

**Notification to Importers**

This notice serves as a preliminary 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 antidumping duties occurred and the subsequent assessment of double antidumping duties.

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

Dated: July 31, 2007.

**Stephen J. Claeys,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E7-15201 Filed 8-3-07; 8:45 am]

**BILLING CODE 3510-DS-S**

**DEPARTMENT OF COMMERCE****International Trade Administration**

**A-570-601**

**Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Notice of Extension of Final Results of the 2005-2006 Administrative Review**

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

**EFFECTIVE DATE:** August 6, 2007.

**FOR FURTHER INFORMATION CONTACT:** Paul Stolz, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482-4474.

**Background**

On July 27, 2006, the Department of Commerce ("the Department") published in the **Federal Register** a notice of the initiation of the antidumping duty administrative review of tapered roller bearings and parts thereof, finished and unfinished ("TRBs") from the People's Republic of China ("PRC"), 71 FR 42626 (July 27, 2006). On March 26, 2007, the Department published its preliminary results on TRBs from the PRC. *See Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China Preliminary Results of Antidumping Duty Administrative Review and Notice of Rescission in Part and Intent to Rescind in Part*, 72 FR 14078 (March 26,

2007). The final results of this administrative review are currently due no later than July 24, 2007.

**Extension of Time Limit for Final Results**

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to issue the final results in an administrative review within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within this time period, section 751(a)(2)(A) of the Act allows the Department to extend the time period to a maximum of 180 days. Completion of the final results within the 120-day period is not practicable because this review involves certain complex issues, such as a tariff classifications covered by the scope of the order and separate rates.

Because it is not practicable to complete this review within the time specified under the Act, we are extending the time period for issuing the final results of review by 60 days until September 22, 2007, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2). However, because September 22, 2007 falls on a Saturday, the final results will be due no later than September 24, 2007, the next business day.

This notice is published pursuant to sections 751(c) and 777(i) of the Act.

Dated: July 23, 2007.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. E7-15210 Filed 8-3-07; 8:45 am]

**BILLING CODE 3510-DS-S**

**DEPARTMENT OF COMMERCE****International Trade Administration**

**[C-533-825]**

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

**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 order on polyethylene terephthalate (PET) film from India for the period January 1, 2005 through December 31, 2005. We preliminarily determine that subsidies are being provided on the production

and export of PET film from India. *See* the "Preliminary Results of Administrative Review" section, below. 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. Interested parties are invited to comment on the preliminary results of this administrative review. *See* the "Public Comment" section of this notice, below.

**DATES:** *Effective Date:* August 6, 2007.

**FOR FURTHER INFORMATION CONTACT:** Elfi Blum or Toni Page, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0197 or (202) 482-1398, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

On July 1, 2002, the Department published in the **Federal Register** the countervailing duty (CVD) order on PET film from India. *See Countervailing Duty Order: Polyethylene Terephthalate Film, Sheet and Strip (PET Film) from India*, 67 FR 44179 (July 1, 2002) (*PET Film Order*). On July 3, 2006, 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*, 71 FR 37890 (July 3, 2006). On July 26, 2006 and July 31, 2006, the Department received requests to conduct an administrative review of the CVD order on PET film from India from MTZ Polyfilms, Ltd. (MTZ), Jindal Poly Films Limited of India (Jindal), formerly named Jindal Polyester Limited, Polyplex Corporation, Ltd. (Polyplex), and Garware Polyester, Ltd. (Garware), all of whom are Indian producers and exporters of subject merchandise. Dupont Teijin Films, Mitsubishi Polyester Film of America, and Toray Plastics (America), (collectively, petitioners) did not file any requests for review.

On August 22, 2006, Polyplex withdrew its request for review of the CVD order of PET film from India. Since its withdrawal occurred prior to the date of initiation and because no other party requested a review of Polyplex, we did not include this company in the initiation of the administrative review. On August 30, 2006, the Department initiated an administrative review of the CVD order on PET film from India

covering MTZ, Jindal, and Garware, for the period January 1, 2005 through December 31, 2005. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 71 FR 51573 (August 30, 2006). The Department issued questionnaires to the Government of India (GOI), Garware, MTZ, and Jindal on November 7, 2006. On November 28, 2006, pursuant to 19 CFR 351.213(d)(1), Jindal timely withdrew its request for an administrative review of the CVD order on PET film from India. Because no other party requested a review of Jindal, on April 10, 2007, the Department rescinded the administrative review of Jindal. See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Notice of Partial Rescission of Administrative Review of the Countervailing Duty Order*, 72 FR 17838 (April 10, 2007).

On January 5, 2007, both the GOI and Garware submitted their questionnaire responses. MTZ submitted its questionnaire response on January 12, 2007. The Department issued its first supplemental questionnaires to the GOI, Garware, and MTZ on March 16, 2007.

On April 5, 2007, the Department extended the time limit for the preliminary results of the countervailing duty administrative review until July 31, 2007. See *Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review*, 72 FR 16769 (April 5, 2007).

On April 13, 2007, the GOI submitted its first supplemental response. Both Garware and MTZ submitted their first supplemental responses on April 16, 2007, and April 18, 2007, respectively. On June 11, 2007, the Department issued a second supplemental questionnaire to the GOI, Garware, and MTZ. The Department issued a third supplemental questionnaire to MTZ on June 13, 2007. The GOI submitted its response to the second supplemental questionnaire on June 25, 2007, and Garware responded on July 2, 2007. MTZ responded to the Department's second and third supplemental questionnaires on July 6, 2007.

#### Verification

As provided in section 782(i)(3) of the Tariff Act of 1930, as amended (the Act), we intend to conduct verification of the GOI, Garware, and MTZ questionnaire responses following the issuance of the preliminary results.

#### Scope of the Order

For purposes of the order, the products covered are all gauges of raw, pretreated, or primed Polyethylene Terephthalate Film, Sheet and Strip, 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.

