(''*Decision Memorandum*'') from Joseph A. Spetrini, Deputy Assistant Secretary, AD/CVD Enforcement Group III, to Faryar Shirzad, Assistant Secretary for Import Administration, dated October 9, 2001, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum*, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, Room B–099, of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/index.html*. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Results

Based on verification and our analysis of comments received and of the database calculations, we have changed our results from the preliminary results of review. For the final results of review, duty drawback has been adjusted to reflect the decisions the Department has reached for the final results. These changes are discussed in the relevant sections of the *Decision Memorandum*. In addition, minor corrections from verification by the Department resulted in revisions to: the gross unit price for certain U.S. invoices; the brokerage amounts for certain invoices; the indirect selling expenses; the home market credit; the packing expense; the U.S. and home market interest rates, and any calculations using these rates; and other miscellaneous expenses for some sales.

Final Results of Review

We determine that the following weighted-average percentage margin exists for the period March 1, 1999, through February 29, 2000:

Manufacturer/exporter/reseller	Margin (percent)
Saha Thai Steel Pipe Company, Ltd	1.92

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. In accordance with 19 CFR 351.212(b), we have calculated exporter/importer-specific assessment rates. We divided the total dumping margins for the reviewed sales by the entered value of those reviewed sales for Saha Thai. We will direct Customs to assess the resulting percentage margins against the entered value for the subject merchandise on each of Saha Thai's entries during the review period.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of certain welded carbon steel pipes and tubes from Thailand entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Saha Thai will be the rate shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in these or any previous reviews conducted by the Department, the cash deposit rate will be the ''all others'' rate established in the original LTFV investigation, which is 15.67 percent. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

The cash deposit rate has been determined on the basis of the selling price to the first unaffiliated U.S. customer.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: October 9, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix 1—Issues in *Decision Memorandum*

Comments and Responses

1. Duty Reimbursement
2. Theoretical Conversion Factor
3. Duty Drawback

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–825]

Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Determination With Final Antidumping Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary affirmative countervailing duty determination.

EFFECTIVE DATE: October 22, 2001.

FOR FURTHER INFORMATION CONTACT: Alexander Amdur at (202) 482–5346 or Mark Manning (202) 482–3936, Office of AD/CVD Enforcement IV, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

PRELIMINARY DETERMINATION: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to certain producers and exporters of Polyethylene Terephthalate Film, Sheet, and Strip (PET film) from India. For information on the estimated countervailing duty rates, please see the ''Suspension of Liquidation'' section of this notice.

SUPPLEMENTARY INFORMATION:

Case History

This investigation was initiated on June 6. 2001.[1] *See Notice of Initiation of Countervailing Duty Investigation: Polyethylene Terephthalate Film, Sheet, and Strip (PET film) from India*, 66 FR 31892 (June 13, 2001). Since the initiation of this investigation, the following events have occurred: on June 22, 2001, the Department selected Ester Industries Ltd. (Ester), Garware Polyester Ltd. (Garware), and Polyplex Corporation Ltd. (Polyplex) (collectively, the respondents) as mandatory respondents in this investigation. *See* Memorandum from Nithya Nagarajan to Bernard Carreau on Selection of Respondents dated June 22, 2001. On June 25, 2001, the petitioners requested that the Department investigate three infrastructure assistance schemes administered by the State of Gujarat. On June 27, 2001, we issued countervailing duty questionnaires to the Government of India (GOI).[2] On July 16, 2001, the Department initiated an investigation of the Gujarat infrastructure assistance schemes. On July 19, 2001, the Department postponed the preliminary determination until no later than October 15, 2001. *See Notice of Postponement of Preliminary Determination of Countervailing Duty Investigation: Polyethylene Terephthalate Film, Sheet, and Strip (PET film) From India*, 66 FR 39013 (July 26, 2001). On August 17, 2001, we received questionnaire responses from Ester, Garware, and Polyplex, and on September 7, 2001, we received a questionnaire response from the GOI. On August 23, 27, and 31, 2001, September 12, 17, 24, 25, and 28, 2001, and October 1, 2, 5, and 9, 2001, the Department issued supplemental questionnaires to Ester, Garware, Garware's affiliated input provider, Garware Chemicals Limited (Garware Chemicals), Polyplex, and the GOI. On September 7, 13, 14, 19, 26, and 27, 2001, and October 1, 3, 4, 5, 9, and 10, 2001, the Department received supplemental questionnaire responses from Ester, Garware, Garware Chemicals, Polyplex, and the GOI.

[1] The petitioners in this investigation are DuPont Teijin films, Mitsubishi Polyester film, and Toray Plastics (America) Inc. (collectively, the petitioners).

[2] Upon the issuance of the questionnaire, we informed the GOI that it was the government's responsibility to forward the questionnaires to Ester, Garware, and Polyplex.

Scope of the Investigation

For purposes of this investigation, the products covered are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Injury Test

Because India is a ''Subsidy Agreement Country'' within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from India materially injure or threaten material injury to a U.S. industry. On July 11, 2001, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured by reason of imports from India of subject merchandise. *See Polyethylene Terephthalate Film, Sheet, and Strip From India and Taiwan*, 66 FR 36292 (July 11, 2001).

Alignment With Final Antidumping Duty Determination

On September 28, 2001, the petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion antidumping duty investigation. Therefore, in accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determination in the antidumping duty investigation of PET film from India.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is April 1, 2000, through March 31, 2001, which corresponds to the period for the respondents' most recently completed fiscal year.

Subsidies Valuation Information

Allocation Period

Under section 351.524(d)(2)(i) of the Department's regulations, we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System, as updated by the Department of the Treasury. The presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under investigation, and the party can establish that the difference between the company-specific or country-wide AUL for the industry under investigation is significant, pursuant to section 351.524(d)(2)(ii) of the Department's regulations. For assets used to manufacture plastic film, such as PET film, the IRS tables prescribe an AUL of 9.5 years.

