Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural-Business Cooperative Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's (RBS) intention to request an extension of a currently approved information collection in support of the program for ''Renewal Energy and Energy Efficiency Improvements Program.''

DATES: Comments on this notice must be received by March 10, 2008, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: William C. Smith, Rural Business-Cooperative Service, USDA, STOP 3225, 1400 Independence Ave., SW., Washington, DC 20250–3225, Telephone: (202) 205–0903.

SUPPLEMENTARY INFORMATION:

Title: Renewal Energy and Energy Efficiency Improvements Program.

OMB Number: 0570–0050.

Expiration Date of Approval: July 31, 2008.

Type of Request: Extension of a currently approved information collection.

Abstract: The collection of information is vital for Rural Development to make wise decisions regarding the eligibility of applicants and borrowers, establish selection priorities among competing applicants, ensure compliance with applicable Rural Development regulations, and effectively monitor the grantees and borrowers activities to protect the Government's financial interest and ensure that funds obtained from the Government are used appropriately. This information will be used to determine applicant eligibility, to determine project eligibility and feasibility, and to ensure that grantees/borrowers operate on a sound basis and use funds for authorized purposes.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5 hours per response.

Respondents: Farmers, Ranchers, and Rural Small Businesses.

Estimated Number of Responses per Respondents: 469.

Estimated Number of Responses per Respondent: 13.

Estimated Number of Responses: 6,241.

Estimated Total Annual Burden on Respondents: 30,160.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch, at (202) 692–0043.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RBS, including whether the information will have practical utility; (b) the accuracy of RBS estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave., SW., Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: December 11, 2007.

Ben Anderson,

Administrator, Rural Business-Cooperative Service.

[FR Doc. E8–142 Filed 1–8–08; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–821]

Certain Hot–Rolled Carbon Steel Flat Products from India: Notice of Preliminary Results 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 (CVD) order on certain hot–rolled carbon steel flat products from India for the period January 1, 2006, through December 31, 2006, the period of review (POR). For information on the net subsidy rate for each reviewed company, see the ''Preliminary Results of Review'' section, *infra*. Interested parties are invited to comment on these preliminary results, see the ''Public Comment'' section, *infra*.

EFFECTIVE DATE: January 9, 2008.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson or Robert Copyak, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4793 or (202) 482–2209, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 3, 2001, the Department published in the **Federal Register** the CVD order on certain hot–rolled carbon steel flat products from India. *See Notice of Amended Final Determination and Notice of Countervailing Duty Orders: Certain Hot–Rolled Carbon Steel Flat Products from India and Indonesia*, 66 FR 60198 (December 3, 2001) (Amended Final Determination of HRC Investigation). On December 1, 2006, the Department published a notice of opportunity to request an administrative review of this CVD order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 69543

(December 1, 2006) (*Opportunity to Request Review*).[1]

We received timely requests for review from Essar Steel Ltd. (Essar) and Ispat Industries Ltd. (Ispat), both Indian producers and exporters of subject merchandise on December 28, 2006. On December 29, 2006, we received a timely request for review from JSW Steel Ltd. (JSW)[2] and Tata Steel Ltd. (Tata), both Indian producers and exporters of subject merchandise. On January 3, 2007, we received an untimely request for review from petitioner.[3]

On February 2, 2007, the Department initiated an administrative review of the CVD order on certain hot–rolled carbon steel flat products from India, covering the period January 1, 2006 through December 31, 2006. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 72 FR 5005 (February 2, 2007).

The Department issued a questionnaire to the Government of India (GOI), Essar, Ispat, JSW, and Tata (collectively, the respondents) on February 2, 2007. We received a questionnaire response from Essar on March 28, 2007, from Ispat on March 29, 2007, from JSW on April 4, 2007, from Tata on April 16, 2007, and from the GOI on April 23, 2007. From August 2007, through November 2007, we issued supplemental questionnaires to the respondents regarding programs addressed in the initial CVD questionnaire and received supplemental questionnaire responses. In the case of JSW, as explained below, it failed to fully respond to the Department's November 8, 2007, supplemental questionnaire.

On May 23, 2007, petitioner submitted new subsidy allegations against Essar, Ispat, JSW, and Tata. On September 13, 2007, the Department initiated an investigation of the new subsidies allegations against Ispat.[4] On September 20, 2007, we issued the new subsidies questionnaire to Ispat, the GOI and the state government of Maharashtra. On September 27, 2007, the Department initiated an investigation of the new subsidies allegations against JSW and Tata, respectively,[5] and issued new subsidies questionnaires to JSW, Tata, the GOI, the state government of Karnataka (regarding JSW's new subsidies allegations), and the state government of Jharkhand (regarding Tata's new subsidies allegations). On October 4, 2007, the Department initiated an investigation of the new subsidies allegations against Essar[6] and issued the new subsidies questionnaire to Essar, the GOI, and the state governments of Gujarat, Andhra Pradesh, and Chhattusgarh on October 5, 2007. From November 1, 2007, through November, 13, 2007, we received responses to the new subsidies questionnaires from Essar, Ispat, JSW, and Tata. From November 27, 2007, through December 12, 2007, we received responses to our new subsidies supplemental questionnaires from Essar, Ispat, and Tata. As explained below, JSW failed to respond to the Department's new subsidies supplemental questionnaire.

In the case of the GOI, on November 8, 2007, we received a questionnaire response pertaining to subsidies allegedly received by Tata. However, as explained below, in spite of receiving multiple extensions of the deadline to respond to the Department's new subsidies questionnaires, the GOI did not respond to the new subsidies questionnaires pertaining to Essar, Ispat, and JSW.

On August 2, 2007, the Department published in the **Federal Register** an extension of the deadline for the preliminary results of this review. *See Hot–Rolled Carbon Steel Products from India: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review*, 72 FR 42399 (August 2, 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 Essar, Ispat, JSW, and Tata. This review covers 56 programs.

Scope of Order

The merchandise subject to this order is certain hot–rolled flat–rolled carbon–quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non–metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat–rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this order.

Specifically included in the scope of this order are vacuum–degassed, fully stabilized (commonly referred to as interstitial–free (IF)) steels, high–strength low–alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low–carbon steels with micro–alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro–alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro–alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTS), are products in which: I) iron predominates, by weight, over each of the other contained elements; ii) the carbon content is 2 percent or less, by weight; and iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or

[1] On December 18, 2006, we published a correction to the notice of *Opportunity to Request Review* to correct the POR. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review; Correction*, 71 FR 75709 (December 18, 2006).

[2] JSW was previously known as Jindal Vijayanagar Steel Ltd. The company name was changed on June 16, 2005.

[3] Petitioner is United States Steel Corporation.

[4] *See* Memorandum to Melissa G. Skinner, Director, Office 3, through Eric B. Greynolds, Program Manager, from Robert Copyak, Case Analyst, regarding New Subsidy Allegations for Ispat Industries Limited (February 13, 2007). This public document is available on the public file in the Department's Central Records Unit (CRU) located in room B-099.

[5] *See* Memorandum to Melissa G. Skinner, Director, Office 3, through Eric B. Greynolds, Program Manager, from Kristen Johnson, Case Analyst, regarding New Subsidy Allegations for JSW Steel Ltd. (September 27, 2007) and Memorandum to Melissa G. Skinner, Director, Office 3, through Eric B. Greynolds, Program Manager, from John Conniff, Case Analyst, regarding New Subsidy Allegations for Tata Steel Ltd. (September 27, 2007). The memoranda are public documents available on the public file in the CRU.

[6] *See* Memorandum to Melissa G. Skinner, Director, Office 3, through Eric B. Greynolds, Program Manager, from Gayle Longest, Case Analyst, regarding New Subsidy Allegations for Essar Steel Ltd. (October 4, 2007). This public document is available on the public file in the CRU.

0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this order unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this order:

- Alloy hot–rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, ASTM specifications A543, A387, A514, A517, A506).
- SAE/AISI grades of series 2300 and higher.
- Ball bearings steels, as defined in the HTS.
- Tool steels, as defined in the HTS.
- Silico–manganese (as defined in the HTS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS Abrasion–resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non–rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTS.

The merchandise subject to this order is currently classifiable in the HTS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot–rolled flat–rolled carbon–quality steel covered by this order, including: vacuum–degassed fully stabilized; high–strength low–alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise subject to this order is dispositive.

Adverse Facts Available

I. The GOI

As discussed above, the Department initiated investigations of new subsidies allegedly provided to Essar, Ispat, JSW, and Tata by the GOI and Indian state governments. On September 20, 2007, the Department issued a questionnaire to the GOI pertaining to new subsidies allegedly received by Ispat. On September 27, 2007, the Department issued new subsidies questionnaires to the GOI pertaining to new subsidies allegedly received by JSW and Tata, respectively. On October 5, 2007, the Department issued a questionnaire to the GOI pertaining to new subsidies allegedly received by Essar.

At the request of the government, the Department extended the GOI's deadline to respond to the new subsidies questionnaires on multiple occasions. Specifically, on October 11, 2007, the Department granted the GOI an additional two weeks to respond to the new subsidies questionnaire covering Ispat. On October 12, 2007, the Department provided the GOI a two-week extension to respond to the new subsidies questionnaires covering Essar, JSW, and Tata. On October 24, 2007, the Department granted the GOI a seven-day extension to respond to the new subsidies questionnaire covering Ispat. On November 1, 2007, the Department granted the GOI a seven-day extension to respond to all four new subsidies questionnaires.

On November 8, 2007, the GOI submitted a questionnaire response pertaining to the new subsidies allegedly received by Tata. However, with respect to Essar, Ispat, and JSW, the GOI stated that ''since the information sought from the GOI is on the same lines as that sought from the respondent companies, the GOI has nothing further to add.'' In a November 14, 2007, letter to the GOI, the Department attached copies of the original new subsidies questionnaires pertaining to Essar, Ispat, and JSW and explained that the questions addressed to the GOI were distinct from those contained in the new subsidies questionnaires issued to the respective companies. In the letter the Department further explained that the GOI's failure to respond to the new subsidies questionnaires could result in the Department applying adverse inferences within the meaning of section 776(b) of the Tariff Act of 1930, as amended (the Act). The Department provided the GOI an additional 12 days to submit its questionnaire responses.

On November 26, 2007, the GOI requested a two-day extension to respond the new subsidies questionnaires covering Essar, Ispat, and JSW. In an amended submission, the GOI requested an additional five-day extension. On November 28, 2007, the Department rejected the GOI's extension requests explaining that the GOI's proposed extension would not provide the Department with sufficient time to analyze and incorporate information in the questionnaire responses prior to the preliminary results of review. *See* the Department's November 28, 2007, letter to the GOI, which in on the public record in the CRU.

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply ''facts otherwise available'' if, *inter alia*, necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; ©) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department ''shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority'' if the information is timely, can be verified, is not so incomplete that it cannot be used,

and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

Because the GOI failed to provide the requested information by the established deadlines, the Department does not have the necessary information on the record to determine whether the new subsidies allegedly received by Essar, Ispat, and JSW constitute financial contributions and are specific within sections 771(D) and 771(5A) of the Act, respectively. Therefore, the Department must base its determination on the facts otherwise available in accordance with section 776(a)(2)(B) of the Act.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (AFA) information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. For the reasons discussed below, we determine that, in accordance with sections 776(a)(2)(B) and 776(b) of the Act, the use of AFA is appropriate for the preliminary results with respect to newly alleged subsidy programs used by Essar, Ispat, and JSW.[7]

As noted, the Department extended the GOI's deadline to respond to the new subsidies questionnaires on multiple occasions. However, with the exception of the questionnaire pertaining to Tata, the GOI failed to submit responses to the new subsidies questionnaires pertaining to Essar, Ispat, and JSW. Therefore, consistent with section 776(a)(2)(B) of the Act, we find that the GOI did not act to the best of its ability and, therefore, we are employing adverse inferences in selecting from among the facts otherwise available. Accordingly, pursuant to section 776(b) of the Act, we find that all newly alleged subsidy programs used by Essar, Ispat, and JSW constitute financial contributions and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act, respectively.[8] Thus, in this segment of the proceeding, we preliminarily determine that any newly alleged programs used by Essar, Ispat, and JSW are countervailable to the extent that the programs conferred a benefit during the POR.[9] The Department's decision to rely on adverse inferences when lacking a response from a foreign government is in accordance with its practice. *See*, *e.g.*, *Notice of Preliminary Results of Countervailing Duty Administrative Review: Certain Cut–to-Length Carbon–Quality Steel Plate from the Republic of Korea*, 71 FR 11397, 11399 (March 7, 2006) (unchanged in the *Notice of Final Results of Countervailing Duty Administrative Review: Certain Cut–to-Length Carbon–Quality Steel Plate from the Republic of Korea*, 71 FR 38861 (July 10, 2006), in which the Department relied on adverse inferences in determining that the Government of Korea directed credit to the steel industry in a manner that constituted a financial contribution and was specific to the steel industry within the meaning of the sections 771(5)(D)(i) and 771(5A)(D)(iii) of the Act, respectively. For a discussion of the Department's methodology of quantifying the AFA rate for JSW, see section ''II. JSW'' below. For the list of programs used by JSW to which we have assigned AFA rates, see section ''C. State Government of Karnataka Programs'' below.

