Manufacturer/exporter	Margin (percent)
UGITECH S. A.	14.98

Assessment

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212. The Department will issue appropriate appraisement instructions for the company subject to this review directly to CBP within 15 days of publication of these final results of review. In accordance with 19 CFR 351.106(c)(1), we will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer–specific assessment rate calculated in the final results of this review is above *de minimis* (*i.e.*, is not less than 0.50 percent). We calculated importer–specific assessment rates for the subject merchandise by aggregating the dumping margins calculated for all of the U.S. sales examined and dividing this amount by the total entered value of the sales examined.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for UGITECH will be 14.98 percent; (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) the cash deposit rate for all other manufacturers or exporters will continue to be 3.90 percent. This rate is the ''All Others'' rate from the LTFV investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) 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 antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice serves as the only 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(a)(3). Timely written notification of return/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. We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: August 4, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Appendix List of Issues

Comment 1: The Treatment of the Impairment of Assets Recognized in UGITECH's 2003 Financial Statements

Comment 2: The Treatment of Certain Research and Development Expenses in the Total Cost of Production Calculation

Comment 3: The Treatment of Non–Realized Restructuring Expenses in the General Administrative Expense Calculation

Comment 4: Level of Trade in the Home Market

Comment 5: Whether to Combine Certain Grade Codes for Product Matching

Comment 6: The Treatment of Early Payment Discount for Unpaid Home Market Sales

Comment 7: The Date of Shipment for Certain U.S. Consignment Sales

Comment 8: The Date of Payment for Unpaid U.S. Sales

Comment 9: Alleged Additional Direct Expenses on Certain U.S. Sales

[FR Doc. E5–4330 Filed 8–9–05; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

(C–533–825)

Notice of Preliminary Results and Rescission in Part of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on polyethylene terephthalate film, sheet, and strip (PET film) from India. This CVD review covers two companies. The period of review (POR) is January 1, 2003, through December 31, 2003. For information on the net subsidy rate for the reviewed companies, see the ''Preliminary Results of Administrative Review'' section of this notice. If the final results remain the same as the preliminary results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties as detailed in the ''Preliminary Results of Administrative Review'' section of this notice. Interested parties are invited to comment on these preliminary results. (*See* the ''Public Comment'' section of this notice.)

EFFECTIVE DATE: August 10, 2005.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen, at (202) 482–2769, or Howard Smith, at (202) 482–5193, AD/CVD Operations Office IV, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2002, the Department published a CVD order on PET film from India. *See Notice of Countervailing Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET film) from India*, 67 FR 44179 (July 1, 2002) (*PET Film Order*). On July 1, 2004, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 69 FR 39903 (July 1, 2004). On July 29, 2004, Jindal Polyester Limited/Jindal Poly Films Limited of India (Jindal) and Polyplex Corporation Ltd. (Polyplex),

Indian producers and exporters of subject merchandise, requested that the Department conduct an administrative review of the CVD order on PET film from India with respect to their exports to the United States. On July 30, 2004, Dupont Teijin Films, Mitsubishi Polyester Film of America, Toray Plastics (America), and SKC America, Inc. (petitioners), requested that the Department conduct an administrative review of the CVD order on PET film from India with respect to Polyplex, Jindal, Ester Industries Ltd. (Ester), Garware Polyester Limited (Garware), Flex Industries Ltd. (Flex), SRF Ltd. (SRF), and MTZ Polyesters Ltd. (MTZ). Also on July 30, 2004, Garware requested that the Department conduct an administrative review of the CVD order on PET film from India with respect to its exports to the United States. On August 30, 2004, the Department initiated an administrative review of the CVD order on PET film from India covering Polyplex, Jindal, Ester, Garware, Flex, SRF and MTZ, for the period from January 1, 2003, through December 31, 2003. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 68 FR 52857 (August 30, 2004).

On July 29, 2004, Jindal also requested that the Department conduct a changed circumstances review of the CVD order on PET film from India in order to determine whether Jindal Poly Films Limited is the successor–in-interest to Jindal Polyester Limited. On September 13, 2004, the Department decided not to initiate the requested CVD changed circumstances review, and instead decided to examine the name change in the instant CVD administrative review of Jindal. *See* letter from the Department to Jindal regarding the request for a changed circumstances review, on file in the Central Records Unit (CRU), room B–099 of the main Commerce building.

The Department issued questionnaires to the Government of India (GOI) and all seven respondents. On September 24, 2004, petitioners withdrew their requests for reviews of all seven respondents. On November 1, 2004, Garware withdrew its request to be reviewed. The Department has rescinded its review of all of the named respondents except Jindal and Polyplex. See the ''Partial Rescission of Review'' section below.

On November 4, 2004, in accordance with 19 CFR § 351.301(d)(4)(i)(B), petitioners timely submitted a new subsidy allegation. Petitioners alleged that respondents received countervailable benefits in the form of duty exemptions under the GOI's Advance License Program (ALP). The Department initially determined on December 10, 2004, that petitioners had failed to sufficiently support their allegation, but provided petitioners with an additional 10 days in which to provide further support of their allegation. *See* Memorandum to Holly A. Kuga, through Howard Smith, from the team regarding ''New Subsidy Allegation'' (December 10, 2004). On December 20, 2004, petitioners provided further support of their allegation. On January 4, 2005, Jindal submitted comments opposing the petitioners' allegation. On March 28, 2005, the Department determined that the petitioners had sufficiently supported their allegation, and initiated an investigation of the ALP. *See* Memorandum to Holly A. Kuga, through Howard Smith, from the team regarding ''Advance License Program'' (March 28, 2005) (ALP Initiation Memorandum). Throughout this administrative review, the Department has issued supplemental questionnaires to Jindal, Polyplex, and the GOI, and petitioners have submitted comments regarding the respondents' questionnaire responses.

Scope of the Order

For purposes of the order, 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.

Partial Rescission of Review

As provided in 19 CFR § 351.213(d)(1), ''the Secretary will rescind an administrative review under this section, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.'' Petitioners withdrew their review request, in its entirety, within 90 days of the date of publication of the notice of initiation of the instant administrative review. Additionally, Garware filed a timely withdrawal of its request to be reviewed. Because no other interested parties requested an administrative review of Garware, Ester, MTZ, SRF, or Flex, the Department is rescinding the instant administrative review of these companies. Although petitioners withdrew their request for a review of Jindal and Polyplex, these two companies timely requested reviews of their sales and thus, the Department has not rescinded its reviews of Jindal and Polyplex.