In their questionnaire responses, Ester, Garware, Garware Chemicals, and Polyplex have calculated company-specific AULs by dividing the aggregate of their respective annual average gross book values of their depreciable productive fixed assets by their aggregated annual charge to accumulated depreciation for a ten-year period in the manner specified by section 351.524(d)(2)(iii) of the Department's regulations. Using this method, Ester and Polyplex calculated an AUL of 18 years, and Garware and Garware Chemical calculated an AUL of 19 years. Based on information submitted by the respondents, we have preliminarily determined to use company-specific AUL data when calculating the AUL for Ester, Garware, and Polyplex. For Garware Chemical, we did not use any AUL in our calculations because Garware Chemical did not report the use of any non-recurring subsidies.

Benchmarks for Loans and Discount Rate

In accordance with section 351.505(a)(3)(i) of the Department's regulations, for those programs requiring the application of a short-term benchmark interest rate, we used company-specific, short-term interest rates on commercial loans as reported by the respondents. With respect to the rupee-denominated, short-term benchmark used in calculating the benefit for pre-shipment export financing, we used the weighted average of the companies' cash credit loans. Cash credit loans are the most comparable type of short-term loan to use as a benchmark because, like the pre-shipment export financing, cash credit loans are denominated in rupees and take the form of a line of credit which can be drawn down by the recipient. *See Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate from India,* 64 FR 73131, 73137 (December 29, 1999) (*Plate from India*). With respect to the rupee-denominated, short-term benchmark used in calculating the benefit for post-shipment export financing, we used, where available, the weighted-average of the companies' "inland" or "local" bill discounting loans. These loans, like the post-shipment export financing loans, are rupee-denominated working capital loans used to finance receivables. Where a company did not have any "inland" or "local" bill discounting loans, we used the weighted-average of the companies' cash credit loans, which are the next most comparable type of short-term loans.

For those programs requiring a rupee-denominated discount rate or the application of a rupee-denominated, long-term benchmark interest rate, we used, where available, company-specific, weighted-average interest rates on comparable commercial long-term, rupee-denominated loans. We did not use those long-term loans that had unpaid interest or principal payments because we do not consider such loans to be comparable loans under section 771(5)(E)(ii) of the Act and section 351.505(a)(2)(i) of the Department's regulations. We note that some respondents did not have rupee-denominated, comparable long-term loans from commercial banks for all required years. Therefore, for those years, we had to rely on a rupee-denominated, long-term benchmark interest rate that is not company-specific, but still provides a reasonable representation of industry practice, in order to determine whether a benefit was provided to the companies from rupee-denominated, long-term loans received from the GOI. Pursuant to 19 CFR 351.505(a)(3)(ii), we used national average interest rates for those years in which the respondents did not report company-specific interest rates on comparable commercial loans. We based these national average interest rates on information on long-term, rupee-denominated financing from private creditors in the International Monetary Fund's publication *International Financial Statistics.*

Cross-Ownership and Attribution of Subsidies

Because Garware owns 80 percent of Garware Chemicals, an affiliated supplier of an input to Garware that is primarily dedicated to the production of the subject merchandise, we have examined whether cross-ownership exists between the two companies within the meaning of section 351.525(b)(6) of our regulations. Section 351.525(b)(6)(vi) of the regulations defines cross-ownership as existing "where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. Normally, this standard will be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations."

Given Garware's 80 percent ownership in Garware Chemicals, and the fact that Garware Chemicals supplies an input to Garware that is primarily dedicated to the production of the subject merchandise, we preliminarily determine that cross-ownership exists and that subsidies received by Garware Chemicals are attributable to the products sold by both corporations in accordance with section 351.525(b)(6)(iv) of the Department's regulations. Thus, for purposes of this preliminary determination, for all applicable programs except for the electricity duty exemption scheme, we have calculated a subsidy rate for Garware Chemicals for each program by dividing Garware Chemicals' countervailable subsidies during the POI under each program by the sum of the two companies' total sales (excluding the sales between Garware and Garware Chemicals) (for domestic subsidies), or appropriate export sales (for export subsidies) during the POI. We then added these subsidy rates to Garware's calculated subsidy rates for each applicable program to calculate Garware's total subsidy rate.

For the electricity duty exemption scheme, due to the manner in which Garware and Garware Chemicals pay for their electricity charges, and the manner in which they receive the benefit through this program (*see* section of this notice on the electricity duty exemption scheme), we calculated Garware's total subsidy rate for this program by dividing the amount of countervailable subsidy received by both companies under this program by the sum of the two companies' total sales (excluding the sales between Garware and Garware Chemicals).

Furthermore, since Garware owns 80 percent of Garware Chemicals, guarantees almost all of Garware Chemicals' loans, and is in a position to control Garware Chemicals' finances, we calculated company-specific long-term benchmark interest rates for both Garware and Garware Chemicals based on both companies' reported long-term loans. We did not calculate company-specific short-term benchmark interest rates based on both companies' short-term loans because Garware Chemicals did not report its short-term loans. However, we intend to issue a supplemental questionnaire to Garware Chemicals requesting that it report such loans, and use these loans to calculate company-specific short-term benchmark interest rates based on both Garware's and Garware Chemicals' short-term loans in the final determination.

Programs Preliminarily Determined To Confer Subsidies

GOI Programs

1. Pre-Shipment and Post-shipment Export Financing

The Reserve Bank of India (RBI), through commercial banks, provides short-term pre-shipment financing, or "packing credits," to exporters. Upon presentation of a confirmed export order or letter of credit to a bank, companies may receive pre-shipment loans for working capital purposes, *i.e.,* for the purchase of raw materials, warehousing, packing, and transporting of export merchandise. Exporters may also establish pre-shipment credit lines upon which they may draw as needed. Credit line limits are established by commercial banks, based upon a company's creditworthiness and past export performance, and may be denominated either in Indian rupees or in foreign currency. Companies that have pre-shipment credit lines typically pay interest on a quarterly basis on the outstanding balance of the account at the end of each period. Commercial banks extending export credit to Indian companies must, by law, charge interest on this credit at rates determined by the RBI. During the POI, the rate of interest charged on pre-shipment, rupee-denominated export loans up to 180 days was 10.0 percent. For those loans over 180 days and up to 270 days, banks charged interest at 13.0 percent.