II. JSW

As explained above, due to the GOI's failure to submit a timely response, we find that all newly alleged subsidy programs used by JSW constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act, respectively. In its November 1, 2007, response to the Department's new subsidies questionnaire, JSW indicated that it received assistance under the State Government of Karnataka's (SGOK) ''New Industrial Policy and Package of Incentives and Concessions of 1993.'' *See* JSW's November 1, 2007, Questionnaire Response to New Subsidies Allegations at 6–7 and Annexure A. However, in its response, JSW failed to provide complete answers with respect to the following newly alleged programs: ''GOI's Granting of Captive Mining Rights for Iron Ore,'' ''SGOK's New Industrial Policy and Package of Incentives and Concessions of 1993'' and ''Other SGOK Subsidies,'' which address subsidies allegedly received by Vijayanagar Minerals Private Limited (VMPL). VMPL is a joint venture between JSW and Mysore Minerals Limited (MML), a state–owned company located in Karnataka. In particular, JSW and VMPL failed to quantify the extent to which they used the new subsidy programs under examination.

On November 8, 2007, the Department issued a supplemental questionnaire to JSW and VMPL in which it sought to clarify the deficiencies. Subsequent to the issuance of the supplemental questionnaire, Department officials spoke with a JSW official to discuss the information requested in the supplemental questionnaire and answer JSW's questions regarding the subsidy programs under review. *See* Memorandum to the File from Kristen Johnson, Trade Analyst, through Eric B. Greynolds, Program Manager, concerning Telephone Call to JSW (November 14, 2007).[10] The Department later reminded JSW that if the company needed additional time to respond to the supplemental questionnaire, which had a response due date of November 21, 2007, then JSW would have to file a letter requesting an extension of time to submit its response to the November 8, 2007, supplemental questionnaire. *See* Memorandum to the File from Kristen Johnson, Trade Analyst, through Eric B. Greynolds, Program Manager, concerning Emails Sent to JSW (November 21, 2007).[11] JSW, however, did not submit a questionnaire response or letter requesting an extension to respond to the supplemental questionnaire.

In addition, JSW failed to completely respond to supplemental questions concerning the ''Sale of High–Grade Iron Ore for Less Than Adequate Remuneration'' program that were included in the Department's initial questionnaire. *See* JSW's October 22, 2007, Supplemental Questionnaire Response at 22 and JSW's November 19, 2007, Supplemental Questionnaire Response at 15–16 and Table A.

Because JSW failed to provide the information requested in the Department's supplemental questionnaires by the established

[7] As explained above, the GOI responded to the questionnaire pertaining to new subsidy programs allegedly received by Tata.

[8] Because the programs at issue are new and because the GOI failed to provide any information on how the alleged programs operate, in applying adverse inferences, we are unable to reference any sub-paragraphs under section 771(5)(D) and 771(5A) of the Act.

[9] In these preliminary results, we find that JSW used newly alleged programs. However, as noted below, based on information provided, we preliminarily determine that Essar and Ispat did not use any of the newly alleged programs. We invite parties to comment for the final results on whether, in light of the incomplete responses by the GOI with respect to these newly alleged programs, it would be more appropriate to use facts available in determining to what extent Essar and Ispat may have benefitted from these newly alleged programs.

[10] This public document is available on the public file in the CRU.

[11] This public document is available on the public file in the CRU.

deadlines, the Department does not have the necessary information on the record to determine the extent to which JSW benefitted from certain programs within the meaning of section 771(5)(E) of the Act. Therefore, the Department must base its determination on facts otherwise available in accordance with section 776(a)(2)(B) of the Act. Furthermore, we preliminarily determine that by failing to respond to the Department's supplemental questionnaires by the established deadlines, JSW has failed to cooperate to the best of its ability and, thus, pursuant to section section 776(b) of the Act, the use of adverse inferences in applying the facts otherwise available is warranted.

The Department's practice when selecting an adverse margin from among the possible sources of information is to ensure that the margin is sufficiently adverse ''as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures ''that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* Statement of Administrative Action (SAA) at 870. In choosing the appropriate balance between providing a respondent with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's prior commercial activity, selecting the highest prior margin ''reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.'' *See Rhone Poulenc, Inc. v. United States*, 899 F. 2d 1185, 1190 (Fed. Cir. 1990).

In deciding which facts to use when calculating the AFA rate, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. In its May 23, 2007, new subsidies allegation submission, petitioner did not provide estimated net subsidy rates regarding the new subsidies allegedly received by JSW.[12] Further, the additional subsidy programs pertaining to JSW were alleged for the first time in this administrative review and, thus, no information exists concerning these programs in prior segments of the proceeding.

Therefore, for each instance in which JSW failed to provide the information necessary for the Department to determine the extent to which JSW used a newly alleged subsidy program, we have, in accordance with section 776(b)(4) of the Act, relied upon the highest calculated net subsidy rate established for an industry–wide program in this proceeding. Specifically, we have utilized a net subsidy rate of 16.63 percent *ad valorem*, which corresponds to the net subsidy rate that Ispat received under the Export Promotion Capital Goods Scheme in the underlying investigation. *See Final Affirmative Countervailing Duty Determination: Certain Hot- Rolled Carbon Steel Flat Products From India*, 66 FR 49635 (September 28, 2001) (*Final Determination of HRC Investigation*), and accompanying Issues and Decision Memorandum (Final Determination of HRC Investigation Decision Memorandum) at ''Export Promotion of Capital Goods Scheme.'' This approach is consistent with the Department's practice. *See, e.g., Certain In–shell Roasted Pistachios from the Islamic Republic of Iran: Final Results of Countervailing Duty Administrative Review*, 71 FR 66165 (November 13, 2006), and accompanying Issues and Decision Memorandum at ''Duty Refunds on Imported Raw or Intermediate Materials Used in the Production of Export Goods,'' which states:

> This program was alleged for the first time in the *Pistachios New Shipper Reviews*, and thus was not among the programs addressed in *Roasted Pistachios*. However, lacking any information from Nima and the Government of Iran on the record of the instant review, we find that the net subsidy rate of 6.65 percent, the highest rate established for an industry–wide program in *Roasted Pistachios*, is the only available information on the record and, therefore, as adverse facts available, is the appropriate rate to apply to this program. Accordingly, we find that the net subsidy rate for this program is 6.65 percent *ad valorem*.

For additional information concerning the Department's treatment of these programs under AFA and for a list of programs used by JSW to which we have assigned AFA rates, see section ''C. State Government of Karnataka Programs'' below.

[12] This pubic document is available on the public file in the CRU.

Further, section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See* SAA at 870. Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. *Id.* at 869.

Thus, in those instances in which it determines to apply adverse facts available, the Department, in order to satisfy itself that such information has probative value, will examine, to the extent practicable, the reliability and relevance of the information used. With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company–specific benefits resulting from countervailable subsidy programs. The only source for such information normally is administrative determinations. In the instant case, no evidence has been presented or obtained which contradicts the reliability of the evidence relied upon in previous segments of this proceeding.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render benefit data not relevant. Where circumstances indicate that the information is not appropriate as adverse facts available, the Department will not use it. *See Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996). In the instant case, no evidence has been presented or obtained which contradicts the relevance of the benefit data relied upon in previous segments of this proceeding. Thus, in the instant case, the

Department finds that the information used has been corroborated to the extent practicable.

JSW also reported using a program that was previously found to be countervailable (*i.e.*, ''Sale of High–Grade Iron Ore for Less Than Adequate Remuneration''), about which it failed to provided a complete response. As discussed above, we find that, by failing to provide a complete response concerning the program, JSW has failed to act to the best of its ability. Therefore, under section 776(b) of the Act, we have applied adverse inferences using, to the extent possible, the limited information provided by JSW along with other information on the record of this segment of the proceeding when calculating the benefit. For further information concerning the Department's calculation of the benefit received by JSW under the program, see the program description below. For those programs for which the GOI and JSW have provided complete responses, we are basing our determination of the countervailability of each program based on the information provided.[13] We invite parties to comment for the final results of review on whether, in light of the incomplete responses by JSW and the GOI for so many programs, it would, be more appropriate to use adverse inferences under section 776(b) of the Act in determining the countervailable benefits for all of JSW's programs.

Subsidies Valuation Information

I. Benchmarks for Loans and Discount Rates

Pursuant to 19 CFR 351.524(d)(3)(i), the Department will use, when available, the company–specific cost of long–term, fixed–rate loans (excluding loans deemed to be countervailable subsidies) as a discount rate for allocating non–recurring benefits over time. Similarly, pursuant to 19 CFR 351.505(a), the Department will use the actual cost of comparable borrowing by a company as a loan benchmark, when available. According to 19 CFR 351.505(a)(2), a comparable commercial loan is defined as one that, when compared to the loan being examined, has similarities in the structure of the loan (*e.g.*, fixed interest rate vs. variable interest rate), the maturity of the loan (*e.g.*, short–term vs. long–term), and the currency in which the loan is denominated.

For programs requiring the application of a benchmark interest rate, 19 CFR 351.505(a)(2)(ii) 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 bank for purposes of calculating benchmark rates.

For programs requiring a rupee–denominated discount rate or the application or a rupee–denominated long–term fixed–rate benchmark, we used, where available, company–specific, weighted–average interest rates on comparable commercial long–term, rupee–denominated loans. Some respondents, however, did not have comparable commercial long–term, rupee–denominated loans for all the required years. Therefore, for those years for which we did not have company–specific information, we relied 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, pursuant to 19 CFR 351.505(a)(3)(ii), we used a national average interest rate as the benchmark. Specifically, we used India's prime lending rate (PLR), as published by the Reserve Bank of India (RBI), as our long–term benchmark interest rate. *See* Memorandum to the File from Kristen Johnson, Trade Analyst, regarding India's Prime Lending Rate (November 28, 2007).[14] The use of the PLR is consistent with the Department's practice in prior Indian proceedings. *See*, *e.g.*, *Final Results of Countervailing Duty Administrative Review: Certain Hot–Rolled Carbon Steel Flat Products from India*, 69 FR 26549 (May 13, 2004) (*Final Results of First HRC Review*), and accompanying Issues and Decision Memorandum (Final Results of First HRC Review Decision Memorandum) at ''Benchmarks for Loans and Discount Rate.''

For those programs requiring a foreign currency–denominated discount rate or application of a foreign currency–denominated long–term fixed–rate benchmark, we used, where available, company–specific, weighted–average interest rates of comparable commercial long–term loans, denominated in the same currency. Where no such benchmark instruments were available, consistent with 19 CFR 351.505(a)(3)(ii), we used currency–specific lending rates from private creditors as reported by the International Monetary Fund's (IMF) publication *International Financial Statistics*. The use of the IMF's publication for benchmark rate information is consistent with the Department's practice in prior Indian cases. *See* Final Determination of HRC Investigation Decision Memorandum at ''Benchmarks for Loans and Discount Rate,'' *see also 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) (*Final Determination of Lined Paper Investigation*), and accompanying Issues and Decision Memorandum (Final Determination of Lined Paper Investigation Decision Memorandum) at ''Benchmarks for Loans and Discount Rate.''

For variable–rate rupee–denominated or foreign currency–denominated loans outstanding during the POR, our preference is to use the interest rates of variable–rate lending instruments issued during the year in which the government loans were issued, pursuant to 19 CFR 351.505(a)(5)(i). Where such benchmark instruments were unavailable, we used interest rates from loans issued during the POR as our benchmark, as such rates better reflect a variable interest rate that would be in effect during the review period. In one instance, company–specific variable–rate Libor information was not available. We, therefore, sourced Libor benchmark data from the British Banker's Association. *See* Memorandum to the File from Kristen Johnson, Trade Analyst, regarding Libor Rates (November 28, 2007).[15]

Pursuant to 19 CFR 351.505(a)(2)(iv), if a program under review is a government–provided, short–term loan, the preference is to use an annual average of the interest rates on comparable commercial loans during

[13] We invite parties to comment for the final results of review on whether, in light of the incomplete responses by JSW and the GOI for so many programs, it would be more appropriate to use adverse inferences under section 776(b) of the Act in determining the countervailable benefits for all of JSW's programs.

[14] This public document is available on the public file in the CRU.

[15] This public document is available on the public file in the CRU.

the year in which the government–provided loan was taken out, weighted by the principal amount of each loan. For this review, we required both US dollar–denominated and rupee–denominated short–term loan benchmark rates to determine benefits received under the Pre–Shipment Export Financing and Post–Shipment Export Financing programs. Absent a company–specific, commercial interest rate denominated in rupees to calculate the benefit, we sourced a rupee–denominated short–term interest rate for India as reported in the IMF's *International Financial Statistics*. Where we did not have comparable, company–specific short–term loans denominated in US dollars, we used the dollar–denominated short–term interest rate for the United States as reported in *International Financial Statistics*. *See e.g.*, the ''Benchmarks for Loans and Discount Rate'' section of the Final Determination of Lined Paper Investigation Decision Memorandum.