#### 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 (IRS) for renewable physical assets of the industry under consideration (as listed in the IRS's 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)(i) and (ii). For assets used to manufacture plastic film, such as PET film, the IRS tables prescribe an AUL of 9.5 years.<sup>1</sup>

In the investigative segment of this proceeding, the Department determined that Garware had rebutted the presumption and applied a company-specific AUL of 19 years. See *Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film)*, 67 FR 34905 (May 16, 2002), and accompanying *Issues and Decision Memorandum*, at "Allocation Period" (*PET Film Final Determination*). Therefore, the Department is using an AUL of 19 years for Garware in allocating non-recurring subsidies. MTZ was not a respondent in the original investigation, nor was the company a

respondent in any prior segment of this proceeding. In response to the Department's original questionnaire and its first supplemental questionnaire, MTZ proposed a company-specific AUL of 19.9 years for its plant and machinery. In Exhibits S-7 to S-8(c) of its first supplemental response, MTZ provided its depreciation schedule over the past 10 years, and a detailed list of assets for plant and machinery, respectively. However, MTZ has not demonstrated how the detailed list was tied to its depreciation schedule through the POR,<sup>2</sup> or how the depreciation schedule was ultimately tied to MTZ's 2005-2006 financial statements. Furthermore, MTZ did not provide an explanation of how it derived its depreciation schedule. Based on these concerns, we preliminarily determine that MTZ's calculation of its company-specific AUL should not be used to determine the appropriate allocation period for non-recurring subsidies. Rather, for purposes of these preliminary results we are using the IRS Tables. *Benchmark Interest Rates and Discount Rates*.

For programs requiring the application of a benchmark interest rate or discount rate, 19 CFR 351.505(a)(1) states a preference for using an interest rate that the company could have obtained on a comparable loan in the commercial market. Also, 19 CFR 351.505(a)(3)(i) stipulates that when selecting a comparable commercial loan that the recipient "could actually obtain on the market" the Department will normally rely on actual short-term and long-term loans obtained by the firm. However, when there are no comparable commercial loans, the Department may use a national average interest rate, pursuant to 19 CFR 351.505(a)(3)(ii).

In addition, 19 CFR 351.505(a)(2)(ii) states that the Department will not consider a loan provided by a government-owned special purpose bank for purposes of calculating benchmark rates. The Department has previously determined that the Industrial Development Bank of India (IDBI) is a government-owned special purpose bank. See *Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 71 FR 7534 (February 13, 2006), and accompanying *Issues and Decision Memorandum*, at *Comment 3*, (*Second PET Film Review—Final Results*). As such, the Department did not use loans from the IDBI reported by Garware. Further, in this review, the Department

<sup>1</sup> For our subsidy calculations, we round the 9.5 years up to 10 years.

<sup>2</sup> The detail for plant and machinery is only provided through March 2003.

preliminarily determines that the Industrial Finance Corporation of India (IFCI) and the Export-Import Bank of India (EXIM)<sup>3</sup> are government-owned special purpose banks. As such, the Department did not use loans from IFCI reported by Garware and MTZ, and loans from EXIM reported by Garware, in the benchmark calculations for this administrative review.

Pursuant to 19 CFR 351.505(a)(2)(iv), if a program under review is a government-provided, short-term loan program, the preference would be to use a company-specific annual average of the interest rates on comparable commercial loans during the year in which the government-provided loan was taken out, weighted by the principal amount of each loan. For this review, the Department required a rupee-denominated short-term loan benchmark rate to determine benefits received under the Pre-Shipment Export Financing and Post-Shipment Export Financing programs. MTZ reported that it did not receive any loans under the GOI Pre-Shipment and Post-Shipment Export Financing programs.<sup>4</sup>

Garware provided information on rupee-denominated and U.S. dollar-denominated short-term commercial loans outstanding during the period of review (POR). Garware reported that it did receive the following rupee-denominated short-term commercial loans: Supplier Bill Discounting (SBD); Local Bill Discounting (LBD); Working Capital Development Loans (WC DL); and Cash Credit (CC).

In previous reviews of this case, the Department has determined that Inland Bill Discounting (IBD) loans are more comparable to pre-shipment and post-shipment export financing loans than other types of rupee-denominated short-term loans. See *Preliminary Results and Rescission in Part of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 70 FR 46483, 46485 (August 10, 2005) (*Second PET Film Review—Preliminary Results*) (unchanged in the final results); and *Issues Memorandum—First Review*, at 10. There is no new information or evidence of changed circumstances that would warrant reconsidering this finding. Therefore, for these preliminary results, we continue to use IBD (LBD) loans as the basis for the short-term

rupee-denominated benchmark for all applicable programs for Garware.

Garware provided information on U.S. dollar-denominated working capital trade loans (WCTL) received during the POR to use as the basis for dollar-denominated short-term benchmark rates. Because these loans were obtained from government-owned special purpose banks, the Department is using a national average dollar-denominated short-term interest rate, as reported in the International Monetary Fund's publication "International Financial Statistics" (IMF Statistics) for Garware, in accordance with 19 CFR 351.505(a)(3)(ii).

For those programs requiring a rupee-denominated discount rate or the application of a rupee-denominated long-term benchmark rate, we used national average interest rates from the IMF Statistics, pursuant to 19 CFR 351.505(a)(3)(ii). With respect to long-term loans and grants allocated over time, the Department required benchmarks and discount rates to determine benefits received under the Export Promotion Capital Goods Scheme (EPCGS) program. None of the respondents<sup>5</sup> reported comparable commercial long-term rupee-denominated loans for all required years. Normally, for those years for which we did not have company-specific information, the Department relies on comparable long-term rupee-denominated benchmark interest rates from the immediately preceding year as directed by 19 CFR 351.505(a)(2)(iii). When there were no comparable long-term, rupee-denominated loans from commercial banks during either the year under consideration or the preceding year, the Department uses national average interest rates from the IMF Statistics, pursuant to 19 CFR 351.505(a)(3)(ii). Since neither Garware nor MTZ had long-term rupee-denominated benchmark interest rates from the immediately preceding year,

<sup>5</sup> MTZ provided the Department with limited information regarding its long-term benchmarks on three separate occasions: See MTZ's original questionnaire response of January 12, 2007; MTZ's First Supplemental Response, at 11–12, and Exhibit S–9 (April 18, 2007), and MTZ's Second Supplemental Response, at 7–8 and Exhibit S3–4a (July 2, 2007). The average interest rates provided in the first supplemental response are supported by bank ledger accounts including postings covering approximately ten years. MTZ did not demonstrate how the supporting documentation tied to its benchmark calculation. Further, MTZ stated that it provided support for the long-term interest rates from its banks in Exhibit S–9. MTZ did not clearly identify which supporting information pertains to its long-term loans. In its second supplemental response MTZ provided long-term loan information for 1995, 1996, and 1997, but MTZ did not calculate average long-term benchmarks for the POR.

we relied on the IMF statistics as benchmarks for the required years.