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

In general, post-shipment loans are granted for a period of no more than 180 days. For loans not repaid within the due date, exporters lose the concessional interest rate on this financing.

We find that the provision of the pre- and post-shipment export financing constitutes a financial contribution pursuant to section 771(5)(D)(i) of the Act. To determine whether a benefit was conferred under the pre- and post-shipment export financing programs for rupee-denominated loans,[3] we compared the interest rate charged on these loans to rupee-denominated, short-term benchmark interest rates, as described in the ''Benchmarks for Loans and Discount Rate'' section above. This comparison shows that the interest rates charged on these loans were lower than the rates on comparable commercial loans that the recipient could actually obtain on the market. Therefore, in accordance with section 771(5)(E)(ii) of the Act, we preliminarily determine that the provision of the pre- and post-shipment export financing conferred benefits on the respondents during the POI.

The Department has previously found both pre-shipment and post-shipment export financing to be contingent upon export performance and, therefore, to constitute export subsidies. *See, e.g., Hot-Rolled from India,* Decision Memo, Analysis of Programs Section at Paragraph 1.A. No new information has been submitted in this investigation to warrant reconsideration of this specificity determination. Therefore, in accordance with section 771(5A) of the Act, we continue to find that provision of the pre- and post-shipment export financing constitutes a countervailable export subsidy.

To calculate the subsidy rates for the pre-shipment export financing, we divided the total amount of benefit to each respondent by each respondent's total exports. Accordingly, we preliminarily determine the net countervailable subsidy under the pre-shipment export financing program to be 1.43 percent *ad valorem* for Ester, 2.24 percent *ad valorem* for Garware, and 0.50 percent *ad valorem* for Polyplex.

With regard to rupee-denominated post-shipment loans, the respondents have indicated that post-shipment financing can be tied to specific export contracts. Therefore, when calculating the net subsidy rate for rupee-denominated post-shipment loans, we divided the benefits received by each respondent under this program by their respective sales of subject merchandise made to the United States during the POI. On this basis, we preliminarily determine the net countervailable subsidy under the post-shipment export financing program to be 1.59 percent *ad valorem* for Ester, 2.28 percent *ad valorem* for Garware, and 0.47 percent *ad valorem* for Polyplex.

2. Duty Entitlement Passbook Scheme (DEPS)

The DEPS enables exporting companies to earn import duty exemptions in the form of passbook credits rather than cash. Prior to the POI, exporting companies could obtain DEPS credits on a pre-export or on a post-export basis. The GOI reported that the pre-export DEPS program was abolished effective April 1, 2000.

All exporters are eligible to earn DEPS credits on a post-export basis, provided that the exported product is listed in the GOI's standard input-output norms (SION). Post-export DEPS credits can be used for any subsequent imports, regardless of whether they are consumed in the production of an export product. Post-export DEPS credits are valid for 12 months and are transferable. With respect to subject merchandise, exporters were eligible to earn credits equal to 15 percent of the f.o.b. value of their export shipments during the fiscal year ending March 31, 2001. During the POI, Ester, Garware, and Polyplex all earned post-export DEPS credits.

The criteria regarding the remission, exemption or drawback of import duties is set forth in 19 CFR 351.519. Pursuant to this provision, the entire amount of an import duty exemption is countervailable if the government does not have in place and apply a system or procedure to confirm which imports are consumed in the production of the exported product and in what amounts. In *Hot-Rolled from India*, we determined that the DEPS rate of credit appears not to be reflective of imports of the producer which it is intended to represent. *See Hot-Rolled from India*, Decision Memo, Analysis of Comments Section at Comment 6. We also found that, since the DEPS rates are based on the value of imports and not the quantity of imports, there is no reliable method for the GOI to monitor whether the value of credits given is commensurate with the value of credits claimed. *Id*. Therefore, we concluded in *Hot-Rolled from India* that the GOI does not have in place and does not apply a system 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. *Id*.

Consequently, in *Hot-Rolled from India* we determined that under section 351.519(a)(4) of the Department's regulations, the entire amount of import duty exemption earned by the respondents during the POI constitutes a benefit. *Id.* In addition, we further found that a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided under the program because the GOI provides the respondents with credits for the future payment of import duties. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Determination With Final Antidumping Duty Determinations: Certain Hot-Rolled Carbon Steel Flat Products From India*, 66 FR 20240, 20245 (*Hot-Rolled from India Prelim*) (unchanged by the final determination). We further found that this program can only be used by exporters and, therefore, is specific under section 771(5A)(B) of the Act. *Id.* In the instant proceeding, no new information has been submitted to demonstrate that a different decision is warranted at this time. Therefore, for purposes of this preliminary determination, we find that the DEPS conferred countervailable export subsidies upon the respondents during the POI.

Under 19 CFR 351.519(b)(2), if a program permits exemption of import duties upon export, the Department normally will consider the benefit as having been received upon exportation. The Department calculates the benefit on an ''earned'' basis (that is, upon export) where it is provided, as in the DEPS program, as a percentage of the value of the exported merchandise on a shipment-by-shipment basis, and the exact amount of the exemption is known. *See Plate from India*, 64 FR at 73140. In the instant case, we have determined, pursuant to section 771(5)(E) of the Act and 19 CFR 351.519(b)(2), that benefits from the DEPS are conferred as of the date of

[3] None of the respondents reported using foreign currency-denominated loans through the pre- or post-shipment export financing programs during the POI.

exportation of the shipment for which the pertinent DEPS credits are earned rather than the date DEPS credits are used. At the date of exportation, the amount of the benefit is known by the exporter. The benefit to the respondents under this program is the total value of DEPS import duty exemptions that the respondents earned on their export shipments of subject merchandise to the United States during the POI. We note that this approach is consistent with the methodology employed in *Hot-Rolled from India. See e.g.*, *Hot-Rolled from India*, Decision Memo, Analysis of Comments Section at Comment 16.