Subsidies Valuation Information

Allocation Period

Under 19 CFR § 351.524(d)(2)(i), we will presume the allocation period for non–recurring subsidies to be the average useful life (AUL) prescribed by the Internal Revenue Service for renewable physical assets of the industry under consideration (as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System, and as updated by the Department of the Treasury). This presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets of the company or industry under investigation. Specifically, the party must establish that the difference between the AUL from the tables and the company–specific AUL or country–wide AUL for the industry under investigation is significant, pursuant to 19 CFR § 351.524(d)(2)(ii). For assets used to manufacture plastic film, such as PET film, the IRS tables prescribe an AUL of 9.5 years.

In the investigative segment of this proceeding, the Department used a company–specific AUL of 18 years for Polyplex. Because there is no new evidence on the record that would cause the Department to reconsider this decision, in this review, the Department will continue to use an AUL of 18 years in allocating Polyplex's non–recurring subsidies.

This is the first segment of this proceeding in which Jindal has participated. Since 1995, Jindal has depreciated its assets using a straight–line methodology over either 18 or 13.72 years. Pursuant to 19 CFR § 351.524(d)(2)(iii), Jindal calculated a company–specific AUL of 17 years. *See* Jindal's May 16, 2005, submission at exhibit 76. Absent any record evidence to the contrary, we have preliminarily determined to use an AUL of 17 years in allocating Jindal's non–recurring subsidies.

Benchmarks for Loans and Discount Rate

Benchmark for Short–Term loans

In accordance with 19 CFR § 351.505(a)(3)(i) and consistent with

the underlying investigation, for programs requiring the application of a short–term benchmark interest rate, we used as the benchmark the company–specific, weighted average short–term interest rate on comparable commercial loans, as reported by the respondents. Where the company did not report any comparable commercial short–term loans, we used a short term national average interest rate as our benchmark.

In calculating the benefit for rupee–denominated, pre- and post–shipment export financing loans, we used as a benchmark the weighted–average interest rate paid by the company on its inland bill discounting loans. In the most recently completed review of this proceeding, the Department determined that inland bill discounting loans are more comparable to pre- and post–shipment export financing loans than other types of short–term loans. *See Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 69 FR 51063 (August 17, 2004) (*First PET Film Review - Final*), and accompanying *Issues and Decision Memorandum*, in the section entitled ''Benchmark Interest Rates for Short–term Loans,'' and the Department's position in Comment 3. There is no information on the record of this review that would cause the Department to reconsider its decision regarding the pre–and post–shipment export financing loan benchmarks.

For Jindal's and Polyplex's pre–shipment and post–shipment export financing loans that are denominated in U.S. dollars, we used a dollar–denominated short–term interest rate as our benchmark in accordance with 19 CFR § 351.505. This is consistent with the approach taken in the previous segment of this proceeding. *See First PET Film Review - Final* (where we used U.S. dollar–denominated working capital demand loans (WCDL) as the benchmark).

Polyplex reported two types of company–specific commercial short–term U.S. dollar–denominated loans: (1) WCDLs and (2) a short–term loan from the Industrial Development Bank of India (IDBI). WCDLs and pre- and post–shipment export financing loans are used to finance both inventories and receivables, whereas the IDBI loan is not used in this manner. In accordance with our regulations, we have continued to use the weighted–average interest rate of the WCDLs as the benchmark interest rate for Polyplex's pre–shipment and post–shipment export financing loans that are denominated in U.S. dollars.

Jindal did not report any U.S. dollar–denominated short–term loans for the POR. As the Department has been unable to identify an appropriate national average dollar–denominated short–term interest rate for India, for this preliminary determination we have used as our benchmark a national average dollar–denominated short–term interest rate for the United States, as reported in the International Monetary Fund's publication *International Financial Statistics* (May 2004). This is consistent with the approach taken in *Bottle–Grade PET Resin Final*.

Determination

Discount Rates

For programs requiring a rupee–denominated discount rate, or the application of a rupee–denominated, long–term benchmark interest rate, we used, where available, a discount or benchmark rate equal to the company–specific, weighted–average interest rate on all comparable commercial long–term, rupee–denominated loans.

For those years for which we did not have company–specific information, we relied on a comparable rupee–denominated, long–term benchmark interest rate from the immediately preceding year as directed by 19 CFR § 351.505(a)(2)(iii). When there were no comparable rupee–denominated, long–term loans from commercial banks during either the year under consideration, or the preceding year, we used national average interest rates pursuant to 19 CFR § 351.505(a)(3)(ii) for private creditors as reported in the publication, *International Financial Statistics* (2003). This is consistent with the approach taken in this and other proceedings. *See First PET Film Review - Final* and the accompanying *Issues and Decision Memorandum*, in the section entitled ''Benchmarks for Loans and Discount Rate.'' *See also, Final Affirmative Countervailing Duty Determination: Bottle–Grade Polyethylene Terephthalate (PET) Resin From India*, 70 FR 13460 (March 21, 2005) (*Bottle–Grade PET Resin Final Determination*). The Department applied rates from *International Financial Statistics* for 1995 for Jindal.

Programs Preliminarily Determined To Confer Subsidies

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 purchasing raw materials, warehousing, packing, and transporting merchandise destined for exportation. Companies may also establish pre–shipment credit lines upon which they may draw as needed. Limits on credit lines are established by commercial banks and are based on a company's creditworthiness and past export performance. Credit lines may be denominated either in Indian rupees or in a 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 at rates determined by the RBI.

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 the lending bank. The credit covers the period from the date of shipment of the goods to the date of realization of the proceeds from the sale to the overseas customer. Under the Foreign Exchange Management Act of 1999, exporters are required to realize proceeds from their export sales within 180 days after the date of shipment. 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. If the loans are not repaid within the due date, the exporters lose the concessional interest rate on this financing.