II. Use of Uncreditworthy Benchmarks for Essar

In the administrative review covering the period April 20, 2001, through December 31, 2002, we found Essar to be uncreditworthy during 2001 and 2002. *See Final Results of First HRC Review*. As no new evidence has been provided to the Department with respect to Essar's uncreditworthiness during 2001 and 2002, we will continue to apply the uncreditworthy benchmark methodology for those programs requiring a long–term benchmark for 2001 and 2002. For our long–term interest rates, we used India's PLRs and converted those rates into benchmark interest rates for Essar using the formula set forth in 19 CFR 351.505(a)(3)(iii).

III. Allocation Period

Under 19 CFR 351.524(d)(2)(i), we presume the allocation period for non–recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's 1977 Class Life Asset Depreciation Range System (IRS tables), as updated by the U.S. Department of the Treasury. This presumption will apply unless a party claims and establishes that the IRS tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under review, and the party can establish that the difference between the company–specific or country–wide AUL for the industry under review is significant, pursuant to 19 CFR 351.524(d)(2)(ii). For assets used to manufacture products such as hot–rolled carbon steel flat products, the IRS tables prescribe an AUL of 15 years.

In their questionnaire responses, the respondents did not rebut the regulatory presumption of a 15-year AUL. We, therefore, used a 15-year AUL to allocate any non–recurring subsidies for purposes of these preliminary results.

Further, for non–recurring subsidies, we have applied the ''0.5 percent test'' described in 19 CFR 351.524(b)(2). Under this test, we compare the amount of subsidies approved under a given program in a particular year to sales (total sales or total export sales, as appropriate) for the same year. If the amount of subsidies is less than 0.5 percent of the relevant sales, then the benefits are allocated to the year of receipt rather than allocated over the AUL period.

In the case of Tata, for certain years we lacked export sales data needed to conduct the ''0.5 percent test'' corresponding to non–recurring subsidies Tata received prior to the POR. Therefore, for purposes of these preliminary results, we derived the export sales denominators utilized in the ''0.5 percent test'' using information provided by Tata in its questionnaire responses as well as information contained in Tata's annual reports, which are publicly available on the internet and placed on the record of this segment of the proceeding.[16] Specifically, we calculated the ratio of Tata's export sales to total sales for the POR. We then multiplied this ratio by Tata's total sales in prior years, as indicated in its annual reports. For further information, see Tata's preliminary results calculation memorandum.

Analysis Of Programs

I. Programs Preliminarily Determined To Be Countervailable

A. GOI Programs

1. Pre- and Post–Shipment Export Financing

The RBI provides short–term pre–shipment export financing, or ''packing credits,'' to exporters through commercial banks. Upon presentation of a confirmed export order or letter of credit to a bank, companies may receive pre–shipment loans for working capital purposes. Exporters may also establish pre–shipment credit lines upon which they may draw as needed. Credit line limits are established by commercial banks based upon a company's creditworthiness and past export performance, and may be denominated either in Indian rupees or in foreign currency. Commercial banks extending export credit to Indian companies must, by law, charge interest on this credit at rates capped by the RBI. For post–shipment export financing, exporters are eligible to receive post–shipment short–term credit in the form of discounted trade bills or advances by commercial banks at preferential interest rates to finance the period between the date of shipment of exported merchandise and payment from export customers (transit period).

The Department has previously determined that these export financing programs are countervailable to the extent that the interest rates are capped by the GOI and are lower than the rates exporters would have paid on comparable commercial loans. *See*, *e.g.*, *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 72 FR 6530 (February 12, 2007) (*Final Results of 3rd PET Film Review*), and accompanying Issues and Decision Memorandum (Final Results of 3rd PET Film Review Decision Memorandum) at ''Pre–Shipment and Post–Shipment Export Financing.'' Specifically, the Department determined that the GOI's issuance of financing at preferential rates constituted a financial contribution pursuant to section 771(5)(D)(i) of the Act and that the interest savings under this program conferred a benefit pursuant to section 771(5)(E)(ii) of the Act. The Department also found this program, which is contingent upon exports, to be specific within the meaning of section 771(5A)(B) of the Act. No new information or evidence of changed circumstances has been presented in this review to warrant a reconsideration of the Department's finding.

Essar and Ispat reported rupee–denominated, pre–shipment loans outstanding during the POR. Essar reported U.S. dollar–denominated, pre–shipment export loans outstanding during the POR. Tata and Ispat reported U.S. dollar–denominated, post–shipment loans outstanding during the POR. However, Ispat indicated in its questionnaire response that it paid no interest on its post–shipment loan during the POR. Therefore, for purposes of these preliminary results, we have not calculated a benefit for Ispat's post–shipment loan, as no interest was due during the POR.

To calculate the benefit conferred by the pre–shipment and post–shipment loan programs, we compared the actual interest paid on the loans with the amount of interest that would have been

[16] Information from Tata's annual reports is included in Tata's preliminary results calculation memorandum.

paid at the benchmark interest rates. We used a rupee- or US dollar–denominated benchmark, as appropriate (*see* ''Subsidies Valuation Information'' section, *supra*). Where the benchmark interest exceeds the actual interest paid, the difference constitutes the benefit. For pre–shipment loans, we calculated the company–specific program rates by dividing the benefit received by the company during the POR by the company's total exports during the POR.

For pre–shipment loans, we calculated the net subsidy rate by dividing the benefit by the participating company's total exports, consistent with the Department's practice. *See*, *e.g.*, Final Determination of Lined Paper Investigation Decision Memorandum at ''Pre- and Post–Shipment Export Financing.'' Because post–shipment loans are granted for particular shipments, our practice is to treat them as tied to particular markets, in accordance with 19 CFR 351.525(b)(2). *Id.* Therefore, to calculate each company's subsidy rate for post–shipment financing, we divided the benefit received by the company during the POR by the company's exports of subject merchandise to the United States during the POR.

We preliminarily determine the net countervailable subsidy rate under the pre–shipment export financing program to be 5.00 percent *ad valorem* for Essar and 0.03 percent *ad valorem* for Ispat. We preliminarily determine that no benefit was provided to Tata under the post–shipment export financing program during the POR.

2. Export Promotion Capital Goods Scheme (EPCGS)

The EPCGS provides for a reduction or exemption of customs duties and an exemption from excise taxes on imports of capital goods. Under this program, producers may import capital equipment at a reduced customs duty, subject to an export obligation equal to eight times the duty saved to be fulfilled over a period of eight years (12 years where the CIF value is Rs. 100 Crore[17]) from the date the license was issued. For failure to meet the export obligation, a company is subject to payment of all or part of the duty reduction, depending on the extent of the export shortfall, plus penalty interest.

The Department has previously determined that the import duty reductions provided under the EPCGS constitute a countervailable export subsidy. *See*, *e.g.*, Final Results of 3rd PET Film Review Decision Memorandum at ''Export Promotion Capital Goods Scheme;'' *see also* Final Determination of Lined Paper Investigation Decision Memorandum at ''Export Promotion Capital Goods Scheme.'' Specifically, the Department has found that under the EPCGS program, the GOI provides a financial contribution under section 771(5)(D)(ii) of Act, in the form of revenue foregone that otherwise would be due. The tax savings confer a benefit, as defined by section 771(5)(E) of the Act. The Department also found this program to be specific under section 771(5A)(B) of the Act because it is contingent upon export performance. No new information or evidence of changed circumstances has been provided with respect to this program. Therefore, we continue to find that import duty reductions provided under the EPCGS are countervailable export subsidies.

Essar, Ispat, JSW and Tata reported that they received import duty reductions under the EPCGS program. For these preliminary results, we have determined the benefit for each respondent in accordance with our findings and treatment of this program in other Indian CVD proceedings. *Id.* Under the Department's approach, there are two types of benefits under the EPCGS program. The first benefit is the amount of unpaid duties that would have to be paid to the GOI if the export requirements 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. *See* 19 CFR 351.505(d)(1).

For those EPCGS licenses for which JSW, Essar, Tata, and Ispat have not yet met the export obligations specified in the licenses by the end of the POR, we preliminarily find that the companies had outstanding contingent liabilities during the POR. We further determine that the amount of the contingent liability to be treated as an interest–free loan is the amount of the import duty reduction or exemption for those EPCGS licenses for which JSW, Essar, Tata, and Ispat applied but, as of the end of the POR, have not received a waiver of their obligations to repay the duties from the GOI.

Accordingly, for those unpaid duties for which JSW, Essar, Tata, and Ispat have yet to fulfill their export obligations, we preliminarily find the benefit to be the interest that they would have paid during the POR had they borrowed the full amount of the duty reduction at the time of import. Pursuant to 19 CFR 351.505(d)(1), we used a long–term interest rate as our benchmark to calculate the benefit of a contingent liability interest–free loan because the event upon which repayment of the duties depends (*i.e.*, the date of expiration of the time period for the companies to fulfill their export commitments) occurs at a point in time more than one year after the date the capital goods were imported. Specifically, we used the long–term benchmark interest rates as described in the ''Subsidies Valuation'' section, *supra*. The rate used corresponds to the year in which the companies imported the items under the program.

Further, consistent with our policy, absent acknowledgment in the form of an official letter from the GOI that the liability has been eliminated, we treat benefits from these licenses as contingent liabilities. *See e.g.*, Final Results of 3rd PET Film Review Decision Memorandum ''Export Promotion Capital Goods Scheme;'' *see also* Final Determination of Lined Paper Investigation Decision Memorandum at ''Export Promotion Capital Goods Scheme.''

The second benefit is the waiver of duty on imports of capital equipment covered by those EPCGS licenses for which export requirements have been met. For certain licenses, JSW, Essar, Tata, and Ispat reported that they had completed their export obligation under the EPCGS program, thereby eliminating the outstanding contingent liabilities on the corresponding duty exemptions. However, as explained above, in keeping with our practice, we have only accepted those claims that are accompanied by official letters from the GOI indicating that the company met its export obligation. Thus, for purposes of calculating the benefit, we treated licenses without accompanying letters from the GOI as contingent liabilities.

For those licenses for which respondents demonstrated that they had fulfilled the export obligations, we followed our methodology set forth in the *Final Determination of Lined Paper Investigation* and treated the import duty savings as grants received in the year in which the GOI waived the contingent liability on the import duty exemptions. In accordance with 19 CFR 351.524(b)(2), for each of the grant amounts, we performed the ''0.5 percent test'' to determine whether the benefit should be fully expensed in the year of receipt or allocated over the AUL used in this proceeding pursuant to the grant allocation methodology set forth in 19 CFR 351.524(d)(1).

JSW, Essar, Tata, and Ispat reported that they paid application fees in order to obtain their EPCGS licenses. We preliminarily find that the application fees paid qualify as an ''application fee,

[17] A crore is equal to 10,000,000 rupees.

deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the countervailable subsidy.'' *See* Section 771(6)(A) of the Act. As a result, we have offset the benefit in an amount equal to the fees paid.

To calculate the company–specific subsidy rates for this program, we summed the benefits from the waived licenses, which we determine confer a benefit in the form of a grant, and from those licenses that have yet to be waived, which we determine confer a benefit in the form of contingent liability loans. With respect to licenses related to imports of capital goods during the POR, we prorated the contingent liability by the actual number of days the contingent liability was in effect during the POR. *See* Final Determination of Lined Paper Investigation Decision Memorandum at ''Export Promotion Capital Goods Scheme.'' We then divided the total benefits received by each company by the company's total export sales for the POR. Ispat reported making deemed export sales during the POR. Consistent with our approach in the *Final Results of the 3rd PET Film Review*, we included deemed exports in the denominator of the net subsidy rate calculation. *See* Comment 1 of the Final Results of 3rd PET Film Review Decision Memorandum. On this basis, we preliminarily determine the net countervailable subsidy from this program to be 0.53 percent *ad valorem* for Essar, 10.51 percent *ad valorem* for Ispat, 1.71 percent *ad valorem* for JSW, and 4.28 percent *ad valorem* for Tata.

3. Duty Entitlement Passbook Scheme (DEPS)

India's DEPS was enacted on April 1, 1997, as a successor program 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 standard input/output norm (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 export product. DEPS credits are valid for 12 months and are transferable after the foreign exchange is realized from the export sales on which the DEPS credits are earned. With respect to subject merchandise, the GOI has established a SION for the steel industry.

The Department has previously determined that DEPS is a countervailable program. *See*, *e.g.*, Final Determination of Lined Paper Investigation Decision Memorandum at ''Duty Entitlement Passbook Scheme.'' Specifically, we determined that under 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 determining what imports are consumed in the production of the exported product and in what amounts. *Id*. Therefore, under section 771(5)(E) of the Act, we determined that the entire amount of import duty exemption earned during the POR constitutes a benefit.[18] We also found DEPS to be specific under section 771(5A)(B) of the Act because the program can only be used by exporters. *See* Final Determination of Lined Paper Investigation Decision Memorandum at ''Duty Entitlement Passbook Scheme.'' No new information or evidence of changed circumstances has been presented in this review to warrant reconsideration of the Department's finding.