Under 19 CFR 351.524(c), this program provides a recurring benefit because DEPS credits provide exemption from import duties. To derive the DEPS program rate, we first calculated the value of the post-export credits that the respondents earned for their export shipments of subject merchandise to the United States during the POI by multiplying the f.o.b. value of each export shipment by the percentage of DEPS credit allowed under the program for exports of subject merchandise. We then subtracted as an allowable offset the actual amount of application fees paid for each license in accordance with section 771(6) of the Act. Finally, we took this sum (the total value of the licenses net of application fees paid) and divided it by each respondent's total respective exports of subject merchandise to the United States during the POI.

On this basis, we preliminarily determine the net countervailable subsidy from this program to be 15.63 percent *ad valorem* for Ester, 14.66 percent *ad valorem* for Garware, and 14.33 percent *ad valorem* for Polyplex.

3. Special Import Licenses (SILs)

During the POI, Ester and Garware sold two types of import licenses—SILs for Quality and SILs for Trading Houses. SILs for Quality are licenses granted to exporters which meet internationally-accepted quality standards for their products, such as the International Standards Organization (ISO) standards. SILs for Trading Houses are licenses granted to exporters that meet certain export targets. Both types of SILs permit the holder to import products listed on a ''Restricted List of Imports'' in amounts up to the face value of the SIL. Under the program, the SILs do not exempt or reduce the amount of import duties paid by the importer.

In addition, Garware reported in its September 27, 2001 response that it surrendered certain SILs to the GOI during the POI because it had not met its export obligation for materials that it had imported in previous years under the ''Advance Licence under Duty Exemption Entitlement Certificate Scheme, wherein the company had undertaken to export with a minimum value addition of 33%'' (*i.e.*, apparently, the pre-export DEPS program).

The Department has previously determined that the sale of SILs constitutes an export subsidy because companies receive these licenses based on their status as exporters. See, *e.g., Hot-Rolled from India*, Decision Memo, Analysis of Programs Section at paragraph I.D. No new information has been submitted in this investigation to warrant reconsideration of this determination. Therefore, in accordance with section 771(5A)(B) of the Act, we continue to find that the receipt of benefits under this program is contingent upon export performance. Pursuant to section 771(5)(D)(i) of the Act, the financial contribution in the sale of SILs consists of the revenue received on the sale of licenses, the amount of which constitutes the benefit from the sale of SILs under section 771(5)(E) of the Act.

Furthermore, by using other SILs granted by the GOI to fulfill its export obligation under the pre-export DEPS program, Garware avoided the expense of having to purchase SILs on the open market to fulfill this obligation. Since Garware received these SILs (like its SILs sold during the POI) because of its status as an exporter, we preliminarily find that the use of SILs constitutes a countervailable export subsidy in accordance with section 771(5A)(B) of the Act. Pursuant to section 771(5)(D)(i) of the Act, the financial contribution in the use of SILs consists of the expense that Garware avoided by not having to buy SILs on the open market, the amount of which constitutes the benefit from the use of SILs under section 771(5)(E) of the Act. At verification, we intend to obtain information on whether Garware received other benefits from the use of SILs, such as avoiding the payment of penalties for not meeting its export obligation under the pre-export DEPS program.

The respondents also reported the application fees that they paid to obtain those SILs that they sold during the POI. We preliminarily determine that the application fees paid by the respondent companies for the SILs qualify as an ''* * * application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the countervailable subsidy.'' *See* section 771(6)(A) of the Act.

We calculated the net subsidy rate for the sale and (for Garware) the use of SILs in the following manner. We first calculated the total amount of proceeds each respondent received from its sales of these licenses (net of application fees). For Garware, we added to the proceeds the expense that Garware avoided by not having to buy SILs on the open market, which we calculated based on the prices that Garware received for the sale of its SILs during the POI. Because the receipt of SILs cannot be segregated by type or destination of export, we then divided the resulting amounts for each respondent by its respective total export sales for the POI. On this basis, we preliminarily determine the net countervailable subsidy to be 0.00 percent *ad valorem* for Ester and 0.01 percent *ad valorem* for Garware.

The GOI indicated that the SIL scheme was abolished on March 31, 2001. However, the GOI has not yet submitted a copy of any legislation to substantiate the termination of this program. During verification, we will seek to confirm whether this program has been terminated and whether its termination qualifies as a ''program-wide change'' under 19 CFR 351.526. If we can substantiate during verification that there has been a program-wide change, we will adjust the cash deposit rates to reflect the termination of this program in our final determination.

4. Export Promotion Capital Goods Scheme (EPCGS)

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

The respondents reported that they imported machinery under the EPCGS in the years prior to the POI and during the POI. For some of their imported machinery, the respondents met their export requirements. As a result, the GOI completely waived the amount of import duties. However, the respondents have not completed their export requirements for other imports of capital machinery. Therefore, although the respondents received a reduction in import duties when the capital machinery was imported, the final waiver on the potential obligation to repay the duties has not yet been made by the GOI.

In *Hot-Rolled from India,* we determined that the import duty reduction provided under the EPCGS was a countervailable export subsidy. *See Hot-Rolled from India,* Decision Memo, Analysis of Programs Section at paragraph I.E. No new information or evidence of changed circumstances has been provided to warrant a reconsideration of this determination. Therefore, in accordance with section 771(5A)(B) of the Act, we continue to find that the receipt of benefits under this program is contingent upon export performance.