### Cross-Ownership and Attribution of Subsidies

In the final determination of the investigation, the Department determined that cross-ownership exists between Garware and Garware Chemicals, Ltd., in accordance with 19 CFR 351.525(b)(6)(vi). See *PET Film Final Determination—Decision Memorandum*, at *Comment 15*. In the original questionnaire of the instant review, we asked Garware to identify all affiliated companies and to describe in detail the nature of its relationship with those companies. Garware responded that Garware Chemical, Ltd. (Garware Chemical) is an affiliated producer of Di-methyl Terephthalate (DMT), which is a primary input into the production of PET film. In the same response, Garware indicated that Garware Chemical did not receive a subsidy.<sup>6</sup> Garware's financial statements submitted in the same response indicate that Garware Chemical is an associate company of Garware and that Garware Chemical shares directors with Garware. These financial statements also indicate that Garware guaranteed Garware Chemical's loans and that Garware owns shares of Garware Chemical.<sup>7</sup>

In the first supplemental questionnaire, we requested Garware to provide more detail regarding Garware Chemical's supply of inputs in the production of subject merchandise. In its response, Garware clarified that Garware Chemicals is not a subsidiary company of Garware but an affiliated company.<sup>8</sup> In response to the Department's second supplemental questionnaire, in which we asked Garware to explain and provide documentation as to whether Garware Chemical had participated in GOI programs, Garware stated that Garware Chemical participated in three programs: The GOI's Export Promotion Capital Goods Scheme (EPCGS), the State of Maharashtra (SOM) Sales Tax Incentive Program, and the SOM Electricity Duty Exemption. In the same supplemental questionnaire we asked Garware to explain its affiliate relationship to Garware Chemical in more detail; however, it only stated that Garware Chemicals is an "associate company," in response to our question. Garware did not provide any

<sup>6</sup> See Garware's original questionnaire response of January 5, 2007, at 1–2 and Exhibit 1.

<sup>7</sup> See Garware's original questionnaire response of January 5, 2007, Exhibit 3, Financial Statements 2005–2006, at 32 and 64–65.

<sup>8</sup> See Garware's first supplemental response of July 2, 2007, at 3–4.

<sup>3</sup> *Id.* This is based on information we obtained from the internet indicating this bank functions "as the principal financial institution for coordinating the working of institutions engaged in financing export and import of goods and services \* \* \*."

<sup>4</sup> See MTZ's Original Questionnaire Response, at III–12 (January 12, 2007).

explanation for its differentiation in terminology, *i.e.*, affiliate, subsidiary, and associate company. However, the record is clear that Garware owns a part of Garware Chemical, that Garware guaranteed Garware Chemical's loans, and that the two companies share at least one director. Based on these facts, we continue to find, as we did in the investigation, that Garware and Garware Chemical are cross-owned in accordance with 19 CFR 351.525(b)(6)(vi).

In order to attribute the benefits received by Garware Chemical to Garware, the Department needs Garware Chemical's sales information (*i.e.*, total sales less any sales to Garware). Since this information was not provided, the Department is using facts available, in accordance with section 776(a)(2)(A) of the Act, to calculate Garware's subsidy rates. Accordingly, for these preliminary results, we will attribute the subsidies received by Garware Chemical to Garware, pursuant to 19 CFR 351.525(b)(6)(iv) and (vi), without any adjustment to the sales denominator. However, we intend to provide Garware a final opportunity to submit the sales information necessary for these calculations.

### Programs Preliminarily Determined To Be Countervailable

#### 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.*, purchasing raw materials, warehousing, packing, transportation, etc.) for merchandise destined for exportation. Companies may also establish pre-shipment credit lines upon which they 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. 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 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 not more than 180 days.

In the investigation, the Department determined that the pre-shipment and post-shipment export financing programs conferred countervailable subsidies on the subject merchandise because: (1) The provision of the export financing constitutes a financial contribution pursuant to section 771(5)(D)(i) of the Act as a direct transfer of funds in the form of loans; (2) the provision of the export financing confers benefits on the respondents under section 771(5)(E)(ii) of the Act in as much as 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 PET Film Final Determination—Decision Memorandum* at "Pre-Shipment and Post-Shipment Financing." There is no new information or evidence of changed circumstances that would warrant reconsidering this finding. Therefore, for these preliminary results, we continue to find this program countervailable.

Garware was the only respondent who received benefits under this program during the POR. The benefit conferred by the pre-shipment 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 during the POR. Because pre-shipment loans are not tied to exports of subject merchandise, we calculated the subsidy rate for these loans by dividing the total benefit by the value of Garware's total exports during the POR. Because post-shipment loans are normally tied to specific shipments of a particular product to a particular country, we normally divide the total benefit from post-shipment loans tied to exports of subject merchandise to the United States by the value of total exports of subject merchandise to the United States during the POR. *See* 19 CFR 351.525(b)(4). However, Garware did not provide this type of detail for their post-shipment loans so we calculated the subsidy rate for these loans by dividing the total benefit by the value of

Garware's total exports during the POR. *See* 19 CFR 351.525(b). On this basis, we preliminarily determine the countervailable subsidy from pre-shipment export financing to be 0.16 percent *ad valorem* for Garware. We also preliminarily determine the countervailable subsidy provided to Garware from post-shipment export financing to be 0.02 percent *ad valorem*.

#### 2. Advance License Program (ALP)

Under the ALP, exporters may import, duty free, specified quantities of materials required to manufacture products that are subsequently exported. The exporting companies, however, remain contingently liable for the unpaid duties until they have fulfilled their export requirement. The quantities of imported materials and exported finished products are linked through standard input-output norms (SIONs) established by the GOI. During the POR, both Garware and MTZ used advance licenses to import certain materials duty free.

The Department previously found the 1997–2003 Export/Import Guidelines underlying the ALP to be not countervailable. *See PET Film Final Determination*, at "Advance Licenses." However, in the 2003 administrative review, the Department examined the revised 2002–2007 Export/Import Policy Guidelines underlying the ALP and found the program to be countervailable because the GOI does not have in place, and does not apply, a system that is reasonable and effective for the purposes intended, in accordance with 19 CFR 351.519(a)(4). *See Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 71 FR 7534 (February 13, 2006) (*Second PET Film Review—Final Results*), and accompanying *Issues and Decision Memorandum*, at "Advance License Program" and *Comment 1 (Issues Memorandum—Second Review)*. In that review, the Department found that the ALP confers a countervailable subsidy because: (1) A financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided under the program, as the GOI exempts the respondents from the payment 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 in accordance with 19 CFR 351.519(a)(4), to confirm which inputs, and in what amounts, are consumed in the production of the exported products; thus, the entire amount of the import duty deferral or exemption earned by the respondent constitutes a benefit under section 771(5)(E) of the Act; and

(3) this program is contingent upon exportation and, therefore, is specific under section 771(5A)(B) of the Act. *See id.*