In the investigation, the Department determined that the pre–and post–shipment export financing programs conferred countervailable subsidies on the subject merchandise because: (1) provision of the export financing constitutes a financial contribution pursuant to section 771(5)(D)(i) of the Tariff Act of 1930, as amended, (the Act); (2) provision of the export financing confers benefits on the respondents under section 771(5)(E)(ii) of the Act because the interest rates given under these programs are lower than commercially available interest rates; and, (3) these programs are specific under section 771(5A)(B) of the Act because they are contingent upon export performance. *See Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film)*, 67 FR 34905 (May 16, 2002) (*PET Film Final Determination*) and accompanying *Issues and Decision Memorandum (PET Film Final Determination - Decision Memorandum)*, at the section entitled

''Pre–shipment and Post–shipment Export Financing.'' No new information or evidence of changed circumstances has been presented to warrant reconsideration of this determination. Therefore, for the purpose of these preliminary results, we continue to find this program countervailable.

The benefit conferred by the pre–and post–shipment loans is the difference between the amount of interest the company paid on the government loan and the amount of interest it would have paid on a comparable commercial loan. Because pre–shipment loans are tied to a company's total exports, we calculated the subsidy rate for these loans by dividing the total benefit by the value of each respondent's total exports during the POR. Because post–shipment loans are tied to shipments to a particular country, we divided the total benefit from the post–shipment loans used in sales to the United States by the value of each respondent's total exports of subject merchandise to the United States during the POR. *See* 19 CFR § 351.525 (b)(4). On this basis, we preliminarily determine the net countervailable subsidy provided to Polyplex and Jindal from pre–shipment export financing to be 0.10 and 0.12 percent *ad valorem*, respectively. We also preliminarily determine the net countervailable subsidy provided to Polyplex and Jindal from post–shipment export financing to be 0.21 and 0.15 percent *ad valorem*, respectively.

2. Advance License Program

Under the Advance License Program (ALP), exporters may import, duty free, specified quantities of materials required to produce products that are subsequently exported. Companies, however, remain contingently liable for the unpaid duties until they have exported the finished products. The quantities of imported materials and exported finished products are linked through standard input–output norms (SIONs) established by the GOI. *See* GOI response to question seven in the April 21, 2005, submission. During the POR, Polyplex and Jindal used advance licenses to import certain goods duty free.

In the underlying investigation, the Department found that the ALP contained the same features as the ALP examined in *Hot–Rolled from India*, where the Department determined that advance licenses, which provided for duty exemptions on imported inputs consumed in the production process, were not countervailable because the system was reasonable and effective for the purposes intended, as required under section 351.518 of the Department's regulations. *See PET Film Investigation Final* at the section entitled ''Programs Determined Not to Confer Subsidies;'' *see also Final Affirmative Countervailing Duty Determination: Certain Hot–Rolled Carbon Steel Flat Products From India*, 66 FR 49635 (September 28, 2001) (*Hot–Rolled Final Determination*). Petitioners, however, filed a timely new subsidy allegation with respect to the ALP, claiming that the ALP has undergone a number of significant changes since the underlying investigation, and requested that the Department investigate the new version of the program. After considering petitioners' allegation, the Department initiated an investigation of the revised ALP. For a discussion of the Department's decision to initiate an investigation of this program, *See* ALP Initiation Memorandum.

During the course of investigating the ALP in this administrative review, the Department requested that the GOI submit information regarding both the *de jure* changes in the policies and procedures related to the ALP and the industry–specific SIONs that are used to determine the amount of imported material required to produce each unit of exported PET film. With respect to the overall program, the Department requested information on the ALP laws and procedures as well as information regarding auditing and tracking activities, domestic suppliers, and deemed exports. With respect to the SIONs, the Department requested that the GOI report the date on which the PET film SIONs were calculated, provide copies of the documents evidencing the calculation of the PET film SIONs, and identify any requirements that the GOI review or revise the SIONs.

While the GOI asserted that the changes between the old 1997–2002 and the new 2002–2007 Export/Import Policy guidelines (under which the ALP regulations are enumerated) were minor, our analysis of the provisions in effect during the POR indicate that there are a number of aspects of the system that undermine its reasonableness and effectiveness. For instance, the GOI could not provide the Department with requested information demonstrating that certain aspects of the ALP were implemented and monitored as intended. The Department requested information on whether the GOI has ever carried out an examination or verification of any producer receiving an Advance License to ensure that inputs listed in the SIONs are actually consumed in the production of exported goods (*see* question 31 in the GOIs April 21, 2005, submission). Moreover, the Department noted that if the GOI has carried out such an examination, it should identify when the examination took place and the results of the examination. Despite the Department's request, the GOI did not cite to any specific examination or verification of a producer in any industry. The Department also asked whether the GOI conducts audits that track inputs and exports under the ALP. While the GOI indicated that it monitors certain movements of inputs, it did not demonstrate that a mechanism exists to evaluate SIONs to determine whether they remain reasonable over time (*see* question 35 in the GOIs April 21, 2005, submission). In fact, the GOI reported that there were no requirements that it review the SIONs and explained that if a company applies for the creation of a SION and the GOI fails to review the SION within four months of the application, the SION takes effect and all companies in the industry may use the untested SION. However, in its May 16, 2005, supplemental questionnaire response, the GOI stated that new regulations have been introduced as an attempt to address the lack of a requirement that the SIONs be reviewed periodically. *See* GOI response to questions one and five in the May 16, 2005, submission.

With respect to other systemic issues, the Department asked the GOI to provide information demonstrating that companies benefitting under the ALP are subject to penalties for claiming excessive credits or not meeting their export requirements. The GOI could not identify the number of companies in 2003 (or even one company) that either failed to meet export commitments under the ALP or was penalized for failing to meet the export requirements under the ALP. Additionally, the GOI was unable to provide any specific information regarding the number of companies that applied for, or received, an extension of time to meet their export commitment. In response to these systemic inquiries, the GOI acknowledged that it was unable to document that it had performed any such activities to ensure compliance with the program, noting that it does not maintain these sorts of records centrally. See the GOI's answers to questions 39 through 46 of its April 21, 2005, supplemental questionnaire response and its answers to questions 26 through 31 of its May 16, 2005, supplemental questionnaire response.