We have previously determined that this program provides a recurring benefit under 19 CFR 351.519(c). *See e.g.*, *Preliminary Determination of Lined Paper Investigation* 71 FR 7916, 7920 (unchanged in *Final Determination of Lined Paper Investigation*). In accordance with past practice and pursuant to 19 CFR 351.519(b)(2), we preliminarily find that benefits from the DEPS program are conferred as of the date of exportation of the shipment for which the DEPS credits are earned. *See*, *e.g.*, *Final Affirmative Determination: Certain Cut–to-Length Carbon–Quality Steel Plate from India*, 64 FR 73131 (December 29, 1999) (*Final Determination of CTL Plate Investigation*) at Comment 4 (explaining that for programs such as the DEPS, ''we calculate the benefit on an 'earned' basis (that is upon export) where it is provided as a percentage of the value of the exported merchandise on a shipment–by-shipment basis and the exact amount of the exemption is known'').

For those DEPS credits that JSW and Tata earned during the POR, we followed our past practice and calculated the benefit under the DEPS program by multiplying the FOB value of each export shipment to the United States during the POR by the relevant percentage of DEPS credit allowed under the program. *Id*. We then subtracted as an allowable offset the actual amount of application fees paid for each license in accordance with section 771(6) of the Act.

Because DEPS credits are earned on a shipment–by-shipment basis, in calculating the benefit from the DEPS program, we normally calculate the net subsidy rate by dividing the benefit earned on subject merchandise export shipments to the United States by total sales of subject merchandise to the United States during the POR. In the case of JSW and Tata, we have followed this calculation methodology.

On this basis, we preliminarily calculate the net countervailable subsidy from the DEPS program to be 2.56 percent *ad valorem* for JSW, and 1.29 percent *ad valorem* for Tata.

4. Sale of High–Grade Iron Ore for Less Than Adequate Remuneration

The Department has previously determined that the GOI provides high–grade iron ore to steel producers for less than adequate remuneration through the government–owned National Mineral Development Corporation (NMDC). *See Notice of Final Results of Countervailing Duty Administrative Review: Certain Hot–Rolled Carbon Steel Flat Products from India*, 71 FR 28665 (May 17, 2006) (*Final Results of Second HRC Review*), and accompanying Issues and Decision Memorandum (Final Results of Second HRC Review Decision Memorandum) at ''Sale of High–Grade Iron Ore for Less Than Adequate Remuneration,'' *see also Notice of Preliminary Results of Countervailing Duty Administrative Review: Certain Hot–Rolled Carbon Steel Flat Products from India*, 71 FR 1512, 1516 (January 10, 2006) (*Preliminary Results of Second HRC Review*). NMDC is governed by the Ministry of Steel and the GOI holds 98 percent of its shares. No new information has been provided to the Department by the GOI to warrant a reconsideration of our finding. Therefore, for this review, we preliminarily find that the GOI directly, through the government–owned NMDC, continues to provide a financial contribution as defined under section 771(5)(D)(iii) of the Act and that the GOI's provision of high–grade iron ore is specific under section 771(5A)(D)(iii)(I) of the Act because the actual recipient of the subsidy is limited to industries that use iron ore, including the steel industry, and is thus limited in

[18] Specifically, we found that benefits under the DEPS program are conferred as of the date of exportation of the shipment for which the pertinent DEPS credits are earned. *See e.g.*, *Notice of Preliminary Affirmative Countervailing Duty Determination and Preliminary Negative Critical Circumstances Determination: Certain Lined Paper Products From India*, 71 FR 7916, 7920 (February 15, 2006) (*Preliminary Determination of Lined Paper Investigation*) (unchanged in *Final Determination of Lined Paper Investigation*).

number. Essar, Ispat, and JSW reported that they purchased high–grade iron ore lumps and fines (*i.e.*, iron ore with Fe content of 64 percent or above) from the NMDC during the POR.

Section 771(5)(E)(iv) of the Act provides that a benefit is conferred by a government when the government provides the good or service for less than adequate remuneration. Pursuant to 19 CFR 351.511(a)(2)(i) the Department will normally seek to measure the adequacy of remuneration by comparing the government price for the goods or service to a market–determined price resulting from actual transactions in the country in question. The regulations provide that such market–determined prices could include prices stemming from actual transactions between private parties, actual imports, or, in certain circumstances, actual sales from competitively run government auctions.

Ispat provided information concerning its purchases of iron ore lumps from private suppliers within India during the POR. There is no information on the record that suggests such private supplier prices do not reflect actual market–determined prices in India for comparable ore, or that such private–supplier prices have been distorted by GOI involvement in the market. Therefore, pursuant to 19 CFR 351.511(a)(2)(I), we used such private prices as our benchmark for purposes of calculating the benefit from Ispat's purchases of iron ore lumps from the GOI.

We made the following adjustments to the private iron ore lumps price used as the benchmark to measure the adequacy of remuneration of Ispat's purchases of iron ore lumps from the GOI. First, we calculated on a monthly basis a price per wet metric ton (including freight to the port). Next, we divided the sum of the monthly total costs by the total quantity of iron ore lumps Ispat purchased for the year. We then divided the resulting annual unit price by the corresponding iron ore content to arrive at the benchmark unit cost per Fe content (iron ore is priced by one unit of Fe content). Next, to ensure that the benchmark price reflects the same level of Fe content as the government price, we multiplied the benchmark unit cost per Fe content by the Fe content of the iron ore lumps Ispat purchased from the GOI.

With respect to Essar's purchases of iron ore lumps and fines from the GOI, the record of this review contains no information on actual transaction prices between private parties in India, imports, or sales from government auctions that can be used to measure any benefit to Essar as a result of this program.[19] Further, Ispat reported that it did not have any transactions between private parties in India, imports, or sales from government auctions of iron ore fines during the POR. Thus, for these transactions, the Department is unable to measure the adequacy of remuneration using actual market–determined prices in India, as directed by 19 CFR 351.511(a)(2)(i).

Under 19 CFR 351.511(a)(2)(ii), where actual market–determined prices are not available with which to make the comparison under paragraph (a)(2)(i), the Department will seek to measure the adequacy of remuneration by comparing the government price to a world market price where it is reasonable to conclude that such prices would be available to purchasers in the country in question. This second tier directs the Department to examine prices which it would be reasonable to conclude that purchasers could obtain in India. There are publications on the record that include prices from the world market for comparable goods which can be used as a benchmark to determine whether the GOI sold high–grade iron ore to the respondents for less than adequate remuneration. Specifically, several copies of the *Tex Report*, a daily Japanese publication that reports on world–wide price negotiations for iron ore, are on the record and include prices for high–grade iron ore that were set for 2006.[20] Therefore, consistent with our approach in the *Final Results of Second HRC Review*, we continue to find that the prices reported in the *Tex Report* constitute world market prices that would be available to the respondents in accordance with 19 CFR 351.511(a)(2)(ii). *See* Final Results of Second HRC Review Decision Memorandum at ''Sale of High–Grade Iron Ore for Less Than Adequate Remuneration.''

To measure the adequacy of remuneration of Essar's purchases of iron ore lumps and fines from the GOI and Ispat's purchases of iron ore fines from the GOI, we compared the prices that each company actually paid for its high–grade iron ore lumps and fines, on an fob port basis, to an average of the fob port prices of high–grade iron ore lumps and fines set forth in the *Tex Report*. We made the following adjustments to the benchmark information. We converted the iron ore lumps and fines' prices listed in U.S. cents per dry long ton to U.S. dollars. We then multiplied the per unit U.S. dollar price by the corresponding percentage of iron content (iron ore is priced by one unit of Fe content) to calculate a U.S. dollar high–grade iron ore amount. Next, we converted the U.S. dollar per unit price from dry long tons to metric tons. We then converted the U.S. dollar per unit price from metric tons to wet metric tons. Next, we applied the average exchange rate for 2006 to calculate a Rupee per wet metric ton price for high–grade iron ore. We then averaged the prices to arrive at the benchmark used to compare against Essar's and Ispat's respective purchases of high–grade iron ore.

To calculate the benefit, we multiplied the difference between the benchmark price and the government price by the quantity of iron ore lumps and fines purchased from the GOI. We then divided that amount by Essar's and Ispat's respective total sales for 2006. On this basis, we preliminarily calculate a net countervailable subsidy rate of 6.11 percent *ad valorem* for Essar and 0.54 percent *ad valorem* for Ispat.

As noted, JSW reported that it purchased high–grade iron ore fines and lumps from NMDC during the POR. JSW, however, submitted incomplete information to the Department's questions concerning the purchases. In particular, JSW submitted only the quantity of iron ore purchased from NMDC and no associated pricing data. *See* JSW's November 19, 2007, Supplemental Questionnaire Response at Table A. Therefore, as AFA, for these preliminary results, we find that JSW received the iron ore from NMDC at no charge during the POR. To calculate the benefit, we multiplied the quantity of iron ore JSW received from NMDC in 2006, by the benchmark price for iron ore fines and lumps, obtained from the *Tex Report*. We then divided the benefit by JSW's total sales for 2006. On this basis, we preliminarily calculate a program rate of 9.01 percent *ad valorem* for JSW.

5. 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

[19] The information, noted above, that Ispat provided concerning its purchases of iron ore lumps from private suppliers within India is business proprietary. As such, we are unable to use these private supplier prices to calculate a benefit for other recipients of either this program or the ''Captive Mining of Iron Ore'' program, noted below.

[20] Copies of several issues of the *Tex Report* reporting on negotiated iron ore prices with Australian, Brazilian iron ore producers and Japanese and European steel makers were submitted on the record by the GOI on November 15, 2007, and by Essar on November 14, 2007.

fulfilled their export requirement. The quantities of imported materials and exported finished products are linked through SIONs established by the GOI. During the POR, Essar and Ispat used advance licenses to import certain materials duty free.

The Department has previously found this program to be countervailable because under the 2002 - 2007 Export/ Import Policy Guidelines, the GOI does not have in place, and does not apply, a system that is reasonable and effective for determining what imports are consumed in the production of the exported product and in what amounts, in accordance with 19 CFR 351.519(a)(4). *See e.g., Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 71 FR 7534 (February 13, 2006) (*Final Results of 2nd PET Film Review*), and accompanying Issues and Decision Memorandum (Final Results of 2nd PET Film Review Decision Memorandum) at ''Advance License Program'' and ''Comment 1;'' *see also* Final Determination of Lined Paper Investigation Decision Memorandum at ''Advance License Program.'' In the *Final Results of 2nd PET Film 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* Final Results of 2nd PET Film Review Decision Memorandum at Comment 1.

Also, in the *Final Results of 2nd PET Film Review*, 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. *Id.*

In the *Final Determination of Lined Paper Investigation*, 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* Final Determination of Lined Paper Investigation Decision Memorandum at Comment 10. However, in the investigation, 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, in the *Final Determination of Lined Paper Investigation*, the Department explained that while we 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 period of investigation. *Id.* 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, 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.

In this administrative review, the GOI indicated that it had revised its Foreign Trade Policy and Handbook of Procedures for ALP prior to the POR. Specifically, the GOI revisions, introduced on May 13, 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. 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.[21] Further, the GOI stated that in the case of excess duty–free inputs, penalties have been put in place for the exporter.

In addition, the GOI argues that it has also put into place an internal system of regularly monitoring and reviewing SIONs. The GOI refers to Chapter 4, paragraphs 4.10–4.10.2 of the Foreign Trade and Policy Handbook of Procedures, which states that:

> {a}t the beginning of the financial year or at any other time as the {Norms Committee (NC)} may find it necessary, 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 revision. It is mandatory for the industry/exporter(s) to provide production and consumption data etc. as may be required by DGFT/EPC for revision of SION. Otherwise, the applicant shall not be allowed to take the benefit of Advance Authorization Scheme.

In addition, in this administrative review the GOI argues that advance licenses are issued with actual user conditions and are not transferable even after completion of the export obligation.

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 preliminarily determine that systemic issues continued to exist in the ALP system during the POR, all of which were enumerated in the *Final Results of 2nd PET Film Review* and the *Final Determination of Lined Paper Investigation*. For example, while the GOI pointed to provisions in the Handbook of Procedures that lay out the procedures for the levying of penalties, the GOI did not demonstrate any enforcement of these deadlines and actual application of the penalty provisions. *See* Final Results of 2nd PET

[21] 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. According to the GOI, producers/exporters are required to file Appendix 23 with the DGFT at the beginning of each year. According to the GOI, the details of Appendix 23 are then cross-verified and authenticated by independent chartered accountants.

Film Review Decision Memorandum at ''Advance License Program'' and Final Determination of Lined Paper Investigation Decision Memorandum at ''Advance License Program.'' 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 Final Results of 2nd PET Film Review Decision Memorandum, and as requested in the initial and supplemental questionnaires of this 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 DGFT 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. Instead, the GOI stated that it decides which SIONs are to be reviewed based on the inputs received from various concerned government authorities. Thus, we preliminarily determine 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.