The Department identified a number of systemic deficiencies that led to its determination, specifically: (1) The lack of information related to verification or implementation of penalties and the failure to identify the number of companies during the POR that either did not meet export commitments under the ALP, were penalized for not meeting the export requirements under the ALP, or were penalized for claiming excessive credits; (2) the availability of ALP benefits for a broad category of “deemed” exports; and (3) the GOI’s inability to provide the SION calculations for the PET film industry or any documentation demonstrating that the process outlined in its regulations was actually applied in calculating the PET film SION. In the investigation of *Certain Lined Paper from India*, the Department stated that it had examined certain monitoring procedures with respect to the GOI’s tracking of inputs and exports through the Directorate General for Foreign Trade (DGFT), and the tracking of inputs imported duty-free under the ALP through a customs database. *See Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from India*, 71 FR 45034 (August 8, 2006), at *Comment 10 (Lined Paper—Final Determination)*. However, the Department ultimately determined that, in spite of these procedures, systemic issues continued to exist that demonstrate that the GOI lacks a system or procedure to confirm which inputs are consumed in the production of the exported products and in what amounts that is reasonable and effective for the purposes intended, as required under 19 CFR 351.519. For example, while the Department confirmed at verification that the GOI had recently updated the SION for the lined paper industry, the GOI was unable to provide source documents concerning the initial formation and subsequent revision of the SION used for the lined paper industry, including the SION in effect during the POI. The Department further stated that neither the GOI nor the respondent claimed that the laws and procedures underlying the ALP had changed with respect to the issue of “deemed exports” during that investigation. Thus, the Department determined that the respondent failed to provide information demonstrating that the ALP was implemented and

monitored effectively during the period of investigation (POI), and continued to find that the GOI had not demonstrated that it had carried out an examination of actual inputs involved to confirm which inputs were consumed in the production of the exported product, and in what amounts or that the ALP was reasonable and effective for the purposes intended. *See Lined Paper—Final Determination*, at *Comment 10*.

In this administrative review, the GOI indicated that it had revised its Foreign Trade Policy and Handbook of Procedures for ALP during the POR. Specifically, the GOI revisions, introduced May 13, 2005 and October 10, 2005, provided for a mechanism to review a SION and monitor a company’s consumption and stocks of duty-free, imported or domestically procured, raw materials.

For instance, the GOI revised its Foreign Trade Policy and Handbook of Procedures to update its consumption register on inputs imported and inputs consumed to be filed by companies with the DGFT.<sup>9</sup> Further, the GOI noted that the Foreign Trade Policy and Handbook of Procedures, at sections 4.22 and 4.28, provides guidelines for the granting of extensions and levying of penalties.

In addition, the GOI argued that Chapter 4, paragraph 4.10 of the Foreign Trade and Policy Handbook provides for the review of SIONs. Paragraph 4.10.2 of the Foreign Trade and Policy Handbook states that:

{a}t the beginning of the financial year or at any other time as the {Norms Committee (NC)} may find it necessary, the NC may identify the SIONs which in its opinion are required to be reviewed. The exporters are required to submit revised data in form given in ‘Aayaat Niryaat Form’ for such revisions. It is mandatory for the industry/exporter(s) to provide the production and consumption data etc. as may be required by DGFT/EPC for revision of SION.

Furthermore, the GOI reported in this proceeding that it revised the SION for PET film effective September 19, 2005. Exhibit S–12 of the GOI’s first supplemental response<sup>10</sup> contains a

<sup>9</sup>The revision pertains to Appendix 23, which replaced the previous version, Appendix 18 of the Foreign Trade Policy and Handbook of Procedures. Appendix 23 states the consumption and stock of inputs for each SION. It provides details of inputs, quantity imported, name of the finished product produced, quantity of the finished product, inputs actually consumed for the exported product, excess imports, if any, and actual consumption. Producers/exporters are required to file Appendix 23 with the DGFT at the beginning of each year.

<sup>10</sup>This exhibit was filed separately from the GOI’s first supplemental response (April 13, 2007) on April 16, 2007. *Compare* GOI First Supplemental Response (April 13, 2007) with GOI First Supplemental Response—Exhibit–12 (April 16, 2007).

“Report on PET film Sub committee,” summarizing the old versus the new “actual” consumption of inputs, as provided by two producers/exporters of subject merchandise. The report indicates that for the first producer/exporter, the DGFT inspected the manufacturing facilities. Specifically, it states in Annexure I that the “details of raw materials actually consumed for manufacture of unit quantity of resultant product was ascertained,” and that the company maintains a register of consumption and stock of imported raw material in electronic form.

The Department has analyzed the changes introduced by the GOI to the ALP during 2005 and acknowledges certain improvements to the ALP system. However, we find that systemic issues continued to exist in the ALP system during the POR, all of which were enumerated in the *Second PET Film Review—Final Results* and the *Lined Paper—Final Determination*. For example, while the GOI pointed to provisions in the Handbook of Procedures that lay out the procedures for the granting of extensions and levying of penalties, the GOI did not demonstrate any enforcement of these deadlines and actual application of the penalty provisions. In addition, the GOI did not place any supporting documentation on the record of this review that demonstrates enforcement procedures for the DGFT and the Customs Authorities, respectively, as addressed in the *Issues Memorandum—Second Review*.

Furthermore, while the GOI points to certain provisions that provide for the review of SIONs, the GOI was not able to demonstrate the existence of a legal or regulatory requirement or process required for the NC to monitor the continued accuracy of the SION. Also, the GOI did not provide a layout of the regulatory procedures regarding the review of the SION or revision and selection of SIONs. *See Issues Memorandum—Second Review*, at “Advance License Program.” Instead, the GOI stated that the NC decides which SIONs are to be reviewed based on the inputs received from various concerned government authorities.<sup>11</sup> Thus, the GOI has not demonstrated that it has a process in place to ensure that all SIONs are reviewed regularly and consistently as part of the ALP monitoring system.

With regard to the specific SION for Pet Film, although the GOI provided some information regarding verification of this SION, *i.e.*, the quantity of raw materials consumed in the manufacture

<sup>11</sup> *See* GOI Response of April 13, 2007, at 9.

of Pet Film by certain producers, they were not able to provide any information on how this data was used to derive the revised SION. For example, although we requested additional detail on how it arrived at the revised SION, the GOI did not provide us with any additional information, such as the supporting documentation, demonstrating how the total purchases of inputs, imported and procured domestically, by quantity and value, tie into consumption and total production quantity of subject merchandise. Despite repeated requests by the Department for more detailed information and explanations concerning the process for developing the revised SION for PET film, the GOI did not place pertinent information on the record, e.g., an accounting for all inputs, by-products, and waste, and the supporting documentation for the revised SION.<sup>12</sup> The documentation provided by the GOI indicates that there are three processes by which subject merchandise can be produced.<sup>13</sup> However, the documentation lacks any description of the processes, and it does not include any calculations demonstrating how the revised SION for the production processes was determined.