Furthermore, the record indicates that the ALP allows companies to meet their export requirements without physically exporting through the use of deemed exports. In reviewing the ten categories

of sales/transactions considered deemed exports, we note that several, if not most, of the allowable categories do not appear to have even a tangential link to exports. According to the GOI, eight of the deemed export categories are considered categories of sales ''similar to those of physical exports for the purpose of the ALS'' (Advance License System). *See* GOI's answers to questions 53–55 of the GOIs April 21, 2005, submission. However, these allowable categories under the ALP include sales to entities such as domestic fertilizer plants, power plants and refineries, UN–funded projects, nuclear power projects, and ''any project or purpose in respect of which the Ministry of Finance, by a notification, permits the import of such goods at zero customs duty.'' *See* Exhibits 12 and 13 of the GOIs April 21, 2005, submission.

With respect to the PET film SIONs applied during the POR, the GOI could not produce documentation indicating: (1) when the PET film SIONs were originally calculated; (2) any documentation demonstrating that the process outlined in its regulations was actually applied in calculating the original PET film SIONs; or (3) any of the supporting documents used in calculating those SIONs. Further, the GOI reported that there were no requirements that it review the SIONs, although, as noted above, the GOI did provide information about possible changes to the ALP that took place after the POR, which may be relevant in subsequent administrative reviews.

Pursuant to 19 CFR § 351.519(a)(4), the Department will consider the entire amount of an exemption to confer a benefit unless: (1) the government in question applies a system or procedure to confirm which inputs are consumed in the production of the exported products and in what amounts, and the system or procedure is reasonable and effective for the purposes intended, or (2) absent a system that is reasonable and effectively applied, the government in question has carried out an examination to determine which inputs are consumed in the production of the exported products and in what amounts. As discussed above, in light of the changes to the ALP in the Export/Import Policy guidelines that affected this administrative review period, the Department has reevaluated the ALP in its entirety to determine whether it meets the regulatory requirements enumerated above. The evidence on the record of this review does not demonstrate that the GOI applies a system or procedure to confirm which inputs are consumed in the production of the exported products and in what amounts, and that the ALP is reasonable and effective for the purposes intended. The GOI has failed to provide information demonstrating that the ALP was monitored and regulated effectively during the POR, as evidenced by the lack of information related to verification or implementation of extensions or penalties. In addition, the system allows for the availability of ALP benefits for a broad category of deemed exports that are not linked to the actual exportation of the subject merchandise, and provides for government discretion to bestow benefits under the program even more broadly. Finally, SIONs are a critical element of the ALP system, linking the amount of materials that may be imported duty–free to the exported finished products that have been produced with such inputs. The GOI could not provide the Department with its SION calculations for PET film or any documentation describing that the process outlined in its regulations was actually applied in calculating the original PET film SIONs. Thus, the Department cannot conclude that the system the GOI has in place with respect to the ALP is reasonable or is applied in a manner that is effective for the purposes intended.

Therefore, we preliminarily determine that the Advance License Program confers countervailable subsidy because: (1) a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided under the program, as the GOI provides the respondents with an exemption of import duties; (2) the GOI does not have in place and does not apply a system that is reasonable and effective for the purposes intended under 19 CFR § 351.519(a)(4), to confirm which inputs, and in what amounts, are consumed in the production of the exported products, and thus the entire amount of import duty exemption earned by the respondent constitutes a benefit under section 771(5)(E) of the Act; and (3) this program is contingent upon export and, therefore, is specific under section 771(5A)(B) of the Act. However, if a party in a future proceeding is able to provide information with respect to the systemic deficiencies identified above, the Department will reevaluate the ALP to determine whether those deficiencies have been overcome.

Pursuant to 19 CFR § 351.524(c), exemptions of import duties on imports consumed in production provide a recurring benefit. Thus, we treated the benefit provided under the ALP as a recurring benefit. To calculate the subsidy rate, we subtracted from the total amount of exempted duties under the ALP during the POR as an allowable offset the actual amount of application fees paid for each license in accordance with section 771(6) of the Act (in order to receive the benefits of the ALP, companies must pay application fees). We then divided the resulting net benefit by the total value of exports of PET film. We preliminarily determined the net countervailable subsidy provided to Polyplex and Jindal under the ALP to be 0.63 and 6.82 percent *ad valorem*, respectively.

3. Export Promotion Capital Goods Scheme (EPCGS)

The EPCGS provides for a reduction or exemption of customs duties on imports of capital goods used in the production of exported products. Under this program, producers may import capital equipment at reduced rates of duty by attempting to earn convertible foreign currency equal to four to five times the value of the capital goods within a period of eight years. If the company fails to meet the export obligation, the company is subject to payment of all or part of the duty reduction, depending on the extent of the export shortfall, plus penalty interest.

In the underlying investigation, we determined that the import duty reduction provided under the EPCGS is a countervailable export subsidy because (1) it provides a financial contribution pursuant to section 771(5)(D)(ii) of the Act, (2) which also constitutes a benefit under section 771(5)(e). Because this program is contingent upon export performance, it is specific under section 771(5A)(B) of the Act. *See PET Film Final Determination; see also Hot–Rolled Final Determination*, and accompanying *Issues and Decisions Memorandum*, at the section entitled ''Analysis of Programs.'' No new information or evidence of changed circumstances has been provided in this review to warrant a reconsideration of this determination.

In cases where the GOI has formally waived import duties on capital equipment, we treat the full amount of the waived duty as a grant received in the year in which the GOI officially granted the waiver.

Normally, exemptions and excessive rebates of indirect taxes are considered to be recurring benefits and are recognized in the year of receipt. *See* 19 CFR § 351.524(c)(1). However, the Department's regulations recognize that, under certain circumstances, it may be appropriate to allocate these types of benefits over a number of years. *See* 19 CFR § 351.524(c)(2). *See also Countervailing Duties; Final Rule*, 63 FR 65348, 65393 (November 25, 1998) (*CVD*

Preamble). In prior segments of this proceeding, we determined that the benefit received from the waiver of import duties under the EPCGS is tied to the purchase of capital assets and it is therefore appropriate to treat the waiver of duties as a non–recurring benefit. *See PET Film Final Determination; see also Hot–Rolled Final Determination*. No new information or evidence of changed circumstances have been presented in this administrative review to warrant reconsideration of these determinations.

In their questionnaire responses, Polyplex and Jindal reported all of their imports of capital equipment under EPCGS licenses and the application fees they paid to obtain those EPCGS licenses. In the investigation, we considered such fees to be an ''. . . application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the countervailable subsidy.'' Therefore, these fees may be deducted from the value of the benefit when calculating the amount of the countervailable subsidy. *See* section 771(6)(A) of the Act. *See also 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) (unchanged by the final determination). Nothing has changed in this administrative review to warrant reconsideration of that determination.