Therefore, despite the changes to the ALP noted by the GOI, we preliminarily determine 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 351.519(c), the exemption of import duties on inputs consumed in production of an exported product normally provides a recurring benefit. Under this program Essar and Ispat 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 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.

Consistent with our practice, we attributed benefits under the ALP to the recipient's export sales. Accordingly, to calculate the net subsidy rate, we divided the resulting net benefit by Essar's and Ispat's respective total export sales for the POR. Consistent with our approach in recent Indian proceedings involving the ALP, we preliminarily determine that ''deemed export'' sales should be included in the export sales denominator for the ALP program only when the respondent applied for and was granted licenses during the POR based on both physical exports and deemed exports. *See* Comment 1 of the Final Results of 3rd PET Film Review Decision Memorandum.

As noted above, Ispat reported deemed export sales during the POR. Because Ispat did not provide information regarding the extent to which its licenses were earned via deemed exports, we have therefore limited the denominator of the net subsidy rate calculation to physical exports. On this basis, we preliminarily determine the net countervailable subsidy rate under the ALP to be 0.13 percent *ad valorem* for Essar and 0.50 percent *ad valorem* for Ispat.

6. Loan Guarantees from the GOI

In the underlying investigation, the Department found that the GOI or State Bank of India (SBI) provides loan guarantees on a case–by-case basis to particular industrial sectors. *See Final Determination of HRC Investigation*, 64 FR at 73137. We further determined, in accordance with section 771(5)(D)(i) of the Act, that GOI loan guarantees confer countervailable subsidies because they result in a financial contribution by the government in the form of a potential direct transfer of funds or liabilities. In accordance with section 771(5)(E)(iii) of the Act, the loan guarantees provide a benefit to the recipient in the amount of the difference between the amount the recipient pays on the guaranteed loan and the amount the recipient would pay for a comparable commercial loan if there were no government guarantee. Moreover, as we determined in the *Final Determination of HRC Investigation*, these loan guarantees are limited to certain companies selected by the GOI on an ad hoc basis and, thus, the program is specific under section 771(5A)(D)(iii)(II) of the Act. *Id.*

In the instant review, JSW reported having loan guarantees from the SBI for certain long–term foreign currency denominated loans outstanding during the POR. No new information or evidence of changed circumstances has been presented in this review to warrant reconsideration of the Department's finding that loan guarantees from the SBI are countervailable.

In order to determine whether the government guarantees that JSW received conferred a benefit under section 771(5)(E)(iii) of the Act, we compared the total amount JSW paid for the guaranteed loans with the benchmark interest rates that would have been charged on a comparable commercial loan.[22] Consistent with the approach discussed in the ''Subsidies Valuation Information'' section, *supra*, where available, as our benchmark we used the interest rate on comparable, foreign currency loans that JSW received from commercial lenders. Where company–specific benchmarks were unavailable, consistent with our practice, we used the lending rate for the appropriate foreign currency, as reported by the IMF. *See* Final Determination of HRC Investigation Decision Memorandum at ''Benchmarks for Loans and Discount Rate.''

To calculate the net subsidy rate, we divided the benefit by JSW's total sales. On this basis, we calculated net subsidy rate of 0.01 percent *ad valorem* for JSW.

7. Steel Development Fund Loans

The Steel Development Fund (SDF) was established in 1978, during a time when the steel sector in India was subject to price and distribution controls. From 1978 through 1994, India's integrated steel producers, SAIL, Tata, Rashtriya Ispat Nigam Limited (RINL), and India Iron & Steel Company Limited (IISCO), were mandated by the GOI to increase the prices for the products they sold. The proceeds from the price increases (*i.e.*, levies) were remitted to the SDF. Under the SDF program, companies that contributed to the fund are eligible to take out long–term loans at advantageous rates. Loans from the SDF are made for the following purposes: (1) finance capital improvements and research and development projects; (2) provide funding for rebates to the Small Scale Industries Corporations on supplies by those companies; and (3) meet the expenditures of the Economic Research Unit of the Joint Plant Committee (JPC).

In the underlying investigation, the Department examined loans under the SDF. *See* Final Determination of HRC Investigation Decision Memorandum at ''Loans from the Steel Development Fund.'' The Department found that the Commission for Iron and Steel, which is known as CI&S, is led by the Secretary of the Ministry of Steel. This official is an ex–officio member of the SDF Managing Committee, and Chairman of

[22] There is no information on the record regarding what, if any, guarantee fees may have applied, so no adjustment has been made in this regard.

the JPC. The issuance and administration of loans under the SDF program are supervised by the JPC. However, according to the GOI, all of the SDF's lending decisions are subject to the review and approval of the SDF Managing Committee. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Determination With Final Antidumping Duty Determinations: Certain Hot–Rolled Carbon Steel Flat Products From India*, 66 FR 20240, 20248 (April 20, 2001) (*Preliminary Determination of HRC Investigation*) (unchanged in the *Final Determination of HRC Investigation*).

In the underlying investigation, we also found that the levies originated from producer price increases that were mandated and determined by the JPC. Because the Secretary of the Ministry of Steel, in his capacity as the head of the CI&S, acts as an ex–officio member and Chairman of the JPC, we determined that the GOI, through the JPC, has a controlling interest in the manner and amount of contributions that are made to the SDF. *See Preliminary Determination of HRC Investigation*, 66 FR at 20248 (unchanged in *Final Determination of HRC Investigation*). In particular, we found that during the period in which the funds for the SDF were provided, the GOI controlled the price of steel products in India. In order to create the SDF, the GOI, acting through the JPC, mandated steel price increases which were earmarked for the SDF. Steel producers collected this price increase, which was paid by steel consumers in India, and these additional funds were then placed into the SDF as a source of concessional financing for the Indian steel industry. Therefore, in the underlying investigation, we concluded that the GOI played a direct role in the creation of the SDF by mandating price increases on steel products, which were authorized for use solely as a source of funds for the SDF. *Id.*

Under section 771(5)(B) of the Act, a subsidy can be found whenever the government makes a financial contribution, when it provides a payment to a funding mechanism to provide a financial contribution, or when it entrusts or directs a private entity to make a financial contribution. In the underlying investigation, we determined that the GOI directed the contribution of funds for the SDF within the meaning of section 771(5)(B) of the Act, by levying price increases on steel products which were routed into the SDF. Furthermore, because the Secretary of the Ministry of Steel has a major leadership role in the JPC and the SDF Managing Committee, the bodies that issue and administer loans under the SDF, we determined that the GOI exercises control over the way in which funding is disbursed under this program. *Id.*

Therefore, in the underlying investigation, we determined that loans under the SDF constitute a financial contribution within the meaning of section 771(5)(D)(i) of the Act. We also determined that loans under the SDF are specific within the meaning of section 771(5A)(D)(i) of the Act because eligibility for loans from the SDF is limited to steel companies. We further found that loans under the SDF program confer a benefit under section 771(5)(E)(ii) of the Act to the extent that the interest paid under the program during the POR was less than what would have been charged on a comparable commercial loan. *Id.* No new or substantive evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this determination.

In the instant administrative review, Tata reported SDF loans outstanding during the POR. In order to determine whether Tata's loans under the SDF program conferred a benefit within the meaning of section 771(5)(E)(ii) of the Act, we compared the actual interest rates charged to the benchmark interest rates that would have been charged on a comparable commercial loan. As discussed in the ''Subsidies Valuation Information,'' *supra*, where available we used as our benchmark the weighted–average interest rates on Tata's rupee–denominated, long–term loans. For those years in which no company–specific long–term benchmark was available for Tata, we used the average interest rate for India's PLR, as published by the RBI. Our comparison of the interest rates indicates that the interest rate payments that Tata made under the SDF program were less than what it would have otherwise paid on a comparable commercial loan. Thus, we preliminarily determine that the interest savings realized under this program conferred a benefit upon Tata.

To calculate the net subsidy rate, we divided the total amount of interest savings Tata obtained under this program during the POR by its total sales for the POR. Our calculation of the net subsidy rate is consistent with our approach in the underlying investigation. *See Preliminary Determination of HRC Investigation*, 66 FR at 20248 (unchanged in *Final Determination of HRC Investigation*). On this basis, we preliminarily determine the net countervailable subsidy to be 0.41 percent ad valorem for Tata.

8. Target Plus Scheme (TPS)

On September 1, 2004, the GOI introduced the TPS in the 2004 - 2009 edition of its ''Foreign Trade Policy'' handbook. Under TPS, exporting companies are eligible for duty credit entitlement certificates for the percentage of incremental growth in exports made during the 2004–2005 period, as compared to the 2003–2004 period.

Tata reported earning credits under the TPS prior to and during the POR. JSW reported that it used TPS credits earned prior to the POR to import various items during the POR. In its questionnaire response, JSW also reported that it did not apply for or earn TPS credits during the POR.

We preliminarily find this program to be similar to the DEPS program, which is countervailable, in that all exporters are eligible to earn value–based TPS credits on a post–export basis, and may use the credits for the purpose of paying customs duty on subsequent imports of any input, regardless of whether they are consumed in the production of an exported product.[23] Similar to the Department's approach under DEPS, we preliminarily determine that a financial contribution, in the form of revenue forgone, as defined under section 771(5)(D)(ii) of the Act, is provided under the TPS program because the GOI provides credits for the future payment of import duties. We also preliminarily find that the TPS program provides a benefit. 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. Therefore, in accordance with 19 CFR 351.519(a)(4) and section 771(5)(E) of the Act, the entire amount of import duty exemption earned during the POR constitutes a benefit. Further, because the TPS program can only be used by exporters, we preliminary determine that the program is specific under section 771(5A)(B) of the Act.

We also preliminarily determine that the TPS credits provide a recurring benefit under 19 CFR 351.519(c). In keeping with our approach concerning value–based licenses like those provided under the DEPS, we calculated the benefit under the TPS on an ''as–earned'' basis because the amount of the exemption is known at the time the TPS license is earned. However, unlike the DEPS, TPS credits are not tied to particular sales. Rather, under the TPS,

[23] However, unlike DEPS licenses, TPS licenses are not transferable.

credits are provided as a percentage of the value of incremental growth in the exported merchandise. As such, participating firms do not know the value of TPS credits they have earned until they receive the TPS license. Therefore, for purposes of these preliminary results, we find that the date on which participating firms receive their TPS licenses constitutes the time period in which benefits are earned. Accordingly, for purposes of these preliminary results, we have not included TPS credits earned prior to the POR in our benefit calculations. Under this approach, we therefore preliminarily determine that JSW did not benefit from the TPS during the POR.

For purposes of calculating the benefit under the TPS for Tata, we summed all TPS credit earned by Tata during the POR. We then subtracted, as an allowable offset, the actual amount of any application fees paid for each license in accordance with section 771(6) of the Act.

As stated above, we preliminarily determine that TPS credits are contingent upon export activity, but unlike the DEPS, the credits are not tied to particular sales. Therefore, to calculate the net subsidy rate, we divided the amount of TPS credits earned during the POR by Tata's total export sales for the POR. On this basis, we preliminarily determine Tata's net countervailable subsidy rate under the program to be 1.80 percent *ad valorem*.

In its questionnaire response, JSW also stated that the TPS program was eliminated on April 1, 2006. The company provided a copy of a GOI document announcing the termination of the program.

We further note that 19 CFR 351.526(d) provides that the Department will not adjust the cash deposit rate if the program–wide change consists of a terminated program and: (1) the Department determines that residual benefits may continue to be bestowed under the terminated program, or (2) the Department determines that a substitute program for the terminated program has been introduced and the Department is not able to measure the amount of countervailable subsidies provided under the substitute program. However, in this review, the GOI has not provided the required information regarding residual benefits and successor programs, as discussed under 19 CFR 351.526(d).

Thus, because the GOI has not provided the required information regarding the termination of and any residual benefits from the program, or possible substitute programs, we cannot take a program–wide change into account in this administrative review. In any future countervailing duty proceedings involving merchandise from India and this program, the GOI will have with the opportunity to demonstrate whether a program–wide change has occurred with respect to the TPS under 19 CFR 351.526.

9. Captive Mining of Iron Ore

Under the Mines and Minerals Development and Regulation Act of 1957, as amended, (MMDR) and the Mineral Concession Rules of 1960, as amended, the GOI grants captive mining rights for minerals, including iron ore, to eligible applicants. The MMDR includes a schedule that lists minerals for which mining rights are controlled by the GOI. Iron ore is included on this schedule.

According to documents issued by the GOI, captive mining rights of iron ore are limited to a small group of companies. For example, according to a report issued by the GOI's Ministry of Steel, captive mining rights of iron ore are limited to a handful of steel and mining companies, including Tata. *See* The Report of the ''Export Group'' on Preferential Grant of Mining Leases for Iron Ore, Manganese Ore and Chrome Ore, as issued by the Ministry of Steel at page 50, which was included as Exhibit 3 of petitioner's May 23, 2007, submission. In addition, a study commission by the GOI further indicates that the GOI's provision of captive iron ore mining rights has been largely limited to large Indian steel producers. *See* National Mineral Policy, Report of the High Level Committee (a.k.a., the Hoda Report) at page 143, which was included as Exhibit 10 of petitioner's May 23, 2007, submission.