We determine that the GOI provided a financial contribution under section 771(5)(D)(i) of the Act, and the respondents benefitted under section 771(5)(E) of the Act, in two ways by participating in this program. The first financial contribution and benefit to the respondents is the waiver of import duty on imports of capital equipment. Because the GOI has formally waived the unpaid duties on those imports, we have treated the full amount of the waived duty exemptions as a grant received in the year in which the GOI officially granted the waiver.

The criteria to be used by the Department in determining whether to allocate the benefits from a countervailable subsidy program is specified under 19 CFR 351.524. Specifically, recurring benefits are not to be allocated but are to be expensed to the year of receipt, while non-recurring benefits are to be allocated over time. For the preliminary determination of this investigation, non-recurring benefits will be allocated over 18 years for Ester and Polyplex, and 19 years for Garware, the company-specific AUL of assets as reported by the respondents.[4]

Normally, tax benefits are considered to be recurring benefits and are expensed in the year of receipt. Since import duties are a type of tax, the benefit provided under this program is a tax benefit, and, thus, normally would be considered a recurring benefit. However, the Department's regulations recognize that, under certain circumstances, it is more appropriate to allocate over time the benefits of a program normally considered a recurring subsidy, rather than to expense the benefits in the year of receipt. Section 351.524(c)(2) of the Department's regulations provides that a party can claim that a subsidy normally treated as a recurring subsidy should be treated as a non-recurring subsidy and enumerates the criteria to be used by the Department in evaluating such a claim. In the Preamble to our regulations, the Department provides an example of when it may be more appropriate to consider the benefits of a tax program to be non-recurring benefits, and, thus, allocate those benefits over time. *Countervailing Duties; Final Rule,* 63 FR 65348, 65393 (November 25, 1998). We also stated in the Preamble to our regulations that, if a government provides an import duty exemption tied to major capital 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, even though import duty exemptions are on the list of recurring subsidies. *Id.* Because the benefit received from the waiver of import duties under the EPCGS is tied to the capital assets of the respondent companies, and, therefore, is just such a benefit, we determine that it is appropriate to treat the waiver of duties as a non-recurring benefit. We note that our approach on this issue is consistent with that taken in *Hot-Rolled from India. See Hot-Rolled from India Prelim,* 66 FR 20247 (unchanged by the final determination).

In their questionnaire responses, the respondents reported all of the capital equipment imports they made using EPCGS licenses and the application fees they paid to obtain their EPCGS licenses. We preliminarily determine that the application fees paid by the respondent companies qualify as an ''* * * application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the countervailable subsidy.'' *See* section 771(6)(A) of the Act.

In order to calculate the benefit received from the waiver of the respondent companies' import duties on their capital equipment imports, we determined the total amount of duties waived in each year (net of application fees). Consistent with our approach in *Hot-Rolled from India,* we determine the year of receipt to be the year in which the GOI formally waived the respondent companies' remaining outstanding import duties. *Id.* Next, we performed the ''0.5 percent test,'' as prescribed under 19 CFR 351.524(b)(2) for each year in which the GOI granted the respondent companies an import duty waiver.[5] Those waivers whose face values exceeded 0.5 percent of each of the respondent companies' total export sales in the year in which the waivers were granted were allocated over the company-specific AULs, the AUL used in this investigation, using the Department's standard allocation methodology for non-recurring subsidies under section 19 CFR 351.524(b).

A second type of financial contribution and benefit conferred under this program involves the import duty reductions that the respondents received on the imports of capital equipment for which the respondents have not yet met their export requirements. For those capital equipment imports, the respondents have unpaid duties that will have to be paid to the GOI if the export requirements are not met. Therefore, we determine that the companies had outstanding contingent liabilities during the POI. When a company has an outstanding liability and the repayment of that liability is contingent upon subsequent events, our practice is to treat any balance on that unpaid liability as an interest-free loan. *See* 19 CFR 351.505(d)(1).

We determine that the amount of contingent liability to be treated as an interest-free loan is the amount of the import duty reduction or exemption for which the respondents applied but, as of the end of the POI, had not been finally waived by the GOI. Accordingly, we determine the benefit to be the interest that the respondents would have paid during the POI had they borrowed the full amount of the duty reduction at the time of import. We note that this approach is consistent with the methodology employed in *Hot-Rolled from India. Id.* Pursuant to 19 CFR 351.505(d)(1), the benchmark for measuring the benefit is a long-term interest rate because the event upon which repayment of the duties depends (*i.e.,* the date of expiration of the time period for the respondents to fulfill their export commitments) occurs at a point in time more than one year after the date the capital goods were imported.

To calculate the program rate, we combined, where applicable, the sum of the allocated benefits received on waived duties and the benefits conferred on the respondents in the form of contingent liability loans. We then divided each respondent's total benefit under the program by its respective total export sales during the POI. For Garware Chemicals, we used the total export sales of Garware and Garware Chemicals as the denominator in this calculation. We added the resulting percentages for Garware and Garware Chemicals to calculate Garware's total rate. On this basis, we

[4] Garware Chemicals did not have any non-recurring benefits to be allocated.

[5] Under this section, non-recurring subsidies will be expensed in the year of receipt rather than allocated over time if the benefit from the non-recurring subsidy is less than 0.5 percent of the company's sales.

preliminarily determine the net countervailable subsidy from this program to be 2.85 percent *ad valorem* for Ester, 6.66 percent *ad valorem* for Garware, and 4.55 percent *ad valorem* for Polyplex.

State of Maharashtra Programs

1. Sales Tax Incentives

The State of Maharashtra (SOM) grants a package scheme of incentives for privately-owned (*i.e.,* not 100 percent owned by the GOI) manufacturers to invest in certain areas of Maharashtra. One of these incentives consists of either an exemption or deferral of state sales taxes. Through this incentive, companies are exempted from paying state sales taxes on purchases, and collecting sales taxes on sales; or, as an alternative, are allowed to defer submitting sales taxes collected on sales to the SOM for ten to twelve years. After the deferral period expires, the companies are required to submit the deferred sales taxes to the SOM in equal installments over five to six years. The total amount of the sales tax incentive either exempted or deferred is based on the size of the capital investment, and the area in which the capital is invested.