In addition, the GOI's revisions to the ALP did not address the Department's concerns with respect to deemed exports. In the *Second PET Film Review—Final Results*, the Department found that these deemed export sales were not linked to the actual exportation of the subject merchandise, and provide for government discretion to bestow benefits under the program even more broadly. See *Issues Memorandum—Second Review*, at "Advance License Program." The GOI has not provided the Department with any of its procedures that would confirm that all deemed exports are exported.<sup>14</sup>

Therefore, despite the changes to the ALP noted by the GOI, the Department finds that systemic problems continue to exist, and consequently we find that the GOI lacks a system or procedure to confirm which inputs are consumed in the production of the exported products and in what amounts that is reasonable and effective for the purposes intended, as required under 19 CFR 351.519.

Pursuant to 19 CFR 351.524(c), the exemption of import duties on inputs

consumed in production of an exported product normally provides a recurring benefit. Under this program, for 2005, Garware and MTZ did not have to pay certain import duties for inputs that were used in the production of subject merchandise. Thus, we treated the benefit provided under the ALP as a recurring benefit. To calculate the subsidy, we first determined the total value of duties exempted during the POR, including an amount for the Customs Education Cess duty, for each company. From this amount, we subtracted the required application fees paid for each license during the POR as an allowable offset in accordance with section 771(6) of the Act. We then divided the resulting net benefit by the appropriate value of export sales. Consistent with our calculations in the final results of the last administrative review,<sup>15</sup> "deemed export" sales should be included in the export sales denominator for the ALP program only when the Respondents applied for and were bestowed licenses during the POR based on both physical exports and deemed exports. However, both Garware and MTZ stated that their ALP licenses were granted on physical exports, only; therefore, we have only used physical export sales in the denominator.<sup>16</sup> On this basis, we preliminarily determine the countervailable subsidy provided under the ALP to be 0.11 for Garware and 0.21 percent *ad valorem* for MTZ.

### 3. Export Promotion Capital Goods Scheme (EPCGS)

The EPCGS provides for a reduction or exemption of customs duties and excise taxes on imports of capital goods used in the production of exported products. Under this program, producers pay reduced duty rates on imported capital equipment by committing to earn convertible foreign currency equal to four to five times the value of the capital goods within a period of eight years. Once a company has met its export obligation, the GOI will formally waive the duties on the imported goods. If a 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.

<sup>15</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 72 FR 6530 (February 12, 2007) (*Third PET Film Review—Final Results*), and accompanying *Issues and Decision Memorandum*, at *Comment 1 (Issues Memorandum—Third Review)*.

<sup>16</sup> See Garware's and MTZ's second supplemental response of July 2, 2007 and July 6, 2007, respectively.

In the investigation, the Department determined that import duty reductions provided under the EPCGS are a countervailable export subsidy because the scheme: (1) Provides a financial contribution pursuant to section 771(5)(D)(ii) in the form of revenue forgone for not collecting import duties; (2) respondents benefit under section 771(5)(E) of the Act in two ways by participating in this program; and (3) the program is contingent upon export performance, and is specific under section 771(A)(B) of the Act. See *PET Film Final Determination—Decision Memorandum*, at "EPCGS." There is no new information or evidence of changed circumstances that would warrant reconsidering our determination that this program is countervailable. Therefore, for these preliminary results, we continue to find this program countervailable.

The first benefit is the amount of unpaid import duties that would have to be paid to the GOI if accompanying export obligations are not met. The repayment of this liability is contingent on subsequent events, and in such instances, it is the Department's practice to treat any balance on an unpaid liability as an interest-free loan. *Id.* The second benefit is the waiver of duty on imports of capital equipment covered by those EPCGS licenses for which the export requirement has already been met. For those licenses for which companies demonstrate that they have completed their export obligations, we treat the import duty savings as grants received in the year in which the GOI waived the contingent liability on the import exemption.

Import duty exemptions under this program are provided for the purchase of capital equipment. The preamble to our regulations states that if a government provides an import duty exemption tied to major equipment purchases, "it may be reasonable to conclude that, because these duty exemptions are tied to capital assets, the benefits from such duty exemptions should be considered non-recurring \* \* \*." See *Countervailing Duties; Final Rule*, 63 FR 65348, 65393 (November 25, 1998). In accordance with 19 CFR 351.524(c)(2)(iii), we are treating these exemptions as non-recurring benefits.

Garware and MTZ reported that they imported capital goods under the EPCGS in years prior to the POR. As stated above, we preliminarily determine that cross-ownership between Garware and Garware Chemicals continues to exist. See "Cross-Ownership and Attribution of Subsidies" Section. Garware reported in

<sup>12</sup> See GOI Response of January 5, 2007, at II-51-56; GOI First Supplemental Response of April 13, 2007, at 9-11; and GOI Second Supplemental Response of June 25, 2007, at 8.

<sup>13</sup> GOI First Supplemental Response—Exhibit-12, at 5.

<sup>14</sup> See GOI Third Supplemental Response of June 25, 2007, at 11-12.

its second supplemental response of July 2, 2007 that Garware Chemical, an affiliated supplier of DMT, participated in this program; however, Garware did not provide information on Garware Chemical's imports of capital goods under the EPCGS, nor any of its affiliate's export information. The information on the record of this review consists of Garware Chemical's application of the license, license and amendments thereof. We are not able to discern from the information on the record, the benefits provided to Garware Chemical under EPCGS. We will pursue clarifying information for purposes of the final results of review. Therefore, for purposes of these preliminary results, we have only used information provided by Garware and MTZ in the subsidy calculations.

According to the information provided in their responses, Garware and MTZ received various EPCGS licenses, which were for equipment involved in the production of both subject merchandise and non-subject merchandise. Further, we note that neither Garware nor MTZ have demonstrated that their respective EPCGS licenses are tied to the production of a particular product within the meaning of 19 CFR 351.525(b)(5). As such, we find that each company's respective EPCGS licenses benefit all of the company's exports.

Garware and MTZ met the export requirements for certain EPCGS licenses prior to December 31, 2005 and the GOI formally waived the relevant import duties prior to December 31, 2005. For other licenses, however, Garware and MTZ have not yet met their export obligation as required under the program. Therefore, although Garware and MTZ have received a deferral from paying import duties when the capital goods were imported, the final waiver on the obligation to pay the duties has not yet been granted for many of these imports.

