

Manufacturer/Exporter	Revised Rates
Carnation Enterprises Pvt. Ltd. ....	de minimis
Commex Corporation .....	1.42%
Crescent Enterprise Pvt. Ltd. ....	7.22%
Dinesh .....	5.85%
Kajaria .....	12.82%
Kejriwal Iron & Steel Works .....	10.20%
Nandikeshwari .....	3.12%
R.B. Agarwalla .....	1.47%
RSI .....	3.95%
Serampore .....	7.37%
Shree Rama Enterprise ..	8.75%
Siko Exports .....	4.20%
Super Iron Foundry .....	de minimis
Victory Castings Ltd. ....	2.10%

The Department will instruct the U.S. Customs Service (Customs) to assess countervailing duties on all appropriate entries. The Department will issue liquidation instructions directly to Customs.

This amendment to the final results of countervailing duty administrative review notice is in accordance with sections 751(a)(1) and 777(i) of the Tariff Act, as amended, (19 U.S.C. 1675(a)(1) and 1677f(i)), and 19 CFR 351.221(b)(5).

Dated: May 7, 2002

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 02-12293 Filed 5-15-02; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-533-825]

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

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

**ACTION:** Notice of final affirmative countervailing duty determination.

**SUMMARY:** The Department of Commerce has made a final determination that countervailable subsidies are being provided to certain producers and exporters of PET film from India. For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section, below.

**EFFECTIVE DATE:** May 16, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Mark Manning or Karine Gziryan, (202) 482-5253 and (202) 482-4081,

respectively, 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.

#### SUPPLEMENTARY INFORMATION:

#### 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).

#### Case History

Since the publication of the preliminary determination in the **Federal Register** (see *Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET film) from India*, 66 FR 53389 (October 22, 2001) (*Preliminary Determination*)), the following events have occurred:

From October 30, 2001 to November 9, 2001, we conducted a verification of the questionnaire responses submitted by the Government of India (GOI),<sup>1</sup> Ester Industries Ltd. (Ester), Garware Polyester Ltd. (Garware), Garware's affiliated input supplier, Garware Chemicals Ltd. (Garware Chemicals), and Polyplex Corporation Ltd. (Polyplex). On December 12, 2001, we published a notice postponing the final determination in the companion antidumping duty investigation until May 6, 2002. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET film) from India*, 66 FR 65893 (December 12, 2001). Because of the alignment of this countervailing duty investigation with the companion antidumping duty investigation, the final determination in this countervailing duty investigation was also postponed until May 6, 2002.

On February 25 and 26, 2002, we received case briefs from the petitioners, DuPont Teijin Films, Mitsubishi

Polyester Film, and Toray Plastics (America) Inc. (collectively, the petitioners), the GOI, Ester, and Garware and Garware Chemicals. On March 7, 2002, we received rebuttal briefs from all parties that had submitted case briefs. On March 20, 2002, a public hearing was held at the Department of Commerce.

In addition, on October 22, 2001, six producers and exporters of PET film from India, Ester, Flex Industries Limited (Flex), Garware, Jindal Polyester Ltd. (Jindal), MTZ Polyfilms Ltd., and Polyplex, submitted a proposal for a suspension agreement in this investigation. Subsequently, on January 22, 2002, we met with counsel for the GOI, Ester, Flex, Jindal, and Polyplex to discuss this proposal, but no agreement resulted from this meeting. For further details, see Memorandum to the file dated May 6, 2002 on proposed suspension agreement.

#### 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.

#### 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).

#### 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

<sup>1</sup> We conducted a verification of the responses submitted by the GOI at the GOI, the Government of the State of Uttaranchal, and the Government of the State of Maharashtra.

respondents' most recently completed fiscal year.

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the "Issues and Decision Memorandum" (Decision Memorandum) dated May 6, 2002, which is hereby adopted by this notice. A list of 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 Appendix I. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in room B-099 of the Main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at <http://www.ia.ita.doc.gov>, under the heading "Federal Register Notices." The paper copy and electronic version of the Decision Memorandum are identical in content.