We preliminarily determine that the provision of iron ore under this program constitutes a financial contribution, in the form of a provision of a good, within the meaning of section (771)(D)(iii) of the Act. Furthermore, we preliminarily determine that the provision of iron ore under the Captive Mining Rights program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act because the provision of captive iron ore mining rights is limited to certain enterprises, such as steel producers.

Section 771(5)(E)(iv) of the Act provides that a benefit is conferred by a government when the government provides the good or service for less than adequate remuneration. Pursuant to 19 CFR 351.511(a)(2)(i) the Department will normally seek to measure the adequacy of remuneration by comparing the government price for the goods or service to a market–determined price resulting from actual transactions in the country in question. The regulations provide that such market–determined prices could include prices stemming from actual transactions between private parties, actual imports, or, in certain circumstances, actual sales from competitively run government auctions.

Tata reported that its sole source of iron ore during the POR was through the captive mining rights program. Thus, Tata was not able to provide a market–determined benchmark price resulting from actual transactions in the country in question, as described under 19 CFR 351.511(a)(2)(i).

Under 19 CFR 351.511(a)(2)(ii), if there is no useable market–determined price with which to make the comparison under sub–paragraph (a)(2)(i), the Department will seek to measure the adequacy of remuneration by comparing the government price to a world market price where it is reasonable to conclude that such price would be available to purchasers in the country in question. This second tier directs the Department to examine prices which it would be reasonable to conclude that purchasers could obtain in India. There are publications on the record that include prices from the world market for comparable goods which can be used as a benchmark to determine whether the GOI sold high–grade iron ore to the respondents for less than adequate remuneration. As explained above in the ''Sale of High–Grade Iron Ore for Less Than Adequate Remuneration'' section of these preliminary results, copies of the *Tex Report*, which contain are on the record and include prices for high–grade iron ore that were set for 2006. Therefore, consistent with our approach in the *Final Results of Second HRC Review*, we continue to find that the prices reported in the *Tex Report* constitute world market prices that would be available to the respondents in accordance with 19 CFR 351.511(a)(2)(ii). See Final Results of Second HRC Review Decision Memorandum at ''Sale of High–Grade Iron Ore for Less Than Adequate Remuneration.''

To calculate the benefit, we first derived a per unit price for the iron ore that Tata extracted under the captive mining rights program. Specifically, we calculated a per unit price for the captive mining fees Tata paid to government entities during the POR. To this amount, we added the operational mining costs, on a per unit basis, which consisted of materials, labor, depreciation, overhead, and royalties. We then compared this total per unit cost to the per unit iron ore benchmark.

We made the following adjustments to the benchmark information. We converted the iron ore fines' prices listed in U.S. cents per dry long ton to U.S. dollars. We then multiplied the per unit U.S. dollar price by the corresponding percentage of iron content (iron ore is priced by one unit of Fe content) to calculate a U.S. dollar high–grade iron ore amount. Next, we converted the U.S. dollar per unit price from dry long tons to metric tons. We then applied the average exchange rate for 2006 to calculate a Rupee per metric ton price for high–grade iron ore. We then averaged the prices to arrive at the benchmark used to compare against Tata's per unit cost of iron ore. To calculate the benefit, we multiplied the difference between the government per unit price and the benchmark per unit price by the total amount of iron ore Tata mined from government sources under the program.

To calculate the net subsidy rate, we divided the benefit by Tata's total sales during the POR. On this basis, we calculated a net subsidy rate of 9.42 percent *ad valorem* for Tata.

In its November 1, 2007, supplemental questionnaire response, JSW stated that the GOI did not provide captive mining rights to the company. We issued supplemental questions regarding captive mining rights on November 8, 2007. JSW did not submit a response to that supplemental questionnaire. Because JSW did not provide any further information or supporting documentation to substantiate the company's non–use of captive mining rights, we are applying facts available with an adverse inference to address these omissions. Accordingly, we preliminarily find that the net subsidy rate for this program is 16.63 percent *ad valorem* for JSW.

10. Captive Mining Rights of Coal

In 1973, the GOI nationalized coal mining under the Coal Mines Nationalization Act. The legislation initially reserved coal mining for public companies. However, pursuant to the Coal Mines Nationalization Amendment Act of 1976, the law was revised to allow private iron and steel companies to mine for coal for captive use (*i.e.*, the right of selected companies to extract coal from government–owned land for use in their production processes). In 1993 through 1996, the GOI amended the Act to also allow power companies and the cement industry to mine coal for captive use.

Under the program, the GOI, in conjunction with local state governments, grants captive mining rights of coal in what is referred to as captive coal blocks. According to a document produced by the GOI's Ministry of Coal entitled, ''Guidelines for Allocation of Captive Blocks and Conditions of Allotment Through the Screening Committee,'' in granting captive coal blocks, preference shall be accorded to steel plants with annual capacities of more than one million metric tons. *See* Guidelines for Allocation of Captive Blocks and Conditions of Allotment Through the Screening Committee at Exhibit 23 of petitioner's May 23, 2007, submission.

In its questionnaire response, Tata acknowledged that the GOI and the State Government of Jharkhand (GOJ) granted it captive coal mining rights. Tata further acknowledged that during the POR it used such captive coal mining rights to extra coal from government–owned land located in West Bokaro and Jharia, in the state of Jharkhand.

We preliminarily determine that the provision of coal under this program constitutes a financial contribution, in the form of a provision of a good, within the meaning of section (771)(D)(iii) of the Act. Furthermore, we preliminarily determine that the provision of coal under the Captive Mining Rights program is *de jure* specific under section 771(5A)(D)(i) of the Act because preference is given in the allocation of coal blocks to steel producers whose annual production capacity exceeds one millions tons.

Section 771(5)(E)(iv) of the Act provides that a benefit is conferred by a government when the government provides the good or service for less than adequate remuneration. Pursuant to 19 CFR 351.511(a)(2)(i) the Department will normally seek to measure the adequacy of remuneration by comparing the government price for the goods or service to a market–determined price resulting from actual transactions in the country in question. The regulations provide that such market–determined prices could include prices stemming from actual transactions between private parties, actual imports, or, in certain circumstances, actual sales from competitively run government auctions.

Tata reported importing coal from a private supplier during the POR. There is no information on the record that suggests such private supplier prices do not reflect actual market–determined prices in India for comparable ore, or that such private–supplier prices have been distorted by GOI involvement in the market. Therefore, pursuant to section 19 CFR 351.511(a)(2)(i), we used such private prices as our benchmark for purposes of calculating the benefit from Tata's purchases of coal under the captive mining rights program.

To calculate the benefit, we first derived a per unit price for the coal that Tata extracted under the captive mining rights program. Specifically, we calculated a per unit price for the captive mining fees Tata paid to government entities during the POR. To this amount, we added the operational mining costs, on a per unit basis, which consisted of materials, labor, depreciation, overhead, and royalties. We then compared this total per unit cost to the per unit price that Tata paid for the coal it imported from commercial sources during the POR. To calculate the benefit, we multiplied the difference between the government per unit price and the imported per unit price by the total amount of coal Tata mined from government sources under the program.

To calculate the net subsidy rate, we divided the benefit by Tata's total sales during the POR. On this basis, we calculated a net subsidy rate of 12.01 percent ad valorem for Tata.

B. State Government of Gujarat Programs

1. State Government of Gujarat Tax Incentives

Pursuant to a 1995 Industrial Policy of Gujarat and an Incentive Policy of 1995–2000, the State Government of Gujarat (GOG) offered incentives, such as sales tax exemptions and deferrals, to companies that locate or invest in certain disadvantaged or rural areas in the State of Gujarat. A company could be eligible to claim exemptions or deferrals valued up to 90 percent of the total eligible capital investment. These policies exempt companies from paying sales tax on the purchases of raw materials, consumable stores, packing materials and processing materials. Other available benefits include exemption or deferment from sales tax and turnover tax on the sale of intermediate products, by–products, and scrap. The Pioneer and Prestigious programs are the two programs that are available under this policy. To be eligible for the incentives, companies must have made a fixed capital investment of over 5 crores (Pioneer Scheme) or 300 crores (Prestigious Scheme) in a qualified under–developed area in the state of Gujarat. *See Preliminary Results of Second HRC Review*, 71 FR 1512, 1514; *see also* the Final Results of Second HRC Review Decision Memorandum at ''State Government of Gujarat (SGOG) Tax Incentives.''

The amount of the eligible capital investment is linked to the amount of the incentives received over a period of eight to 14 years, depending on the category of participation. For the Pioneer Scheme, which initially began in 1986, companies making a capital investment during 1986 and 1991 were allowed to utilize this program. For the Prestigious Scheme, tax incentives were offered only for investment units which started production between 1990 and 1995. *See Preliminary Results of Second HRC Review*, 71 FR at 1514 and Final Results of Second HRC Review Decision Memorandum at ''State Government of Gujarat (SGOG) Tax Incentives'' section. In the current review, Essar stated that it completed the 14-year sales tax exemption granted under the Pioneer Scheme on July 31, 2004, and, therefore, sales taxes offered under the program were not available to Essar during the POR. However, Essar indicated that it received sale tax exemptions under the Prestigious program from the beginning of the POR through March 31, 2006.

In the *Final Determination of PET Resin Investigation*, the Department determined that the sales tax exemptions under the Prestigious Scheme resulted in companies not paying the state sales tax otherwise due, and thus constituted a countervailable subsidy. *See Final Affirmative Countervailing Duty Determination: Bottle–Grade Polyethylene Terephthalate (PET) Resin from India*, 70 DR 13460 (March 21, 2005) (*Final Determination of PET Resin Investigation*), and the ''State of Gujarat (SOG) Sales Tax Incentive Scheme'' section of the accompanying Issues and Decision Memorandum (Final Determination of PET Resin Investigation Decision Memorandum). Consistent with our findings in the *Final Determination of PET Resin Investigation*, we preliminarily determine that this program is countervailable. We preliminarily determine that the program is limited to only those companies that make an investment in a specified disadvantaged area and is therefore specific under section 771(5A)(D)(iv) of the Act. We also preliminarily find that the GOG provides a financial contribution under section 771(5)(D)(ii) of the Act by foregoing the collection of sales tax revenue and that Essar receives a benefit under section 771(5)(E) of the Act in the amount of sales tax that Essar does not pay.

In the case of an exemption of an indirect tax, the Department will consider the benefit as having been received at the time the recipient firm otherwise would be required to pay the indirect tax. *See* 19 CFR 351.510(b)(1). We preliminarily determine that the date Essar otherwise would be required to pay the exempted sales taxes corresponds to the date of the annual state tax return Essar filed during the POR, which is the return covering the period April 1, 2005, through March 31, 2006. Therefore, to calculate the benefit under the Prestigious program we summed the amount of sales tax exemptions Essar received, as indicated by the annual state tax return Essar filed during the POR.

To calculate the net subsidy rate, we divided the benefit amount by Essar's total sales. On this basis, we preliminarily calculated an *ad valorem* rate of 1.08 percent for Essar.

In the course of explaining its use of the Pioneer and Prestigious Schemes, Essar stated that it also used a Value Added Tax (VAT) that the GOG established on April 1, 2006. According to Essar, the system remits VAT to eligible firms using the balance of tax incentives under the Prestigious Scheme that remained unutilized after the end of the 8- to 14-year time window allowed under the Prestigious Scheme.

The VAT remission system operates differently with respect to purchases and sales. For purchases within the State of Gujarat, eligible firms (*i.e.*, firms with existing balances under the Prestigious Scheme) must pay full tax to the vendor. However, the tax paid is credited to the company in the form of an input tax credit to be refunded by the State Government. The GOG then debits the refund received by the firm against the firm's remaining balance of tax credits leftover from the Prestigious Scheme.

With respect to sales, a company is required to charge sales tax from its customers (both local VAT and central sales tax). However, the tax collected by the seller does not have to be paid to the State of Gujarat, but instead can be retained through a remission order provided by the state's sales tax authorities. In such instances, the amount of sales tax retained by the firm is credited against the firm's remaining balance of tax credits leftover from the Prestigious Scheme.

Based on various aspects of the description of this system (*e.g.*, that the recipient may retain the local and central taxes that it has charged on sales of its products), it appears that this tax system is not structured as a conventional VAT. This is further confirmed by the manner in which eligibility for and the amounts of these remissions appear to be linked to the Prestigious Scheme. Because the source of the tax remissions received under the system comes from participating firms' unused tax credits under the Prestigious Scheme, we preliminary determine that these indirect tax remissions constitute a financial contribution, in the form of revenue forgone, under section 771(5)(D)(ii) of the Act and are regionally specific under section 771(5A)(D)(iv) of the Act. We further preliminarily determine that these indirect tax remissions confer a benefit under section 771(5)(E) of the Act and 19 CFR 351.510(a)(1) because they enable participating firms to pay less indirect taxes than they would have to pay absent the system.