For both Garware's and MTZ's imports for which the GOI has formally waived the duties, we treat the full amount of the waived duty as a grant received in the year in which the GOI officially granted the waiver. To calculate the benefit received from the GOI's formal waiver of import duties on Garware's and MTZ's capital equipment imports prior to December 31, 2005, we considered the total amount of duties waived (net of any required application fees paid) to be the benefit. See section 771(6) of the Act. Further, consistent with the approach followed in the investigation, we determine the year of receipt of the benefit to be the year in

which the GOI formally waived Garware's and MTZ's outstanding import duties. See *PET Film Final Determination-Decision Memorandum*, at *Comment 5*. 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 Garware and MTZ an import duty waiver. Those waivers with values in excess of 0.5 percent of Garware's and MTZ's total export sales in the year in which the waivers were granted were allocated using Garware's and MTZ's company-specific AUL or the AUL as prescribed by the IRS table, respectively, while waivers with values less than 0.5 percent of Garware's and MTZ's total export sales were allocated to the year of receipt. See "Allocation Period" section, above.

As noted above, import duty reductions that Garware and MTZ received on the imports of capital equipment for which they have not yet met export obligations may have to be repaid to the GOI if the obligations 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); and *e.g.*, *Final Affirmative Countervailing Duty Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin From India*, 70 FR 13460 (March 21, 2005), and accompanying *Issues and Decision Memorandum*, at "EPCGS," (*Final—Indian PET Resin*).

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 formally waived by the GOI. Accordingly, we find the benefit to be the interest that Garware and MTZ would have paid during the POR had they borrowed the full amount of the duty reduction or exemption at the time of importation. See, *e.g.*, *Second PET Film Review—Preliminary Results*, 70 FR at 46488 (unchanged in the final results); see also *Final—Indian PET Resin*, at "EPCGS."

As stated above, under the EPCGS program, the time period for fulfilling the export commitment expires eight years after importation of the capital good. Consequently, 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. 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. As the benchmark interest rate, we used the weighted-average interest rate from all comparable commercial, long-term, rupee-denominated loans for the year in which the capital good was imported. See the "Benchmarks Interest Rates and Discount Rates" section above.

The benefit received under the EPCGS is the total amount of: (1) The benefit attributable to the POR from the grant of formally waived duties for imports of capital equipment for which respondents met export requirements by December 31, 2005, and/or (2) interest that should have been paid on the contingent liability loans for imports of capital equipment that have not met export requirements. To calculate the benefit from the formally waived duties for imports of capital equipment which met export requirements for Garware and MTZ, we took the total amount of the waived duties in each year and treated each year's waived amount as a non-recurring grant. We applied the grant methodology set forth in 19 CFR 351.524(d), using the discount rates discussed in the "Benchmark Interest Rates and Discount Rates" section above to determine the benefit amounts attributable to the POR.

To calculate the benefit from the contingent liability loans for both Garware and MTZ, we multiplied the total amount of unpaid duties under each license, including an amount for Customs Education Cess duty, by the long-term benchmark interest rate for the year in which the license was approved. We then summed these two amounts to determine the total benefit for each company. We then divided the benefit under the EPCGS by each company's total exports to determine a subsidy of 3.17 percent *ad valorem* for Garware and 20.77 percent *ad valorem* for MTZ.

#### 4. Duty Entitlement Passbook Scheme (DEPS/DEPB)

India's DEPS was enacted on April 1, 1997, as a successor to the Passbook Scheme (PBS). As with PBS, the DEPS enables exporting companies to earn import duty exemptions in the form of passbook credits rather than cash. All exporters are eligible to earn DEPS credits on a post-export basis, provided that the GOI has established a SION for the exported product. DEPS credits can be used for any subsequent imports, regardless of whether they are consumed in the production of an exported product. DEPS credits are

valid for twelve months and are transferable after the foreign exchange is realized from the export sales on which the DEPS credits are earned.

The Department has previously determined that the DEPS program is countervailable. *See, e.g., PET Film Final Determination—Decision Memorandum*, at “DEPS.” In the investigation, the Department determined that under the DEPS, a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided because (1) The GOI provides credits for the future payment of import duties; and (2), the GOI does not have in place and does not apply a system that is reasonable and effective for the purposes intended to confirm which inputs, and in what amounts, are consumed in the production of the exported products. *Id.* Therefore, under 19 CFR 351.519(a)(4) and section 771(5)(E) of the Act, the entire amount of import duty exemption earned during the POI constitutes a benefit. Finally, this program can only be used by exporters and, therefore, it is specific under section 771(5A)(B) of the Act. *Id.* No new information or evidence of changed circumstances has been presented in this review to warrant reconsideration of this finding. Therefore, we continue to find that the DEPS is countervailable.

In accordance with past practice and pursuant to 19 CFR 351.519(b)(2), we find that benefits from the DEPS are conferred as of the date of exportation of the shipment for which the pertinent DEPS credits are earned. We calculated the benefit on an “as-earned” basis upon export because the DEPS credits are provided as a percentage of the value of the exported merchandise on a shipment-by-shipment basis and, as such, it is at this point that recipients know the exact amount of the benefit (*e.g.*, the duty exemption). *See e.g., Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From India*, 64 FR 73131, 73134 (December 29, 1999) (*Carbon Steel Plate From India*) and accompanying *Issues and Decision Memorandum (Carbon Steel Plate From India—I&D Memo)*. Benefits from the DEPS program are conferred as of the date of exportation of the shipment for which the pertinent DEPS credits are earned. *See Carbon Steel Plate From India—I&D Memo*, at *Comment 4*.

Both Garware and MTZ reported that they received post-export credits on PET film under the DEPS program during the POR. Because DEPS credits are earned on a shipment-by-shipment basis, we normally calculate the subsidy rate by dividing the benefit earned on subject

merchandise exported to the United States by total exports of subject merchandise to the United States during the POR. *See e.g., Carbon Steel Plate From India* at 73134. However, the sample licences provided by both Garware and MTZ did not indicate whether the benefit was earned on subject merchandise.<sup>17</sup> Therefore, we calculated the DEPS program rate using the value of the post-export credits that Garware and MTZ earned for their export shipments during the POR and subtracted as an allowable offset the actual amount of required application fees paid for each license in accordance with section 771(6) of the Act. We divided this amount by Garware’s and MTZ’s total exports of subject merchandise during the POR. On this basis, we preliminarily determine Garware’s and MTZ’s countervailable subsidy from the DEPS program to be 5.80 percent *ad valorem* and 5.35 percent *ad valorem*, respectively.