### Changes Since the Preliminary Determination

Based on our analysis of comments received and findings at verification, we have made certain changes in our determination. Specifically, we have made changes or new determinations concerning the following issues:

1. Calculation of Garware's short-term benchmark interest rate for post-shipment export financing;
2. Calculation of Garware's long-term benchmark interest rate;
3. Calculation of subsidy rate for EPCGS licenses with an export commitment of PET chips or an export commitment of PET chips and PET film;
4. Calculation of subsidy rate for pre-shipment export financing;
5. Calculation of Polyplex's subsidy rate for the Post-export Duty Entitlement Passbook Scheme (DEPS);
6. Calculation of subsidy rate for, and countervailability of, Special Import Licenses (SILs);
7. Calculation of subsidy rate for Export Promotion Capital Goods Scheme (EPCGS);
8. Calculation of subsidy rate for State of Maharashtra (SOM) sales tax incentives;
9. Countervailability of Octroi Refund Scheme;
10. Countervailability of SOM Capital Incentive Scheme;
11. Countervailability of Interest Waived by SICOM Limited;
12. Countervailability of State of Uttar Pradesh (UP) sales tax incentives for exports under Section 4-B of the UP Trade Tax Act;

13. Program-wide changes in the SIL Scheme and the Post-export DEPS;

We have also corrected certain programming and clerical errors in our preliminary calculations, where applicable. These changes are discussed in the relevant section of the Decision Memorandum and the calculation memoranda for Ester, Garware, and Polyplex, dated May 6, 2002.

### Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated individual net subsidy 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. We determine the net subsidy rates to be as follows:

Producer/exporter	Net subsidy rate
Ester Industries Ltd ...	19.42% <i>ad valorem</i> .
arware Polyester Ltd	25.47% <i>ad valorem</i> .
Polyplex Corporation Ltd.	20.12% <i>ad valorem</i> .
All Others	21.59% <i>ad valorem</i> .

Under section 351.526 of the Department's regulations, the Department can adjust cash deposit rates to account for program-wide changes. During this investigation, the Department verified that one program, the Special Import License Scheme, was terminated subsequent to the POI, and that a program-wide change occurred subsequent to the POI in the rate of the post-export Duty Entitlement Passbook Scheme (DEPS). Therefore, we have adjusted the following cash deposit rates to take into account these program-wide changes:

Producer/exporter	Cash deposit rate
Ester Industries Ltd ...	18.43% <i>ad valorem</i> .
Garware Polyester Ltd	24.48% <i>ad valorem</i> .
Polyplex Corporation Ltd.	18.66% <i>ad valorem</i> .
All Others .....	20.40% <i>ad valorem</i> .

In accordance with our preliminary affirmative determination, we instructed the U.S. Customs Service to suspend liquidation of all entries of PET film from India, which were entered or withdrawn from warehouse, for consumption on or after October 22, 2001, the date of the publication of our preliminary determination in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed the U.S. Customs Service to discontinue the suspension of liquidation for

merchandise entered on or after February 22, 2002, but to continue the suspension of liquidation of entries made between October 22, 2001 and February 21, 2002. We will issue a countervailing duty order and reinstate suspension of liquidation under section 706(a) of the Act for all entries if the ITC issues a final affirmative injury determination and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

### ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

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

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: May 6, 2002.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

### Appendix—Issues in the Decision Memorandum

#### General Issues

1. Countervailability of the DEPS
2. Calculation of the Benefit for the DEPS
3. Financial Contribution in the Pre- and Post-Shipment Export Financing Programs
4. Calculation of the Benefit for the Pre- and Post-Shipment Export Financing Programs
5. Calculation of the Benefit for EPCGS

6. Termination of the Pre-Export DEPS and the Special Import License Scheme

7. Program-Wide Change in the Post-Export DEPS

8. Deemed Exports in Calculation of Export Subsidies

9. State of Maharashtra's Package Scheme of Incentives

10. Benefit of Sales Tax Incentives for Exports Under Section 4-B of the Uttar Pradesh Trade Tax Act

11. Specificity of Sales Tax Incentives Under Section 4-A of the Uttar Pradesh Trade Tax Act

#### Company-Specific Issues

12. Calculation of EPCGS Benefit for Ester  
13. Calculation of Pre- and Post-Shipment Financing for Ester

14. Correction of Ester's Clerical Errors

15. Application of Input Supplier Rule to Garware and Garware Chemicals

16. Ministerial Error in the Calculation of Garware's EPCGS Benefits

17. Benchmarks for Garware's Pre- and Post-Shipment Export Financing Loans

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 050702B]

#### Endangered and Threatened Species; Take of Anadromous Fish

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability and request for public comment on NMFS' evaluation and pending determination of a Tribal Resource Management Plan (Tribal Plan).