In its questionnaire response, Essar states that during the period April 1, 2006, through October 10, 2006, the remittances it obtained under this remission system exhausted the balance of tax credits earned under the Prestigious program. *See* pages 13 and 14 of Essar's November 8, 2007, supplemental questionnaire response, which indicates the balance of credits exhausted during the POR. Therefore, for purposes of the preliminary results, we are treating the balance of tax credits under the Prestigious Program that Essar used to obtain these remissions during the POR as the benefit.

To calculate the net subsidy rate, we divided the benefit amount by Essar's total sales. On this basis, we preliminarily calculated an *ad valorem* rate of 0.02 percent for Essar.

We will consider any additional information and comment that parties may want to provide concerning this remission system, and will reconsider our findings, as appropriate, for the final results.

C. State Government of Karnataka Programs

As explained above in the ''Adverse Facts Available'' section, *supra*, the SGOK failed to respond to the Department's new subsidy questionnaire regarding alleged subsidy programs pertaining to JSW and VMPL. Accordingly, pursuant to section 776(b) of the Act, we find that all newly alleged subsidy programs determined to be used by JSW and VMPL, as listed below, constitute financial contributions and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act, respectively.

1. SGOK's New Industrial Policy and Package of Incentives and Concessions of 1993 (1993 KIP)

JSW reported that it received assistance from the SGOK under the 1993 KIP to construct an integrated steel plant in the state of Karnataka. JSW stated that eligibility for the subsidies

was limited to industries located within designated regions of Karnataka. As discussed in ''Adverse Facts Available'' section, *supra*, JSW failed to submit complete information to the Department concerning the full extent of assistance the company received from the SGOK under the 1993 KIP. In its November 1, 2007, response, JSW submitted a copy of the SGOK's November 10, 1994, order that sanctioned infrastructure assistance, incentives, and concessions for JSW's steel plant. This government document outlines various types of assistance for the project including land, power, water, roads, iron ore, coal, limestone/dolomite, port facilities, training facilities, term loans, an interest free unsecured loan, and tax incentives. On November 8, 2007, we issued to JSW a supplemental questionnaire requesting information on the various types of assistance outlined in the SGOK's approval document. JSW failed to submit a response to that questionnaire.

In its questionnaire responses, JSW, however, did submit limited information on the VAT refunds it received during the POR for domestic sales made in the state of Karnataka. JSW also provided some limited information regarding the amount of tax incentives the company was eligible to receive under the 1993 KIP incentives package from the SGOK in its new subsidies questionnaire response, which was submitted to the Department on November 1, 2007.

JSW's failure, however, to provide complete information requested by the Department has impeded our investigation of the new subsidies allegations. JSW also has not provided us with any explanation as to why it could not provide the information within the established deadlines. Therefore, we preliminarily determine that JSW has failed to act to the best of its ability and, in accordance with section 776(b) of the Act, we are applying facts available with an adverse inference to address these omissions for each type of assistance approved by the SGOK, with the exception of the VAT refunds and tax incentives (see discussion below for these two assistance programs). As such and as explained above in the ''Adverse Facts Available'' section of these preliminary results, we are assigning to each of the following sub–programs the AFA rate of 16.63 percent *ad valorem*: land, power, water, roads, iron ore, coal, limestone/dolomite, port facilities, training facilities, term loans, and an interest free unsecured loan. Treatment of each type of assistance as a ''sub–program'' (*i.e.*, as a distinct program) is consistent with the Department's approach in other countervailing duty cases. *See*, *e.g.*, *Carbon and Certain Alloy Steel Wire Rod from Turkey; Final Negative Countervailing Duty Determination*, 67 FR 55815 (August 30, 2002), and accompanying Issues and Decision Memorandum at ''General Incentives Encouragement Program (GIEP),'' under ''Programs Determined To Be Countervailable,'' where the Department treated each type of assistance under the GIEP as a separate sub–program.

Concerning tax programs, JSW reported that it received VAT refunds from the SGOK during the POR for domestic sales. JSW reported that the VAT refunds are only for companies that set up productive units in the backward area of Karnataka and are only permitted for products sold domestically within Karnataka. *See* JSW's November 19, 2007, Supplemental Questionnaire Response at 19 and 22.

We preliminarily find that, consistent with 19 CFR 351.510(a)(1), the benefit to JSW is the total amount of VAT refunds that the company received for the POR. JSW provided to the Department the VAT refunds the company received in 2006 in its November 19, 2007, supplemental questionnaire response at Table C. We then divided that amount by JSW's total sales for 2006. On this basis, we preliminary determine for the VAT refund sub–program a rate of 0.83 percent *ad valorem* for JSW.

In its November 1, 2007, questionnaire response, JSW also stated that it received tax incentives and that the company's tax incentives are limited to the capital investment in the fixed assets of the project. JSW reported a monetary amount for the fixed assets investment. JSW, however, did not explain the extent of tax assistance the company received from the SGOK or whether the ''capped'' tax incentives were part of or separate from the VAT refunds that the company received during the POR. Therefore, as AFA, we preliminarily find that in addition to the VAT refunds, JSW received other tax incentives during the POR. To calculate the benefit to JSW from these other tax incentives, we first divided the total fixed asset investment amount by the number of years that JSW can receive tax incentives. We then divided the amount apportioned to 2006 by JSW's total sales for 2006. On this basis, we preliminary determine for the tax incentives sub–program a rate of 3.99 percent *ad valorem* for JSW.

In the November 8, 2007, supplemental questionnaire covering the new subsidies, we asked VMPL, an iron ore supplier that is majority owned by JSW, to respond to the questions regarding its receipt of assistance under the 1993 KIP. VMPL is a joint venture between JSW and MML to supply iron ore to JSW's integrated steel plant. As reported in JSW's financial statement, VMPL meets nearly 50 percent of JSW's iron ore requirements and ''is pursuing with the Government of Karnataka for allocation of additional mining areas to meet the entire iron ore requirements of your company.''[24] (*See* ''Other SGOK Subsidies'' below for more information on VMPL.) VMPL did not submit a response to the questionnaire. Therefore, pursuant to section 776(b) of the Act, we preliminarily determine that VMPL has failed to act to the best of its ability and are applying facts available with an adverse inference to address these omissions for each type of assistance provided by the SGOK as outlined in JSW's November 10, 1994, approval order.

Under section 776(b) of the Act and 19 CFR 351.525(b)(6)(vi), we preliminarily determine that cross–ownership exists between JSW and VMPL based on the nature and extent of the ownership relationship between the two. Further, consistent with information on the record regarding the nature and extent of the supplier relationship between VMPL and JSW, pursuant to section 776(b) of the Act and 19 CFR 351.525(b)(6)(iv), we preliminarily determine that subsidies received by VMPL are attributable to the combined sales of VMPL and JSW.

Therefore, in order to account for VMPL's failure to respond to the Department's questionnaire, pursuant to section 776(b) of the Act, we are assigning to JSW: (1) the AFA rate of 16.63 percent *ad valorem* for the following sub–programs: land, power, water, roads, iron ore, coal, limestone/dolomite, port facilities, training facilities, term loans, and an interest free unsecured loan; (2) the calculated rate of 0.83 percent *ad valorem* for the VAT refund sub–program; and (3) the calculated rate of 3.99 percent *ad valorem* for the tax incentives sub–program.[25]

2. Other SGOK Subsidies

Petitioner alleged that JSW received subsidies from the SGOK by virtue of JSW's ownership in VMPL, which is also partially owned by MML, a SGOK–

[24] *See* JSW's 2004-2005 financial statement at page 15, which was submitted by petitioner in its May 23, 2007, new subsidies allegation submission (a public document on the public file in the CRU).

[25] Because VMPL did not submit a questionnaire response, we do not have the company's sales data for 2006 to combine with JSW's sales. Therefore, as AFA, we are using only JSW's total sales as the denominator to calculate the rate for the VAT refunds and tax incentives sub-programs.

owned company. Specifically, petitioner alleged that (1) MML has not received shares in VMPL in return for MML turning over mining sites to VMPL; (2) MML has failed to recover pension payments, premium payments, and mineral premiums from VMPL, and (3) MML has failed to enforce certain pricing agreements it has with VMPL that have resulted in MML paying higher prices for iron ore.

In its November 1, 2007, questionnaire response, JSW reported that it owns 70 percent of VMPL and MML owns the remaining 30 percent. Concerning petitioner's allegations, JSW stated that MML received its shares in VMPL and payment against the balance of premiums owed by VMPL. JSW stated that the Department's questions regarding failure of MML to enforce pricing arrangements were not applicable.

In the November 8, 2007, supplemental questionnaire, we asked JSW to submit documentation to substantiate its statements that MML received shares in VMPL and received all payments due from VMPL. We also instructed VMPL to submit a questionnaire response covering the SGOK's incentives and concessions packages (see discussion, *infra*). JSW did not submit a response to the November 8, 2007, supplemental questionnaire, nor did VMPL respond to its questionnaire. JSW's failure to provide complete information requested by the Department has impeded our investigation of the new subsidies allegations. JSW also has not provided us with any explanation as to why it could not provide the information within the established deadlines. Therefore, because we preliminarily determine that JSW has failed to act to the best of its ability, pursuant to section 776(b) of the Act, and find that subsidies to VMPL are attributable to JSW, we are applying facts available with an adverse inference to address these omissions. As such, we are assigning to each of the following sub–programs the AFA rate of 16.63 percent *ad valorem*: (1) MML's receipt of VMPL shares, (2) MML's receipt of premium payments from VMPL, and (3) MML's Failure to Enforce Pricing Arrangements.

3. SGOK's New Industrial Policy and Package of Incentives and Concessions of 1996

VMPL did not submit a response to the November 8, 2007, new subsidies supplemental questionnaire covering its use of the SGOK's 1996 incentives and concessions package. Therefore, we preliminarily determine that VMPL/JSW has failed to act to the best of its ability and, pursuant to section 776(b) of the Act, we are applying facts available with an adverse inference to address this failure to respond. Therefore, we are assigning to this program the AFA rate of 16.63 percent *ad valorem*.

4. SGOK's New Industrial Policy and Package of Incentives and Concessions of 2001

VMPL did not submit a response to the November 8, 2007, new subsidies supplemental questionnaire covering its use of the SGOK's 2001 incentives and concessions package. Therefore, we preliminarily determine that VMPL/JSW has failed to act to the best of its ability and, pursuant to section 776(b) of the Act, we are applying facts available with an adverse inference to address this failure to respond. Therefore, we are assigning to this program the AFA rate of 16.63 percent *ad valorem*.

5. SGOK's New Industrial Policy and Package of Incentives and Concessions of 2006

VMPL did not submit a response to the November 8, 2007, new subsidies supplemental questionnaire covering its use of the SGOK's 2006 incentives and concessions package. Therefore, we preliminarily determine that VMPL/JSW has failed to act to the best of its ability and, pursuant to section 776(b) of the Act, we are applying facts available with an adverse inference to address this failure to respond. Therefore, we are assigning to this program the AFA rate of 16.63 percent *ad valorem*.

D. State Government of Maharashtra Programs

1. Sales Tax Program

Under the Maharastra Package Scheme of Incentives and the Maharastra New Package Scheme of Incentives, the Government of Maharastra (GOM) offered tax incentives - including sales tax exemptions, sales tax deferrals, VAT tax refunds, and interest–free unsecured loans - to companies that located or invested in certain developing areas in the State of Maharastra.

Ispat reported that, through the Maharastra Package Scheme of Incentives of 1983 and the Maharastra Package Scheme of Incentive of 1988, Ispat was permitted to retain as an interest–free loan an amount equal to the amount of sales taxes incurred by its Kalmeshwar Complex that was otherwise payable to the GOM. For its Dolvi Plant, under the Maharashstra New Package Scheme of Incentives of 1993 Ispat was entitled to receive an exemption of sales taxes payable on raw material purchases, but, with GOM's introduction of a VAT system on April 1, 2005, the exemption of sales taxes on purchases was no longer available. Ispat reported that, with regard to the Dolvi division, Ispat is eligible for an exemption of sales taxes on sales and that it is also entitled to VAT refunds. Ispat stated that, with regard to the Dolvi division, Ispat has been eligible for remission of sales taxes since August 6, 1998, and will remain eligible until August 5, 2012. Finally, Ispat reported that deferral of sales tax on purchases is not available under the program, but deferral of sales tax on sales is available. Ispat stated that, as of May 1, 2006, the company shifted from claiming sales tax exemptions to claiming sales tax deferrals. Ispat stated that, instead of immediately paying the GOM the sales taxes it collects, the company retains the sales taxes it collects on behalf of the GOM for ten years before being required to submit the deferred sales taxes to the GOM in equal installments over five years.