#### 5. State Sales Tax Incentive Programs

In the previous countervailing duty administrative review, the Department determined that various state governments in India grant exemptions to, or deferrals from, sales taxes in order to encourage regional development. *See Issues Memorandum—Third Review*, at “State Sales Tax Incentive Programs.” These incentives allow privately-owned (*i.e.*, not 100 percent owned by the GOI) manufacturers, that are in selected industries and located in the designated regions, to sell goods without charging or collecting state sales taxes. As a result of these programs, the respondents did not pay sales taxes on their purchases from suppliers located in certain states. During the POR, Garware and its affiliated supplier, Garware Chemicals,<sup>18</sup> and MTZ did not pay sales taxes on certain purchases made from the states of Maharashtra (SOM) and Gujarat. In the investigation of this countervailing duty order, we determined that the operation of these types of state sales tax programs confers a countervailable subsidy. *See PET Film Final Determination—Decision Memorandum*, at “State of Maharashtra Programs, Sales Tax Incentives.” The financial contribution is the tax revenue foregone by the respective state governments pursuant to section

771(5)(D)(ii) of the Act, and the benefit equals the amount of sales taxes not paid by Garware and Garware Chemicals, and MTZ pursuant to section 771(5)(E) of the Act. Pursuant to section 771(5A)(D)(iv) of the Act, these programs are *de jure* specific because they are limited to certain geographical regions within the respective states administering the programs. There is no new information or evidence of changed circumstances that would warrant reconsidering this finding. Therefore, for these preliminary results, we continue to find these programs countervailable. Further, as stated above, we preliminarily determine that cross-ownership between Garware and Garware Chemicals continues to exist. Accordingly, we attribute the subsidies received by Garware Chemicals to Garware in our preliminary results, pursuant to 19 CFR 351.525(b)(6)(iv) and (vi).

MTZ stated in its April 13, 2007 supplemental response that it purchased inputs from a company based in a “Union Territory” for which the company did not pay a sales tax. MTZ stated in its July 6, 2007 supplemental response that this exemption should not be treated as part of the State Sales Tax Incentive program; however, based on the information provided and from the previous review, the Department is treating this sales tax exemption as part of the State Sales Tax Incentive program preliminarily and will calculate MTZ’s subsidy rate for this program accordingly. *See Polyethylene Terephthalate Film, Sheet, and Strip from India: Preliminary Results of Countervailing Duty Administrative Review*, 71 FR 45037 (August 8, 2006) (unchanged in the final results). However, we intend to further examine this issue for the final results.

Garware reported in its second supplemental response of July 2, 2007 that Garware Chemical participated in this program. Garware provided information regarding Garware Chemical’s benefits under this program, however; Garware did not provide any sales information for Garware Chemical. This information is required in order to attribute Garware Chemical’s subsidy to Garware. *See “Cross-Ownership and Attribution of Subsidies”* section above. To calculate the benefit for MTZ, we first calculated the total amount of state sales taxes respondent would have paid on its purchases during the POR absent these programs. We then divided this amount by MTZ’s total sales during the POR. On this basis, we preliminarily determine the subsidy rate under this program to be 0.96 percent *ad valorem*

<sup>17</sup> *See* Garware’s Original Response, at Exhibit 8 (January 5, 2007), and MTZ’s First Supplemental Response, at Exhibit S-11 (April 18, 2007). Garware confirmed in its second supplemental response that its DEPS licenses are not product specific. Garware’s Second Supplemental Response, at 5 (July 2, 2007).

<sup>18</sup> *See* “Cross-Ownership and Attribution of Subsidies” section above.

for Garware and 7.39 percent *ad valorem* for MTZ.

#### 6. State of Maharashtra (SOM) Capital Incentive Scheme

In the investigation, the Department determined that Garware received grants under this program through the SOM 1988 package scheme of incentives. See *PET Film Final Determination*, at "State of Maharashtra Programs: 3. Capital Incentive Scheme." The benefits of this program, grants of up to 3,000,000 rupees, are available to certain privately-owned (*i.e.*, not one hundred percent owned by the GOI) industries that make capital investments in specific regions of Maharashtra.

The Department also found that the SOM Capital Incentive Scheme provided a financial contribution under section 771(5)(D)(i) of the Act in the form of a grant, and Garware benefitted under section 771(5)(E) of the Act, in the amount of the capital incentive grants received by Garware from the SOM. The Department also found this program to be specific within the meaning of sections 771(5A)(D)(i) and (iv) of the Act because the benefits of this program are limited to certain privately-owned (*i.e.*, not one hundred percent owned by the GOI) industries located within designated geographical regions.

Under 19 CFR 351.524(c), the Department treats the grants provided by this program as non-recurring subsidies. In the investigation, to determine the subsidy for this program, the Department first performed the "0.5 percent test," as prescribed under 19 CFR 351.524(b)(2), for the year in which the SOM approved Garware's grants. Because the grants did not exceed 0.5 percent of Garware's total sales in that year, the Department allocated the total amount of the grants to the year in which the grants were received.

In the current review, Garware reported receiving a capital subsidy in 1998. Based on the information provided by Garware, we are unable to confirm that this capital subsidy was the same capital subsidy examined in the investigation.<sup>19</sup> Furthermore, we do not have the information necessary to perform the 0.5 percent test for the year in which the grant was received. Therefore, as facts available, we performed the 0.5 percent test based on

<sup>19</sup> In response to a request by the Department, Garware stated in its first supplemental response of April 13, 2007, that Garware received capital subsidies in 1998. Exhibit S-5B indicates that it was a "Disbursement of Special Capital Incentive under the 1988 Package Scheme of Incentives." Garware has not yet provided any additional information on this capital subsidy.

sales information from the investigation. See Memorandum to The File From Elfi Blum and Toni Page, Case Analysts: *Placing the Calculations from the Final Determination on the Record of this Review*, dated July 31, 2007, and on file in the Central Record Unit, Room B-099 of the Main Commerce Building (CRU). Because this grant did not exceed 0.5 percent of Garware's total sales, the entire amount of the grant is attributable to the year in which it was received (*i.e.*, 1998). As such, we preliminarily determine that there is no countervailable benefit from this program allocable to the POR.

#### 7. State of Maharashtra (SOM) Electricity Duty Exemption

This state incentive program provides an exemption from the payment of tax on electricity charges. This program is available to manufacturers located in certain regions of Maharashtra. Garware reported that it and its affiliated supplier, Garware Chemicals, Ltd., received an exemption from the payment of tax on electricity charges through this program. In the investigation, we determined that the electricity duty exemption scheme at issue is separate from the refund of electricity duty scheme under the 1993 SOM package scheme of incentives. See *PET Film Final Determination*, at "Electricity Duty Exemption Scheme."