Polyplex and Jindal reported that they imported machinery under the EPCGS in the years prior to and during the POR. For the imported machinery for which Polyplex has met its export requirements, the GOI has completely waived import duties. For some of its machinery imports, however, Polyplex has not yet completed its export requirements as required under the program. Further, Jindal has not yet completed its export requirements for any of its imports of capital machinery. Therefore, although Polyplex and Jindal received an exemption from paying import duties when the capital machinery was imported, for certain licenses the final waiver on the obligation to repay the duties has not yet been granted by the GOI.

To calculate the benefit received from the waiver of the respondents' import duties on their capital equipment imports where the company's export obligation had been met, we considered the total amount of duties waived (net of application fees) to be the benefit. Further, consistent with the approach followed in the underlying investigation, we determined the year of receipt of the benefit to be the year in which the GOI formally waived the respondent company's outstanding import duties. *See PET Film Final Determination*. 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 an import duty waiver. Those waivers with face values in excess of 0.5 percent of each respondent's total export sales in the year in which the waivers were granted were allocated over Jindal's and Polyplex's company–specific AULs, while waivers with face values less 0.5 percent of each respondent's total export sales were expensed in the year of receipt. *See* ''Subsidies Valuation Information'' section above.

Although Polyplex submitted a notice to the GOI indicating that it may have met an export obligation on one of its EPCGS licenses, this notice was dated after the end of the POR. Consistent with our approach in the underlying investigation, the prior administrative review, and in the *Hot–Rolled Final Determination*, we will treat benefits under the EPCGS as a grant only when the GOI has issued a formal waiver applicable to the POR stating that the recipient has completed its export obligations and is waived from paying the outstanding import duties. *See PET Film Final Determination*. The statement from the GOI included in Exhibit 1 of Polyplex's March 21, 2005, questionnaire response is dated February 4, 2005. Because this date falls after the instant POR, the Department finds that the letter does not demonstrate that Polyplex met an export obligation with respect to the relevant license during the POR.

As noted above, import duty reductions that Polyplex and Jindal received on the imports of capital equipment for which they have not yet met export requirements, may have to be repaid to the GOI if the export requirements under the licenses are not met. Consistent with our practice and prior determinations, we will treat the unpaid import duty liability as an interest–free loan. *See* 19 CFR § 351.505(d)(1); *see also First PET Film Review - Final*.

The amount of the unpaid duty liabilities to be treated as an interest–free loan is the amount of the import duty reduction or exemption for which the respondent applied, but, as of the end of the POR, had not been finally waived by the GOI. Accordingly, we find the benefit to be the interest that Polyplex and Jindal would have paid during the POR had they borrowed the full amount of the duty reduction or exemption at the time of importation. *See PET Film Final Determination; see also Hot–Rolled Final Determination*. 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 to fulfill the export commitment) occurs at a point in time more than one year after the date of importation of the capital goods (*i.e.*, under the EPCGS program, the time period for fulfilling the export commitment expires eight years after importation of the capital good).

The benefit received under the EPCGS is the total amount of benefits received on waived duties and the total amount of benefits conferred on Polyplex and Jindal in the form of contingent liability loans. To calculate the net countervailable subsidy rate under this program, we divided the total benefits received by Jindal and Polyplex respectively on all EPCGS licenses containing imports of capital goods used in the production of subject merchandise during 2003 by the total value of each company's export sales of subject and non–subject merchandise PET film. On this basis, we preliminarily determine the net countervailable subsidy for Polyplex and Jindal under the EPCGS to be 3.86 and 2.23 percent *ad valorem*, respectively.

4. Income Tax Exemption Scheme 80HHC

Under section 80HHC of the Income Tax Act, the GOI allows exporters to exclude profits derived from export sales from their taxable income. In prior proceedings, the Department found this program to be a countervailable export subsidy, because it provided a financial contribution in the form of a tax exemption, which also constitutes a benefit. The program is specific because the subsidy is contingent upon export performance. *See* sections 771(5)(D) and (E) and 771(5A)(B) of the Act; *see also Certain Iron–Metal Castings from India: Final Results of Countervailing Duty Administrative Review*, 65 FR 31515 (May 18, 2000) and *First PET Film Review - Final*. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

To calculate the benefit under this program, we first calculated the total amount of income tax each company would have paid had it not claimed a tax deduction under section 80HHC during the POR and subtracted from this amount the income taxes actually paid.

We then divided this benefit by the free–on-board (fob) value of each company's total exports consistent with 19 CFR § 351.525(b)(2). On this basis, we preliminarily determine the net countervailable subsidy for Polyplex and Jindal under section 80HHC to be 2.64 and 0.25 percent *ad valorem*, respectively.

5. Capital Subsidy

Polyplex received a capital infusion of Rs. 2,500,000 in 1989 from the GOI. This subsidy was discovered at verification during the investigation. *See PET Film Final Determination*. The Department determined at that time that there was insufficient time to establish whether the program is specific under section 771(5A)(D) of the Act. Thus, the Department stated its intention to reexamine the program in a future administrative review pursuant to 19 CFR § 351.311(c)(2). *See PET Film Final Determination - Decision Memorandum* at the section entitled ''Programs Determined Not To Confer Subsidies.'' Based on the information obtained during verification in the investigation, the Department determined that a financial contribution was provided by the GOI, pursuant to section 771(5)(D)(i) of the Act, and a benefit, in the amount of the capital subsidy, was received by Polyplex under section 771(E) of the Act.

In the first administrative review, the Department sent questionnaires to the GOI, and Polyplex, seeking information that would allow it to determine whether the capital subsidy program is specific under section 771(5A) of the Act. Neither party was able to provide any information regarding the subsidy. As facts available, the Department determined that the subsidy was specific.

In the instant review, the Department again sent questionnaires to the GOI, and Polyplex, seeking information that would allow it to determine whether the program is specific under section 771(5A) of the Act. As in the first review, Polyplex and the GOI reported that they were unable to provide any information regarding the specificity of this program due to the considerable amount of time that has elapsed since the provision of the subsidy. As no new information or evidence of changed circumstances has been presented to warrant reconsideration of our determination in the previous segment of this proceeding, for the purpose of these preliminary results, we continue to find, as facts available, that the subsidy is specific under section 771(5A)(A) of the Act. *See First PET Film Review - Final*.