**SUMMARY:** Notice is hereby given that NMFS, by delegated authority from the Secretary of Commerce (Secretary), has evaluated and prepared its pending determination of a Tribal Plan submitted by the Northwest Indian Fisheries Commission, in cooperation with the Puget Sound Indian Tribes, pursuant to the protective regulations promulgated for threatened Hood Canal summer-run chum salmon under the Endangered Species Act (ESA). This document also includes a summary of the underlying biological analysis used in the pending determination.

**DATES:** Written comments on the pending determination must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific Daylight Time on June 17, 2002.

**ADDRESSES:** Written comments and requests for copies of the evaluation and

pending determination should be sent to Leslie Schaeffer, Protected Resources Division, National Marine Fisheries Service, 525 NE Oregon Street, Portland, OR 97232-2737. The full text of the evaluation and pending determination is also available at <http://www.nwr.noaa.gov/>.

Comments may also be faxed to 503-230-5435.

Comments will not be accepted if submitted via e-mail or the Internet.

#### FOR FURTHER INFORMATION CONTACT:

Leslie Schaeffer at phone number 503-230-5433 or e-mail:

[leslie.schaeffer@noaa.gov](mailto:leslie.schaeffer@noaa.gov).

**SUPPLEMENTARY INFORMATION:** This notice is relevant to the Hood Canal summer-run chum salmon (*Oncorhynchus keta*) Evolutionarily Significant Unit (ESU).

#### Background

The Northwest Indian Fisheries Commission submitted a Tribal Plan in cooperation with the Puget Sound Indian Tribes for scientific research and assessment activities within the range of the Hood Canal summer-run chum salmon ESU in the state of Washington. The Puget Sound Indian Tribes conduct, independently and in cooperation with Federal and state agencies, a variety of research and assessment projects that provide the technical basis for their fishery management, and for the conservation and restoration of salmon stocks and their habitat. The need for improved and more quantitative information regarding freshwater and early marine survival needs of salmon is the purpose of the current research activities. The Tribal Plan includes implementation, monitoring, and evaluation procedures designed to ensure that the research activities are consistent with these objectives. The research activities described in the Tribal Plan span a 5 year period beginning on January 1, 2002.

#### Authority

Under section 4(d) of the ESA, the Secretary is required to adopt such regulations as he deems necessary and advisable for the conservation of the species listed as threatened. The ESA Tribal 4(d) rule (65 FR 42481, July 10, 2000) states that the ESA section 9 take prohibitions will not apply to Tribal Plans provided the Secretary determines that implementation of such Tribal Plan will not appreciably reduce the likelihood of survival and recovery of the listed salmonids.

Dated: May 10, 2002.

**Wanda L. Cain,**

*Acting Director, Office of Protected Resources, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 050702A]

#### Endangered and Threatened Species; Take of Anadromous Fish

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** This notice advises the public that the Nez Perce Indian Tribe has submitted a Tribal resource management plan (Tribal Plan) to NMFS pursuant to the limitation on take prohibitions for actions conducted under Tribal Plans promulgated under the Endangered Species Act. The Tribal Plan specifies the management of recreational, ceremonial, and subsistence fisheries in 2002 in the Imnaha River basin in the State of Oregon that potentially affect Snake River spring/summer chinook salmon listed as threatened under the ESA. This document serves to notify the public of the availability for comment of the proposed evaluation of the Secretary of Commerce (Secretary) as to whether implementation of the Tribal Plan will appreciably reduce the likelihood of survival and recovery of Snake River salmon and steelhead.

**DATES:** Written comments on the Secretary's pending determination must be received no later than 5 p.m. Pacific Standard Time on June 17, 2002.

**ADDRESSES:** Written comments and requests for copies of the pending determination should be addressed to Herb Pollard, Sustainable Fisheries Division, 10215 W. Emerald St. Suite 180, Boise, ID 83704. Comments may also be sent via fax to 208/378-5699. The document is also available on the Internet at <http://www.nwr.noaa.gov/>. Comments will not be accepted if submitted via e-mail or the Internet.

**FOR FURTHER INFORMATION CONTACT:** Herb Pollard at phone number: 208/378-5614, or e-mail: [herbert.pollard@noaa.gov](mailto:herbert.pollard@noaa.gov).

**SUPPLEMENTARY INFORMATION:** This notice is relevant to the Imnaha River