Garware and Garware Chemicals reported that they participate in the sales tax incentive program. Prior to 1997, Garware received a deferral through this program for submitting the state sales tax to the SOM that it collected on its sales, and during the POI, still owed the SOM for part of the pre-1997 deferred taxes. After 1997, Garware received an exemption through this program from the payment and collection of state sales tax. Garware Chemicals also received an exemption through this program from the payment and collection of state sales tax.

We preliminarily find that this program is specific within the meaning of sections 771(5A)(D)(i) and (iv) of the Act because the benefits of this program are limited to privately-owned (*i.e.,* not 100 percent owned by the GOI) industries located within designated geographical regions within the SOM. We also preliminarily find that the SOM provided a financial contribution under section 771(5)(D)(i) of the Act, and that the respondents benefitted under section 771(5)(E) of the Act, in two ways through this program.

First, for the sales taxes exempted, a benefit exists to the extent that the taxes paid by Garware and its affiliate as a result of this program are less than the taxes these companies would have paid in the absence of the program. *See* 19 CFR 351.510(a)(1). As applied to the program at issue, Garware and its affiliate paid less taxes through the exemption of sales taxes on purchases. Furthermore, Garware and its affiliate did not collect any sales taxes on their sales. However, this did not have the effect of Garware and its affiliate paying any less taxes from their own funds. Therefore, we preliminarily determine that the only benefit and financial contribution were conferred in the amount of sales taxes exempted on purchases.

Second, for the sales taxes deferred, the Department treats such deferred indirect taxes as a government-provided loan in the amount of the taxes deferred. A benefit thus exists to the extent that the appropriate interest charges are not collected. *See* 19 CFR 351.510(a)(2). We therefore preliminarily determine that a benefit was conferred in the amount of the interest that Garware would have paid during the POI had it borrowed, at the time the collected sales taxes were deferred, the amount of the deferred sales taxes still unpaid at the end of the POI. Pursuant to19 CFR 351.505(a)(2)(iii), to determine the amount of the benefit conferred, we used a long-term benchmark interest rate based on long-term loans which were established during the years in which the terms of the sales tax deferrals were established.

To calculate the program rate, we first summed Garware's benefits received on exempted sales taxes on purchases during the POI and the benefits conferred in the form of unpaid interest on the deferred sales taxes. We then divided Garware's total benefit under the program by its total sales during the POI. For Garware Chemicals, we divided the amount of benefits received on exempted sales taxes on purchases during the POI by the sum of Garware's and Garware Chemicals' total sales (excluding sales between Garware and Garware Chemicals). We added the resulting percentages for Garware and Garware Chemicals to calculate Garware's total subsidy rate. On this basis, we preliminarily determine the net countervailable subsidy from this program to be 1.92 percent *ad valorem* for Garware.

2. Electricity Duty Exemption Scheme

Another incentive that the SOM provides as part of the package scheme of incentives is an exemption from the payment of tax on electricity charges. This exemption is available to manufacturers located in certain regions of Maharashtra. Garware and Garware Chemicals reported that they received an exemption from the payment of tax on electricity charges through this program.

Because the SOM has forgone or not collected revenue otherwise due, we preliminarily find that the tax exemption provided through this program constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act. We also preliminarily find that this program is specific within the meaning of section 771(5A)(D)(iv) of the Act because the benefits of this program are limited to industries located within designated geographical regions within the SOM. In regard to the benefit to Garware and its affiliate under this program pursuant to section 771(5)(E) of the Act, we preliminarily find that the benefit consists of the amount of tax exempted on electricity charges through this program during the POI.

In our calculation of the subsidy rate for this program, we treated the benefit under this program as a recurring benefit, and took into account the manner in which Garware and Garware Chemicals pay for their electricity charges, and the manner in which they receive the benefit from this program. Garware reported that it pays the electricity charges (net of the exempted electricity tax) for both Garware and Garware Chemicals, and Garware Chemicals subsequently compensates Garware for the amount of the electricity that it actually consumed. Since Garware pays for the electricity charges for both companies, Garware and Garware Chemicals do not separately benefit from the exemption of the tax on electricity charges, but rather jointly benefit through Garware's joint payment of electricity charges, and joint exemption of electricity taxes. Since these two companies do not separately benefit from this program, we preliminarily determine that it is appropriate to directly calculate a joint subsidy rate for this program, rather than to calculate two separate subsidy rates, and then combine the rates to calculate Garware's overall rate. We therefore calculated the subsidy rate for this program by dividing the total amount of electricity tax exempted during the POI for both companies under this program by the sum of the two companies total sales (excluding the sales between Garware and Garware Chemicals). On this basis, we preliminarily determine the net countervailable subsidy from this program to be 0.37% percent *ad valorem* for Garware.

State of Uttar Pradesh [6] *Programs*

Sales Tax Incentives

The State of Uttar Pradesh (SUP), like the SOM, provides sales tax incentives for manufacturers that make capital investments. This incentive, established by section 4–A of the Uttar Pradesh Trade Tax Act, consists of either an exemption or deferral of state sales taxes. Through this incentive, companies are exempted from paying state sales taxes on purchases, and collecting sales taxes on sales; or, as an alternative, are allowed to defer submitting sales taxes collected on sales. The amount of the sales tax incentive is based on the size of the capital investment, and the area in which the capital is invested.[7] Eligibility for this program is also based on companies meeting certain employment percentages for specific castes, tribes, ''backward classes,'' and minorities, while thirteen specified industries are not eligible for any benefits under this program. Ester and Polyplex reported that they participate in the sales tax incentive program, and received an exemption through this program from the payment and collection of state sales tax.