Because the benefit is provided through a capital infusion, pursuant to 19 CFR § 351.524 (c), this is a non–recurring benefit. Thus, in calculating the subsidy rate for this program, we performed the ''0.5 percent test,'' as prescribed under 19 CFR § 351.524(b)(2). Because the grant exceeded 0.5 percent of Polyplex's total sales in 1989, the year in which the capital infusion was received, the benefits were allocated over 18 years, the company–specific AUL. In allocating the benefits, we used the Department's standard allocation methodology for non–recurring subsidies under 19 CFR § 351.524(d). To calculate the net subsidy to Polyplex from this capital subsidy, we divided the benefit allocated to the POR by the company's total sales during the same period. On this basis, we preliminarily determine the net countervailable subsidy provided to Polyplex under this program to be 0.01 percent *ad valorem*.

6. Benefits for Export Oriented Units

For the first time in this proceeding, one of the respondents in this review, Jindal, reported that it has been designated as an export oriented unit (EOU). Companies that are designated as an export oriented unit may receive the following types of assistance in exchange for committing to export all of the products they produce, excluding rejects and certain domestic sales, for five years: (1) duty–free importation of capital goods and raw materials; (2) reimbursement of central sales taxes (CST) paid on materials procured domestically; (3) purchase of materials and other inputs free of central excise duty; and (4) receipt of duty drawback on furnace oil procured from domestic oil companies. Jindal reported receiving benefits through the duty–free importation of capital goods, the reimbursement of CST paid on raw materials and capital goods procured domestically, and the purchase of materials and other inputs free of central excise duty. Jindal did not import raw materials or purchase furnace oil under the EOU program.

The Department previously determined that the EOU program is specific, within the meaning of section 771(5A)(B) of the Act, because the receipt of benefits under this program is contingent upon export performance.

a. Duty–Free Importation of Capital Goods

Under this program, an EOU is entitled to import, duty–free, capital goods used in the production of exported goods in exchange for committing to export all of the products they produce with the exception of sales in the Domestic Tariff Area over five years. The Department previously determined that the duty–free importation of capital goods provides a financial contribution and confers benefits equal to the amount of exemptions and reimbursements of customs duties and certain sales taxes (*see* sections 771(5)(D) and (E) of the Act). *See Bottle–Grade PET Resin Final Determination*.

Jindal reported that it imported capital goods under this program, but as the EOU only commenced commercial production after the POR, Jindal had not yet been able to meet the export contingency and will owe the unpaid duties if the export requirements are not met. Upon Jindal meeting its export contingency, the Department will treat the unpaid duties as a grant. In the meantime, consistent with 19 CFR § 351.505(d)(1), until the contingent liability for the unpaid duties is officially waived by the GOI, we consider the unpaid duties to be an interest–free loan made to Jindal at the time of importation. We determined the benefit to be the interest that Jindal would have paid during the POR had it borrowed the full amount of the duty reduction or exemption at the time of importation. 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 to fulfill the export commitment) occurs at a point in time that is more than one year after the date of importation of the capital goods (*i.e.*, under the EOU program, the time period for fulfilling the export commitment is more than one year after importation of the capital good). We used the weighted–average interest rate on all comparable commercial long–term, rupee–denominated loans for the year in which the capital good was imported as the benchmark. *See* the ''Benchmarks for Loans and Discount Rate'' section above for a discussion of the applicable benchmark.

The benefit for each year is the total amount of non–payment of interest on the unpaid duties. To calculate the subsidy rate, we divided the total amount of benefits under the program during 2003 by Jindal's total value of export sales. We preliminarily determined the net countervailable subsidy provided to Jindal through duty–free importation of capital goods under the EOU program to be 6.68 percent *ad valorem*.

b. Reimbursement of CST Paid on Materials Procured Domestically

Jindal was reimbursed the CST paid on raw materials and capital goods procured domestically. The benefit associated with domestically purchased materials is the amount of reimbursed CST received by Jindal during the POR. Normally, tax benefits are considered to be recurring benefits. The benefit, however, associated with capital goods is tied to the capital assets of Jindal. Thus, we have determined that it is appropriate to treat the reimbursement of CST on capital goods as a non–recurring benefit pursuant to 19 CFR § 351.524 (c)(2)(iii). Consequently, the benefit associated with capital goods is either the CST reimbursements received during the POR, or an allocated portion thereof, if the amount received is 0.5 percent or more of total sales for the year in which the benefit was received. *See* 19 CFR § 351.524(b)(2). The Department previously determined that the reimbursement of CST paid on materials procured domestically provides a financial contribution and confers benefits equal to the amount of exemptions and reimbursements of customs duties and certain sales taxes (see sections 771(5)(D) and (E) of the Act). *See Bottle–Grade PET Resin Final Determination*.

To calculate the benefit for Jindal, we divided the total amount of benefits under the program by the total value of export sales during the POR. We preliminarily determined the countervailable subsidy provided to Jindal through the reimbursement of CST under the EOU program to be 0.08 percent *ad valorem* for Jindal.

State of Maharashtra Programs

1. Sales Tax Incentives

The State of Maharashtra (SOM) provides a package of incentives to privately–owned (*i.e.*, not 100% owned by the GOI) manufacturers to induce them to invest in certain areas of Maharashtra. One incentive is the exemption or deferral of state sales taxes. Specifically, companies are exempted from paying state sales taxes on purchases, and from collecting state sales taxes on sales, or, as an alternative, they may defer payment of the collected state sales tax for ten to twelve years. After the deferral period expires, companies are required to remit the deferred sales taxes to the SOM in equal installments over five or six years. The total amount of the sales tax exempted or deferred is based upon the size of the capital investment, and the area in which the capital is invested.

During the investigation, the Department determined that this program is specific, within the meaning of sections 771(5A)(D)(i) and (iv) of the Act, because benefits under this program are limited to privately–owned companies that are located within designated geographical regions within the SOM. In addition, the Department determined that the SOM provided a financial contribution under section 771(5)(D)(ii) of the Act through the taxes not collected on purchases. Finally, in accordance with section 771(5)(E) of the Act, a benefit was conferred to the extent that the taxes paid as a result of this program are less than the taxes that would have been paid in the absence of the program. *See PET Film Final Determination; see also* 19 CFR § 351.510(a)(1). No new information or evidence of changed circumstances has been provided in this review to warrant a reconsideration of these determinations.