In the investigation, the Department determined that the electricity duty scheme is countervailable because: (1) SOM has forgone or not collected revenue otherwise due, the tax exemption provided through this program constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act; (2) the benefit consists of the amount of tax exempted on electricity charges through this program during the POI, pursuant to section 771(5)(E) of the Act; and (3) 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. There is no new information or evidence of changed circumstances that would warrant reconsidering this finding. Therefore, for these preliminary results, we continue to find this program countervailable.

Further, we preliminarily determine that cross-ownership continues to exist between Garware and Garware Chemical. See "Cross-Ownership and Attribution of Subsidies" section above. Accordingly, we attribute the subsidies received by Garware Chemicals to Garware in our preliminary results, pursuant to 19 CFR 351.525(b)(6)(iv)

and (vi). Garware reported in its second supplemental response of July 2, 2007 that Garware Chemical participated in this program. Garware provided information regarding Garware Chemical's benefit under this program; however, Garware did not provide any sales information of Garware Chemical on the record. This information is required in order to attribute Garware Chemical's subsidy to Garware. See "Cross-Ownership and Attribution of Subsidies" section above. On this basis, we preliminarily determine the subsidy rate under this program to be 0.13 percent *ad valorem* for Garware.

#### Programs Preliminarily Determined To Be Not Used

We preliminarily determine that the producers/exporters of PET film products did not apply for or receive benefits during the POR under the programs listed below:

1. Duty Free Replenishment Certificate (DFRC).
2. Export Oriented Units (EOU).
3. Octroi Refund Scheme—State of Maharashtra.<sup>20</sup>

#### Preliminary Results of Administrative Review

In accordance with 19 CFR 351.221(b)(4)(i), we have calculated individual subsidy rates for Garware and MTZ for the POR. We preliminarily determine the total countervailable subsidy to be 10.35 percent *ad valorem* for Garware and 33.72 percent *ad valorem* for MTZ.

If the final results of this review remain the same as these preliminary results, the Department intends to issue assessment instructions to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of the final results of review.

We will instruct CBP to collect cash deposits for Garware and MTZ at the rates indicated above. We will instruct CBP to continue to collect cash deposit rates for non-reviewed companies at the most recent rate applicable to the company.

#### Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to any party to the proceeding the calculations performed in connection with these preliminary results within five days after the date of public announcement of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these

<sup>20</sup> Garware stated in its original response of January 5, 2007, at 57, that it applied for the program but had not yet received any benefit during the POR.

preliminary results. Unless extended by the Department, case briefs are to be submitted within 30 days after the date of publication of this notice. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted no later than five days after the time limit for filing case briefs. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) A statement of the issues; (2) a brief summary of the argument; and (3) a table of authorities. See 19 CFR 351.309(c)(2). 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(c), interested parties who wish to request a hearing or to participate if one is requested must submit a written request to the Assistant Secretary for Import Administration within 30 days of the publication of this notice. Requests should contain (1) The party's name, address and telephone number; (2) the number of participants; and, (3) a list of issues to be raised. Issues raised in the hearing will be limited to those raised in the respective case briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Parties will be notified of the time and location.

The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case brief, rebuttal brief, or hearing no later than 120 days after publication of these preliminary results, unless extended. See 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: July 31, 2007.

**Stephen J. Claeys,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E7-15215 Filed 8-3-07; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-475-819]

#### Certain Pasta from Italy: Preliminary Results of the Tenth Countervailing Duty Administrative Review

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

**SUMMARY:** The Department of Commerce is conducting an administrative review

of the countervailing duty order on certain pasta from Italy for the period January 1, 2005, through December 31, 2005. We preliminarily find that Pastificio Antonio Pallante S.r.L. ("Pallante") and De Matteis Agroalimetre S.p.A. ("De Matteis") received countervailable subsidies in this review, and Atar S.r.L. ("Atar") did not receive any countervailable subsidies in this review and its rate is, consequently, zero. See the "Preliminary Results of Review" section, below. Interested parties are invited to comment on these preliminary results. See the "Public Comment" section of this notice.

**DATES:** *Effective Date:* August 6, 2007.

**FOR FURTHER INFORMATION CONTACT:**

Audrey Twyman or Brandon Farlander, AD/CVD Operations, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3534 and (202) 482-0182, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 24, 1996, the Department of Commerce ("the Department") published a countervailing duty order on certain pasta ("pasta" or "subject merchandise") from Italy. See *Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta From Italy*, 61 FR 38544 (July 24, 1996) ("Pasta Order"). On July 3, 2006, the Department published a notice of "Opportunity to Request Administrative Review" of this countervailing duty order for calendar year 2005, the period of review ("POR"). See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 37890 (July 3, 2006). On July 31, 2006, we received a request for review from Atar and Pallante. On July 31, 2006, we received a request for review for De Matteis on behalf of New World Pasta Company, American Italian Pasta Company, and Dakota Growers Pasta Company ("petitioners"). In accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of the review on August 30, 2006. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 51573 (August 30, 2006).

On August 31, 2006, we issued countervailing duty questionnaires to the Commission of the European Union, the Government of Italy ("GOI"), Pallante, De Matteis, and Atar. We

received responses to our questionnaire in October and November 2006. We issued supplemental questionnaires to the respondents in November 2006, and we received responses to our supplemental questionnaires in December 2006 and January 2007. In November 2006, we also requested that Agritalia S.r.L. ("Agritalia") provide a full questionnaire response because of its status as a trading company for Italian pasta producers participating in this review. We received Agritalia's questionnaire response in January 2007. On March 2, 2007, we sent out supplemental questionnaires to Agritalia, De Matteis and the GOI. We received responses on April 11, 2007. We sent out additional supplemental questionnaires to Agritalia, De Matteis, Atar, Pallante, and the GOI on May 11, 2007, and received responses in May and June 2007. We sent out additional supplemental questionnaires to De Matteis, Agritalia, and Pallante on June 19, 2007, and received responses on July 5, 2007.

In accordance with 19 CFR 351.213(b), this review covers only those producers or exporters for which a review was specifically requested. The companies subject to this review are De Matteis, Atar, and Pallante.

**Period of Review**

The POR for which we are measuring subsidies is January 1, 2005, through December 31, 2005.

**Scope of the Order**

Imports covered by the order are shipments of certain non-egg dry pasta in packages of five pounds four ounces or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of the order are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Istituto Mediterraneo Di Certificazione, Bioagricoop S.r.l., QC&I International Services, Ecocert Italia, Consorzio per il Controllo dei Prodotti Biologici, Associazione Italiana per l'Agricoltura Biologica, or Codex S.r.l. In addition, based on publicly available information,