We preliminarily find that this program is specific within the meaning of sections 771(5A)(D) (i) and (iv) of the Act because the benefits of this program are limited to the industries not otherwise excluded, and the benefits are based, in part, on the area in which companies invest capital. We also preliminarily find that the SUP, in the same manner as the SOM (*see* section of this notice on SOM Sales Tax Incentive program), provided a financial contribution under section 771(5)(D)(i) of the Act, and Ester and Polyplex benefitted under section 771(5)(E) of the Act, in the amount of sales taxes exempted on purchases.

We calculated the net subsidy rate for this program for each company by dividing each company's total amount of sales tax not paid on purchases through this program during the POI by each company's total sales for the POI.[8] On this basis, we preliminarily determine the net countervailable subsidy from this program to be 0.00% percent *ad valorem* for Ester and 0.00% percent *ad valorem* for Polyplex.

Programs Preliminarily Determined Not to Confer Subsidies

GOI Programs

Advance License Scheme

In order for the Department to consider a drawback program, such as the Advance License Scheme, to be not countervailable, the government must have in place and apply a reasonable system or procedure to confirm which inputs are consumed in the production of the exported products and in what amounts. In *Hot-Rolled from India*, we determined that, under the Advance License Scheme, the GOI has in place and applies a system to confirm which inputs are consumed in the production of the exported products and in what amounts, and that this system is reasonable and effective for the purposes intended. *See Hot-Rolled from India*, Decision Memo at Comment 5. We made this determination based on the following findings:

- This program has a built-in monitoring system by virtue of the application process and the manner in which the amount of duty exemption to be granted is limited by the quantity stipulated in the license.
- the GOI grants an advance license only for items listed on the SION for that industry.
- the GOI will grant the license for the items and quantities requested by a company only if the items and amounts requested are listed on the SION for the product.
- the items specified in the advance licenses as items to be imported are items that are used in the production of the relevant exported merchandise.
- the GOI is able to base the duties to be exempted (when those imports are made using the license) on the amounts of imported inputs necessary for producing the product. *Id.*

We also determined in *Hot-Rolled from India* that the portion of the advance licenses attributable to items not consumed in the production process constitute an over-rebate of duties because the amount drawn-back exceeds the amount of import charges on imported inputs that are consumed in the production of the exported product. We therefore found this over-rebate to be a countervailable subsidy. *Id.*

We further determined in *Hot-Rolled from India* that the sale of advance licenses is not countervailable. *Id.* We based this determination on the finding that ''because the amount of exemption granted is determined at the time of import and is based on the type and quantity of a specific good used in the production of exported product, the amount of duty exemption ultimately granted need not be claimed by the original licensee.'' *Id.*

In the present case, the record evidence indicates that the Advance License Program during the POI contained those same features that we found in *Hot-Rolled from India.* One respondent, Polyplex, reported that, through the GOI, it transferred part of an Advance License to another Indian company during the POI, and domestically purchased an input from that company. The input that Polyplex purchased from the other Indian company was consumed in the production of the exported product. Since the facts of this case indicate that Polyplex did not use an Advanced License during the POI to import or otherwise purchase an input that was not consumed in the production of the exported product, we preliminarily determine that Polyplex did not benefit from the use of the Advance License under section 771(5)(E) of the Act, and that Polyplex's use of an Advance License is not countervailable. We also note that we intend to scrutinize the details of Polyplex's transaction involving an Advanced License during verification.

State of Maharashtra Programs

Octroi Refund Scheme

Under this program, which is part of the SOM's package of incentives, industrial establishments that make capital investments in specific regions of Maharashtra are entitled to the refund of octroi duty, a tax levied by local authorities on goods that enter a town or district. Garware reported that it participates in this program, and that it has filed claims for the refund of octroi duty, but that it has not received any refund so far under this program. Since the SOM has not refunded any octroi duty to Garware, the SOM has not provided a financial contribution to Garware within the meaning of section 771(5)(D) of the Act. Moreover, since Garware has not received any refund

[6] The GOI, in its October 1, 2001 supplemental response, explained that in November 2000 (during the POI), the State of Uttar Pradesh (SUP) was re-organized into two states: the SUP and the State of Uttaranchal (SOU). The GOI further explained that, as a result of this reorganization, the facilities of the two respondents, Ester and Polyplex, that previously were located in the SUP were now located in the SOU. The GOI noted that the SOU continues to apply the same legislation and regulations underlying the programs at issue in this investigation that originated in the SUP. For the purposes of this notice, we will refer to both the SUP and SOU as the SUP, since the programs at issue originated in the SUP.

[7] Companies that invest in all areas of the SUP can receive benefits through this program, but the level of benefits granted depends in part on the area where the capital is invested.

[8] For purposes of the final determination, we may reconsider whether each company's total sales is the appropriate denominator to calculate the subsidy rate for this program, based on our final determination concerning the sales tax incentive for exports under Section 4–B of the Uttar Pradesh Trade Tax Act, as discussed below.

from this program, Garware has not received any benefit from this program under section 771(5)(E) of the Act. We therefore preliminarily determine that Garware's participation in this program during the POI is not countervailable.

Programs Preliminarily Determined Not To Be Not Used

GOI Programs

1. Exemption of Export Credit from Interest Taxes
2. Income Tax Exemption Scheme (Sections 10A, 10B and 80 HHC)
3. Loan Guarantees from the GOI
4. Benefits for Export Processing Zones / Export Oriented Units

State of Maharashtra Programs

Capital Incentive Scheme

State of Uttar Pradesh Programs

Capital Incentive Scheme

State of Gujarat Programs

Infrastructure Assistance Schemes

Program For Which Additional Information Is Needed

State of Uttar Pradesh Programs

Sales Tax Incentives for Exports Under Section 4–B of the Uttar Pradesh Trade Tax Act

In their questionnaire responses, the GOI, Ester, and Polyplex referenced a sales tax incentive for exports under Section 4–B of the Uttar Pradesh Trade Tax Act. The Department has not previously investigated this program. However, it appears that this incentive may be a countervailable subsidy, pursuant to section 775 of the Act. Therefore, the Department is including this program in this investigation.

