allegation as moot.

Department's Position: We have not initiated an investigation of Petitioners' creditworthy allegation.[37] As explained above in Comment 1, we find there is no information indicating the long-term loan AR Printing received from the SBI was provided on preferential terms and we find that AR Printing did not use any of the long-term loan programs included in the initial questionnaire (*e.g.*, the GOI's Loan Guarantee Program). Further, we continue to determine that AR Printing did not receive any allocable subsidies that would require the use of a long-term discount rate for calendar year 2010, the period covered by Petitioners' uncreditworthy allegation.[38] Thus, in the absence of any countervailable program requiring the use of a long-term benchmark or discount rate for calendar year 2010, we continue to find that Petitioners' creditworthy allegation covering calendar 2010 is moot.

Comment 4: Whether Certain Benefits under the Duty-Free Import of Capital Goods and Raw Materials for Export Oriented Units (EOUs) Program Were Tied to Non-Subject Merchandise

AR Printing's Case Brief

- AR Printing contends that none of the imported inputs for which it received duty exemptions under the EOU program were used for the production of subject merchandise.[39]

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[36] *See Crystalline Silicon Photovoltaic Cells, Whether or Net Assembled Into Modules, From the People's Republic of China*, 77 FR 63788 (October 17, 2002) (*Solar Cells and Modules from the PRC*) and accompanying Issues and Decision Memorandum, dated October 9, 2012, Loan Benchmarks and Discount Rates for Allocating Non-Recurring Subsidies, at 5 and Comment 17; *see also Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 16836 (April 13, 2009) (*Citric Acid from the PRC*) and accompanying Issues and Decision Memorandum, dated April 6, 2009, Attribution of Subsidies, at 12.

[37] *See* Preliminary Decision Memorandum at 7.

[38] *Id.* at 8.

[39] *See* AR Printing IQR at 36-37.

- The imported items were used exclusively for the production of non-subject merchandise; i.e., tissue paper products or gift boxes.
- If a benefit is tied exclusively to non-subject merchandise, and no benefit is passed on to subject merchandise, then it is the Department's practice not to consider such benefits in the subsidy calculation.
- During the instant proceeding, the Department has not challenged or disputed AR Printing's claim that the inputs imported under the EOU program were not used in the production of subject merchandise.
- Therefore, for the final results, the Department should exclude the duty exemption on inputs used exclusively for non-subject merchandise.

Petitioners' Rebuttal Brief

- The Department has consistently found that the duty exemptions on importation of capital goods and raw materials by EOUs constitute a countervailable subsidy.
- Further, the Department has previously found that the benefits provided under this program are tied to the EOU as a whole and not the particular merchandise produced by the EOU.[40]
- AR Printing reported receiving duty exemptions under the EOU program both during and prior to the POR.
- The Department's methodology in the *Preliminary Results* is consistent with its practice and should be maintained for the final results.

Department's Position: In the *Preliminary Results*, the Department found that firms designated by the GOI as EOUs are eligible for certain benefits provided that they have achieved a positive net foreign exchange, calculated cumulatively for a period of five years from the commencement of production.[41] Therefore, in the *Preliminary Results*, we attributed all benefits received under this program to AR Printing's total exports sales in the relevant year.[42] AR Printing advocates that the Department revise its attribution methodology for this program so that the Department ties benefits to the exportation of particular products. However, AR Printing did not provide any information indicating that the GOI changed how it bestows benefits under this program. In fact, the information from the GOI continues to indicate that eligibility for this program is contingent upon reaching certain export levels in prior years.[43] Therefore, for the final results, we continue to find that eligibility under the program is contingent upon export sales in general and is not tied to the exports sales of a particular product or export sales to a particular foreign market. Accordingly, in the absence of any supporting evidence, we find that AR Printing's argument that benefits under the EOU program are tied to the sales of particular products to be unfounded. In calculating the net subsidy rate, we continue to attribute all duty exemptions received under the program to AR Printings' total export sales for the relevant period.

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[40] *See e.g., Bottle-Grade Polyethylene Terephthalate (PET) Resin From India,* 70 FR 13,460 (March 21, 2013) and accompanying Issues and Decision Memorandum, dated March 21, 2005, at 8-9; *see also Certain Lined Paper Products from India: Preliminary Results of Countervailing Duty Administrative Review; Calendar Year 2010*, 77 FR 61742 (October 11, 2013) (*Preliminary Results of 2010 Lined Paper Review*) and accompanying Issues and Decision Memorandum, dated October 1, 2012 (Preliminary Results of 2010 Lined Paper Decision Memorandum) at 6, unchanged in *Certain Lined Paper from India: Final Results of Countervailing Duty Administrative Review*; 2010, 78 FR 22845 (April 17, 2013) (*Final Results of 2010 Lined Paper Review*) and accompanying Issues and Decision Memorandum, dated April 9, 2013 (Final Results of 2010 Lined Paper Decision Memorandum).

[41] *See* Preliminary Decision Memorandum at 9.

[42] *Id.*

[43] *See* the GOI's January 29, 2013, Initial Questionnaire Response at Exhibit 3, which contains the GOI's Foreign Trade Policy regulations covering the Period August 27, 2009, through March 31, 2014. Article 6.5 of the Foreign Trade Policy lists the eligibility criteria for EOUs.

IX. Recommendation

We recommend applying the above methodology for these final results.

✓
Agree

Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

6 MAY 2014
Date