Jindal reported that, under this program, it was exempted from paying sales taxes on purchases and from collecting sales taxes on sales. Given, however, that the exemption from collecting sales taxes on sales did not result in Jindal paying any less taxes from its own funds, we determined that the only benefit and financial contribution conferred was the amount of sales taxes exempted on purchases. This is consistent with the approach taken in the investigation segment of this proceeding. *See PET Film Final Determination - Decision Memorandum* at the section entitled ''State of Maharashtra Programs: Sales Tax Incentives.''

Because tax exemptions are considered recurring benefits, pursuant to 19 CFR § 351.524(c), we treated the benefit provided under this program as a recurring benefit. We calculated the subsidy rate by dividing the total amount of exempted sales taxes on purchases during the POR by the value of Jindal's total sales during the POR. On this basis, we preliminarily determine the net countervailable subsidy provided to Jindal through this program to be 1.35 percent *ad valorem*.

2. Electricity Duty Exemption Scheme

Another incentive provided by the SOM is the refund of taxes on electricity charges. This refund is available to manufacturers located in certain regions of Maharashtra. During the investigation segment of this proceeding, the Department determined that this program is specific, within the meaning of section 771(5A)(D)(iv) of the Act, given that the benefits of this program are limited to companies located within designated geographical regions within the SOM. *See PET Film Final Determination - Decision Memorandum* at the section entitled ''State of Maharashtra Programs: Electricity Duty Exemption Scheme.'' In addition, the Department determined that the SOM provided a financial contribution under section 771(5)(D)(ii) of the Act, because it has forgone revenue that otherwise would be due. Finally, in accordance with section 771(5)(E) of the Act, a benefit was conferred in the amount of the refund of taxes on electricity for which Jindal was eligible during the POR. No new information or evidence of changed circumstances has been provided in this review to warrant a reconsideration of these determinations.

We treated the benefit that Jindal received under this program as a recurring benefit and calculated the subsidy rate by dividing the total amount of tax refunds for which Jindal was eligible during the POR by the total value of Jindal's sales during the POR. On this basis, we preliminarily determine the net countervailable subsidy provided to Jindal through this program to be 0.01 percent *ad valorem*.

State of Uttar Pradesh Programs

Sales Tax IncentivesThe State of Uttar Pradesh (SUP), like the SOM, provides a sales tax incentive for manufacturers that make capital investments in the state. 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. Specifically, companies are exempted from paying state sales taxes on purchases, and from collecting state sales taxes on sales, or, as an alternative, they may defer payment of the collected state sales tax. Eligibility for this program is also based on companies employing certain percentages of specific castes, tribes, classes, and minorities, while thirteen specified industries are not eligible for any benefits under this program.

During the investigation, the Department determined that this program is specific, within the meaning of sections 771(5A)(D)(iv) of the Act, given that the benefits of this program are limited to industries not otherwise excluded, and the benefits are based, in part, on the area in which companies invest capital. In addition, the Department determined that the SUP provided a financial contribution under section 771(5)(D)(ii) of the Act, and that a benefit exists under section 771(5)(E) of the Act to the extent that the taxes paid as a result of this program are less than the taxes that would have been paid in the absence of the program. *See*

PET Film Final Determination. No new information or evidence of changed circumstances has been provided in this review to warrant a reconsideration of these determinations.

Polyplex reported that, under this program, it was exempted from paying sales taxes on purchases and collecting sale taxes on sales. Given, however, that the exemption from collecting sales taxes on sales did not result in Polyplex paying any less taxes from its own funds, we determined that the only financial contribution and benefit conferred was the amount of sales taxes exempted on purchases. This is consistent with the approach taken in the investigation phase of this proceeding. *See PET Film Final Determination - Decision Memorandum* at the section entitled ''State of Utter Pradesh Programs: Sales Tax Incentives.''

We calculated the subsidy rate by dividing the total amount of exempted sales taxes on purchases during the POR by the total value of Polyplex's sales during the POR. We preliminarily determined the net countervailable subsidy provided to Polyplex through this program to be 0.21 percent *ad valorem*.

Programs for Which Additional Information Is Needed

A. Sales Tax Incentive Programs

Aside from the sales tax incentive programs for which the Department initiated reviews, it came to the Department's attention during this review segment that Polyplex also did not pay sales taxes on purchases under other sales tax incentive programs. Pursuant to 19 CFR § 351.311(b) we sought additional information regarding these other sales tax incentive programs from Polyplex.[1] While Polyplex was able to supply the names of some of the sales tax incentive programs in question, the value of the purchases on which it paid no taxes, and the sales tax rate it would have paid, Polyplex stated that it was unable to provide further details regarding the programs because it is the seller, not Polyplex, that requests and applies for the sales tax incentives. The Department has requested further details regarding the programs from the GOI. However, as the existence of these programs only came to the attention of the Department shortly prior to these preliminary results, the GOI is unable to provide the information necessary in time to allow the Department to make a preliminary determination of whether the programs are countervailable.

Programs Preliminarily Determined Not To Be Used

A. Export Oriented Units Programs not used
1. Duty–Free Import of Raw Materials
2. Duty Drawback on Furnace Oil Procured from Domestic Oil Companies
B. Duty Entitlement Passbook Scheme (DEPS)
C. The Sale and Use of Special Import Licenses (SILs) for Quality and SILs for Export Houses, Trading Houses, Star Trading Houses, or Superstar Trading Houses (GOI Program)
D. Exemption of Export Credit from Interest Taxes
E. Loan Guarantees from the GOI
F. Capital Incentive Schemes (SOM and SUP Program)
G. Waiving of Interest on Loan by SICOM Limited (SOM Program)
H. Infrastructure Assistance Schemes (State of Gujarat Program)

Preliminary Results of Administrative Review

In accordance with 19 CFR § 351.221(b)(4)(i), we calculated individual subsidy rates for Polyplex and Jindal for 2003. We preliminarily determine the total net countervailable subsidy rate is 7.67 percent *ad valorem* for Polyplex, and 17.69 percent *ad valorem* for Jindal.