Under this program, the SUP exempts from the state sales tax purchases of inputs required for the manufacture of goods that will ultimately be exported. According to the GOI, the sales tax authorities make an annual assessment of whether the exporter has claimed excess rebates by comparing the (tax-free) raw materials purchased to the exports actually made. Ester and Polyplex reported that they purchased such tax-free inputs during the POI.

Ester claims that this program does not provide a benefit under 19 CFR 351.517 because the amount of the indirect tax remission is not greater than the amount that would have been paid if the goods had been sold domestically. The GOI also states that this program is permissible under paragraph 1 of Annex II of the WTO Agreement on Subsidies and Countervailing Measures because the program remits ''prior-stage cumulative indirect taxes on goods that are used in the production of exported products.''

Section 351.517(a) of the Department's regulations states that in the case of an exemption upon export of indirect taxes, a benefit exists only to the extent that the Department determines that the amount exempted ''exceeds the amount levied with respect to the production and distribution of like products when sold for domestic consumption.'' However, the information on the record is not sufficient to evaluate how the sales tax authorities assess whether exporters have claimed excess sales tax exemptions through this program, and, accordingly, whether the sales tax exemptions in this program exceed the amount of sales tax levied on inputs used in production of domestically-sold merchandise. Therefore, the information on the record is not sufficient to evaluate whether the sales tax exemptions at issue confer a benefit under section 771(5)(E) of the Act. At verification, we intend to seek additional information about how this program operates, and closely examine how the sales tax authorities assess whether exporters have claimed excess sales tax exemptions through this program.

Verification

In accordance with section 782(i) of the Act, we will verify the information submitted by respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated individual rates for the companies under investigation (Ester, Garware, and Polyplex). To calculate the ''all others'' rate, we weight-averaged the individual rates of these companies by each company's respective sales of subject merchandise made to the United States during the POI. These rates are summarized in the table below:

Producer/exporter	Net subsidy rate
Ester Industries Ltd.	21.51% *ad valorem.*
Garware Polyester Ltd.	28.14% *ad valorem.*
Polyplex Corporation Ltd.	19.85% *ad valorem.*
All Others	22.85% *ad valorem.*

In accordance with section 703(d)(1)(B) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise from India, which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amounts indicated above. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. Any requested hearing will be tentatively scheduled to be held 57 days from the date of publication of the preliminary determination at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. In addition, six copies of the business proprietary version and six copies of the non-proprietary version of the case briefs must be submitted to the Assistant Secretary no later than 50 days from the date of publication of the preliminary determination. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Six copies of the business proprietary version and six copies of the non-proprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 5 days from the date of filing of the case briefs. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 351.309 and will be considered if received within the time limits specified above. Further, we would appreciate if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on a diskette.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act.

Dated: October 15, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–26547 Filed 10–19–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application to amend an Export Trade Certificate of Review.

SUMMARY: The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review (''Certificate''). This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Vanessa Bachman, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or E-mail at *oetca@ita.doc.gov*.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104H, Washington, DC. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 90–4A005.''

The California Kiwifruit Commission and California Kiwifruit Exporters Association's (''CKC'') original Certificate was issued on August 10, 1990 (55 FR 33740, August 17, 1990) and previously amended on November 27, 1990 (55 FR 50204, December 5, 1990); January 29, 1991 (56 FR 4601, February 5, 1991); and February 24, 1992 (57 FR 6712, February 27, 1992). A summary of the application for an amendment follows.

Summary of the Application

Applicant: California Kiwifruit Commission and California Kiwifruit Exporters Association, 9845 Horn Road, Suite 160, Sacramento, California 95827.

Contact: E. Scott Horsfall, President, Telephone: (916) 362–7490.

Application No.: 90–4A005.

Date Deemed Submitted: October 15, 2001.

Proposed Amendment: CKC seeks to amend its Certificate to:

1. Add each of the following companies as a new ''Member'' of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): Stellar Distributing, Fresno, California; George Brothers, Sultana, California; Trinity Fruit Sales Co., Clovis, California; Sun Pacific Marketing Coop., Los Angeles, California; and Regatta Tropicals, Arroyo Grande, California;
2. Delete the following companies as ''Members'' of the Certificate: Alkop Farms, Inc., Chico, California; Bartell Marketing, Inc., Fresno, California; Blue Anchor, Inc., Sacramento, California; Coast to Coast Produce Co., San Luis Obispo, California; Nash De Camp Company, Visalia, California; and Richland Sales Co., McFarland, California; and
3. Change the listing of the company names for the current Members: Kings Canyon Fruit Sales Corp. to the new listing Kings Canyon/Corrin Sales Corp.; Venida Packing Inc. to the new listing Venida Packing Co.; and Wil-Ker-Son Kiwifruit Ranch to the new listing WKS/Wil-Ker-Son Ranch.

Dated: October 17, 2001.

Vanessa M. Bachman,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 01–26546 Filed 10–19–01; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 000202024–1248–02; I.D. 100401B]

RIN 0648–ZA79

Announcement of Funding Opportunity to Submit Proposals for the South Florida Ecosystem Research and Monitoring Program (SFP)

AGENCY: Center for Sponsored Coastal Ocean Research/Coastal Ocean Program (CSCOR/COP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of Funding Availability for financial assistance for project grants and cooperative agreements.

SUMMARY: The purpose of this notice is to advise the public that CSCOR/COP is soliciting 1-year and 2-year proposals to support coastal ecosystem studies in South Florida including Florida Bay, Florida Keys, the Florida Keys National