If the final results of this review remain the same as these preliminary results, the Department will instruct CBP, within 15 days of publication of the final results, to liquidate shipments from Polyplex and Jindal of PET film from India entered, or withdrawn from warehouse, for consumption from January 1, 2003, through December 31, 2003, at 7.67 percent *ad valorem* of the free on board (f.o.b.) invoice price for Polyplex and 17.69 percent *ad valorem* of the f.o.b. invoice price for Jindal. Also, the rate of cash deposits of estimated countervailing duties will be set at 7.67 percent and 17.69 percent *ad valorem* for all shipments of PET film made by Polyplex and Jindal, respectively, from India entered or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review.

Because the Uruguay Round Agreements Act (URAA) replaced the general rule in favor of a country–wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non–reviewed companies, are now essentially the same as those in antidumping cases, except as provided in section 777A(e)(2)(B) of the Act. A requested review will normally cover only those companies specifically named. *See* 19 CFR § 351.213(b). Pursuant to 19 § 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal–Mogul Corporation and The Torrington Company v. United States*, 822 F. Supp. 782 (CIT 1993) and *Floral Trade Council v. United States*, 822 F. Supp. 766 (CIT 1993) (interpreting 19 CFR § 353.22(e), the pre–URAA antidumping regulation on automatic assessment, which was identical to 19 CFR § 355.22(g)). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged in the results of this review.

We will instruct CBP to continue to collect cash deposits for non–reviewed companies at the most recent company–specific or country–wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non–reviewed companies covered by this order are those established in the most recently completed administrative proceeding conducted under the URAA involving those companies. *See PET Film Order*. These rates shall apply to all non–reviewed companies until a review of a company assigned these rates is requested.

Name Change

In determining whether Jindal Polyester Limited changed its name to Jindal Poly Films Limited, we reviewed documents submitted on the record, including: (1) Jindal's Annual Report for 2003–2004, which shows that the name was changed to reflect the increased share of film business in the company's sales; (2) the official certification of name change registration issued by the Registrar of Companies in India; and (3) the ''Certified True Copy of the Resolution Passed by the Members of Jindal Poly Films Limited.'' Based upon our review of the information on the record, we preliminary determine that Jindal Polyester Limited has changed its name to Jindal Poly Films Limited.

If the final results of this review remain unchanged, we intend to update our instructions to CBP to reflect this

[1] 19 CFR §351.311(b) provides that where the Department discovers a practice that appears to be countervailable and the practice was not alleged or examined in the proceeding, the Department will examine the practice if sufficient time remains prior to the final results of review.

name change; Jindal Poly Films Limited will receive Jindal Polyester Limited's cash deposit ad valorem rate.

Public Comment

Pursuant to 19 CFR § 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of the public announcement of this notice. Pursuant to 19 CFR § 351.309, interested parties may submit written comments in response to these preliminary results. Unless otherwise indicated by the Department, case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs, unless otherwise specified by the Department. Parties who submit argument in this proceeding are requested to submit with the argument: (1) a statement of the issue and (2) a brief summary of the argument. Parties submitting case and/or rebuttal briefs are requested to provide the Department with copies of the public version of those comments on disk. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR § 351.303(f). Also, pursuant to 19 CFR § 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing regarding arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs, that is, thirty–seven days after the date of publication of these preliminary results.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs are due under 19 CFR § 351.309(c)(ii). The Department will publish the final results of this administrative review, including the results of its analysis of arguments made in any case or rebuttal briefs.

These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 1, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–4331 Filed 8–9–05; 8:45 am]

BILLING CODE: 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Hawaiian Islands Humpback Whale National Marine Sanctuary Advisory Council

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHWNMS) is seeking applicants for both primary and alternate members of the following seats on its Sanctuary Advisory Council (Council): Education, Fishing, Hawaii County, Honolulu County, Kauai County, Maui County, Native Hawaiian, and Research. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in Hawaii. Applicants who are chosen as members should expect to serve two-year terms, pursuant to the Council's Charter.

DATES: Applications are due by September 15, 2005.

ADDRESSES: Application packets may be obtained from Keeley Belva (888) 55–WHALE or via e-mail at: *Kelley.Belva@noaa.gov*. Applications are also available online at *http://hawaiihumpbackwhale.noaa.gov*. Completed applications should be mailed to Keeley Belva, Hawaiian Islands Humpback Whale National Marine Sanctuary, 6600 Kalaniana'ole Highway, Suite 301, Honolulu, Hawaii 96825, faxed to (808) 397–2650, or returned via e-mail.

FOR FURTHER INFORMATION CONTACT: Keeley Belva (see above for contact information).

SUPPLEMENTARY INFORMATION: The HIHWNMS Advisory Council was established in March 1996 to assure continued public participation in the management of the Sanctuary. Since its establishment, the Council has played a vital role in the decisions affecting the Sanctuary surrounding the main Hawaiian Islands.

The Council's twenty-four voting members represent a variety of local user groups, as well as the general public, plus ten local, State, and Federal governmental jurisdictions.

The Council is supported by three committees: A Research Committee chaired by the Research Representative, an Education Committee chaired by the Education Representative, and a Conservation Committee chaired by the Conservation Representative, each respectively dealing with matters concerning research, education, and resource protection.

The Council represents the coordination link between the Sanctuary and the State and Federal management agencies, user groups, researchers, educators, policy makers, and other various groups that help to focus efforts and attention on the humpback whale and its habitat around the main Hawaiian Islands.

The Council functions in an advisory capacity to the Sanctuary Manager and is instrumental in helping to develop policies and program goals, and to identify education, outreach, research, long-term monitoring, resource protection, and revenue enhancement priorities. The Council works in concert with the Sanctuary Manager by keeping him or her informed about issues of concern throughout the Sanctuary, offering recommendations on specific issues, and aiding the Manager in achieving the goals of the Sanctuary Program within the context of Hawaii's marine programs and policies.

Authority: 16 U.S.C. 1431 *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: August 3, 2005.

Daniel J. Basta,

Director, National Marine Sanctuary Program, National Ocean Services, National Oceanic and Atmospheric Administration.

[FR Doc. 05–15756 Filed 8–9–05; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072805C]

Endangered Species; File No. 1538

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and