In the *Final Determination of PET Resin Investigation*, the Department determined that the purchases under the Prestigious Scheme resulted in companies not paying the state sales tax otherwise due, and that the program provided a countervailable subsidy. *See* the ''State of Gujarat (SOG) Sales Tax Incentive Scheme'' section of the Final Determination of PET Resin Investigation Decision Memorandum. Consistent with our findings in the *Final Determination of PET Resin*, we preliminarily determine that this program is countervailable. We preliminarily determine that the Maharstra Package Scheme of Incentives program is limited to only those companies that make an investment in a specified developing area and therefore, it is specific under section 771(5A)(D)(iv) of the Act. We also preliminarily determine that the GOM provides a financial contribution under section 771(5)(D)(ii) of the Act by foregoing the collection of sales tax revenue and, in the case of sales tax deferrals, in the form of uncollected interest on the deferred sales taxes. *See* 19 CFR 351.510(a)(2). We preliminarily determine that Ispat receives a benefit under section 771(5)(E) of the Act: (1) in the amount of sales tax that it does not pay; (2) in the case of sales tax deferrals, in the amount of interest otherwise due; and (3) in the case of sales tax loans, in the form of interest–free loans.

In the case of an exemption of an indirect tax, the Department considers the benefit as being received at the time the recipient firm otherwise would be required to pay the indirect tax. *See* 19

CFR 351.510(b)(1). We preliminarily determine that the date that Ispat otherwise would be required to pay the exempted taxes corresponds to the date of the annual state tax return Ispat filed during the POR. Because Ispat has not provided a copy of its state tax return filed in the POR, we are unable to calculate the benefit for sales tax exemptions that may have been claimed by Ispat during the POR. Prior to issuing the final results, we intend to collect a copy of Ispat's state tax return and additional information regarding Ispat's sales tax exemptions.

Ispat provided a breakdown of its VAT refunds pertaining to the period April 2005 to the end of the POR. Because Ispat did not provide detailed information as to when it applied for and received these refunds, we calculated the benefit by summing all of the VAT refunds Ispat reported having received during the POR. Prior to issuing the final results, we intend to collect additional information regarding these VAT refunds.

Regarding Ispat's deferrals of indirect taxes, a benefit exists to the extent that the appropriate interest charges are not collected. *See* 19 CFR 351.510(2)(a)(2). Ispat provided a monthly breakdown of its sales tax deferrals. Using these data, we calculated the monthly benefit by multiplying the monthly amount of deferred tax by the days outstanding in the POR by the benchmark interest rate. We used the long term 2006 benchmark interest rate because Ispat is not required to repay these deferral sales tax amounts for 10 to 15 years.

Regarding interest free sales tax loans, Schedule 4 of Ispat's Annual Report contains an entry for the amount of interest–free sales tax loans outstanding as of March 31, 2006. Because Ispat did not provide more specific data, we calculated the benefit by treating this amount as the amount of interest–free tax loan outstanding at the beginning of 2006 and multiplying it by the benchmark interest rate. As explained in the ''Subsidies Valuation Section'' above, because Ispat did not have comparable, commercial loans for 2006, we used the average interest rate in 2006 for India's PLR, as reported by the RBI. We used a long–term benchmark interest rate because Ispat reported that is not required to repay the unsecured sales tax loans for 10 to 15 years.

Ispat claims that the provision in the Maharastra Package Scheme of Incentives which allows for exemptions of sales taxes on purchases was terminated on March 31, 2005, and that a substitute program has not been instituted. On this basis, Ispat requests that the Department take a program–wide change into consideration when establishing the cash deposit rate applicable to the Maharastra Package Scheme of Incentives. We note that 19 CFR 351.526(d) provides that the Department will not adjust the cash deposit rate if the program–wide change consists of a terminated program and: (1) the Department determines that residual benefits may continue to be bestowed under the terminated program, or (2) the Department determines that a substitute program for the terminated program has been introduced and the Department is not able to measure the amount of countervailable subsidies provided under the substitute program. In this review, the GOM has not provided the required information regarding residual benefits and successor programs, as discussed under 19 CFR 351.526(d).

To calculate the net subsidy rate for this program, we summed the various benefit amounts received by Ispat under each provision of the program and divided the total benefit amount for the POR by Ispat's total sales during the POR. On this basis, we preliminarily calculate an *ad valorem* program rate of 1.25 percent for Ispat.

2. Electricity Duty Exemption under the Package Scheme of Incentives for 1993

Ispat reported that, under the Package Scheme of Incentives for 1993, the GOM provides exemptions of electricity duties for ''Mega'' projects located in specified developing regions of the state. Ispat reported that, because Ispat's Dolvi plant qualified as a Mega project, Ispat holds eligibility certificates under the Maharastra New Package Scheme of Incentives of 1993. Under this program, Ispat received electricity duty exemptions on several of the types of electricity charges by the Maharastra State Electricity Distribution Co. Ltd.

We preliminarily determine that the Maharstra Package Scheme of Incentives program is limited to only those companies that make an investment in a specified developing area and therefore, it is specific under section 771(5A)(D)(iv) of the Act. We also preliminarily determine that the GOM provides a financial contribution under section 771(5)(D)(ii) of the Act by foregoing the collection of electricity duty revenue. We preliminarily determine that Ispat receives a benefit under section 771(5)(E) of the Act in the amount of electricity duties that it does not pay.

To calculate the benefit received by Ispat during the POR under this program, we summed the monthly value of electricity charges that were eligible for the duty exemption and multiplied these totals by the ''industrial'' electricity duty rate of 6 percent. We then divided this result by the company's total sales during the POR. On this basis, we preliminarily calculate an *ad valorem* program rate of 0.59 percent for Ispat.

II. Program Preliminary Found Not To Provide Countervailable Benefits in the POR

Duty Free Replenishment Certificate (DFRC) Scheme

The DFRC scheme was introduced by the GOI in 2001 and is administered by the DGFT. The DFRC is a duty replenishment scheme that is available to exporters for the subsequent import of inputs used in the manufacture of goods without payment of basic customs duty. In order to receive a license, which entitles the recipient subsequently to import duty free certain inputs used in the production of the exported product, as identified in a SION, within the following 24 months, a company must: (1) export manufactured products listed in the GOI's export policy book and against which there is a SION for inputs required in the manufacture of the export product based on quantity; and (2) have realized the payment of export proceeds in the form of convertible foreign currency. The application must be filed within six months of the realization of the profits. DFRC licenses are transferrable, yet the transferee is limited to importing only those products and in the quantities specified on the license.

Although 19 CFR 351.519(b)(2) provides that the Secretary will normally consider any benefit from a duty drawback or exemption program as having been received as of the date of exportation, we preliminary find that an exception to this normal practice is warranted here in view of the unique manner in which this program operates. Specifically, a company may not submit an application for a DFRC license until the proceeds of the sale are realized. The license, once granted, specifies the quantity of the particular inputs that the bearer may subsequently import duty free. In the *Final Results of First HRC Review*, we noted that the benefits from another duty exemption program, the DEPS, were conferred as of the date of exportation of the shipment because it is at that point that ''the amount of the benefit is known by the exporter.'' *See* Final Results of First HRC Review Decision Memorandum at II.A.4 ''Duty Entitlement Passbook Scheme.'' However, in the case of the DFRC, the company does not know at the time of

export the value of the duty exemption that it will ultimately receive. It only knows the quantity of the inputs it will likely be able to import duty free if its application for a DFRC license is granted. Unlike the DEPS, under the DFRC, the respondent will only know the total value of the duty exemption when it subsequently uses that license to import the specified products duty free or sells it. Therefore, we preliminarily determine that the date of receipt is linked to when the company uses the certificate to import an input duty free or, in the case in which the company sells the certificate, the date of sale. This approach is consistent with the Department's approach to other similar types of programs in India. *See*, *e.g.*, the ''Duty Entitlement Passbook Scheme (DEPS),'' section of the Final Determination of Lined Paper Investigation Decision Memorandum.

During the POR, no companies reported importing using a DFRC license or exporting against a DFRC license. However, Tata reported selling DFRC licenses during the POR. The Department has previously determined that the sale of quantity–based import licenses confers a countervailable export subsidy. *See*, *e.g.*, *Final Determination of CTL Plate Investigation*, 64 FR 73131, 73134; *Certain Iron–Metal Castings from India: Final Results of Countervailing Duty Administrative Review*, 63 FR 64050 (Nov. 18, 1998); and *Certain Iron–Metal Castings from India: Final Results of Countervailing Duty Administrative Review*, 62 FR 32297, 32298 (June 13, 1997), in which the Department found the sale of quantity–based licenses under the ALP countervailable. Therefore, in accordance with section 771(5A)(B) of the Act, we determine that the sale of DFRC licenses is an export subsidy and that a financial contribution is provided, under section 771 5(D)(ii) of the Act, in the form of the revenue foregone. We further find that the sales of the licenses conferred a benefit under section 771 (5)(E) of the Act.

However, Tata further reported that all of the DFRC licenses sold during the POR were tied to non–subject merchandise. Because the receipt of DFRC licenses are tied to specific export sales, Tata's indication in its questionnaire response that its sales of DFRC licenses during the POR are tied to non–subject merchandise is plausible. Therefore, for purposes of these preliminary results, we find that Tata's use of this program was tied to non–subject merchandise.

III. Program for Which More Information is Required

Status Certificate Program

India's Status Certificate Program is detailed under paragraph 3.5 of its Foreign Trade Policy Handbook. This program details the following privileges provided to exporters, depending on their export performance for the current year, plus the preceding three years:

i). License/certificate/permissions and Customs clearances for both imports and exports on self–declaration basis;

ii). Fixation of Input–Output norms on priority within 60 days;

iii). Exemption from compulsory negotiation of documents through banks. The remittance, however, would continue to be received through banking channels;

iv). 100 percent retention of foreign exchange in EEFC account;

v). Enhancement in normal repatriation period from 180 days to 360 days;

vi). Entitlement for consideration under the Target Plus Scheme; and

vii). Exemption from furnishing of Bank Guarantee in Schemes under this Policy.

Tata and JSW indicated that they did not use the Status Certificate program during the POR. However, Ispat and Essar indicated that they participated in the program. On December 7, 2007, the Department requested additional information from Ispat and Essar regarding their use of the program. In particular, we inquired the extent to which Ispat and Essar used the provision related to foreign currency retention under the Status Certificate program during the POR. In Essar's December 12, 2007, questionnaire response, it stated that it did not use the currency retention program. In its December 13, 2007, questionnaire response, Ispat indicated that it used the program to extend the repatriation period of its foreign currency earnings beyond 180 days.

At this time, we do not have sufficient information from parties to determine whether this extension of the time period to repatriate foreign currency earnings under the Status Certificate Program is a countervailable subsidy. We intend to seek further information and issue an interim analysis describing our preliminary findings with respect to this program before the final results of review so that parties will have to opportunity to comment on our findings.

VI. Programs Preliminarily Determined Not To Be Used

A. GOI Programs

1. Export Processing Zones and Export Oriented Units
2. Export Processing Zones
3. Income Tax Exemption Scheme (Sections 10A, 10B, and 80HHC)
4. Market Development Assistance
5. Market Access Initiative
6. Exemption of Export Credit from Interest Taxes
7. Long–Term Loans from the GOI
8. Special Economic Zone Act of 2005

a. Duty free import/domestic procurement of goods and service for development, operation, and maintenance of SEZ units.
b. Exemption from excise duties on goods (*i.e.*, machinery and capital goods) ''brought from the Domestic Tariff Area'' (defined as the ''whole of India'' excluding SEZs) for use by an enterprise in the SEZ.
c. Drawback on goods brought or services provided from the Domestic Tariff Area into a SEZ, or services provided in a SEZ by service providers located outside India.
d. 100 percent exemption from income taxes on export income from the first 5 years of operation, 50 percent for the next 5 years, and a further 50 percent exemption on export income reinvested in India for an additional 5 years.
e. Exemption from the Central Sales Tax.
f. Exemption from the national Service Tax.

B. State Government of Andhra Pradesh Programs- Grants Under the Industrial Investment Promotion Policy of 2005–2010

1. 25 percent reimbursement of cost of land in industrial estates and industrial development areas.
2. Reimbursement of power at the rate of Rs. 0.75 ''per unit'' for the period beginning April 1, 2005, through March 31, 2006 and for the four years thereafter to be determined by the Government of Andhra Pradesh (GOAP).
3. 50 percent subsidy for expenses incurred for quality certification up to RS. 100 lakhs.
4. 25 percent subsidy on ''cleaner production measures'' up to Rs. 5 lakhs.
5. 50 percent subsidy on expenses incurred in patent registration, up to Rs. 5 lakhs.
6. 100 percent reimbursement of stamp duty and transfer duty paid for the purchase of land and

buildings and the obtaining of financial deeds and mortgages.
7. A grant of 25 percent of the tax paid to GAAP, which is applied as a credit against the tax owed the following year, for a period of five years form the date of commencement of production.
8. Exemption form the GAAP Non–agricultural Land Assessment (NALA).
9. Provision of ''infrastructure'' for industries located more than 10 kilometers from existing industrial estates or industrial development areas.
10. Guaranteed ''stable prices of municipal water for 3 years for industrial use'' and reservation of 10% of water for industrial use for existing and future projects.

C. State Government of Chhattusgarh Programs- Industrial Policy 2004–2009

1. A direct subsidy of 35 percent to total capital cost for the project, up to a maximum amount equivalent to the amount of commercial tax/central sales tax paid in a seven year period.
2. A direct subsidy of 40 percent toward total interest paid for a period of 5 years (up to Rs. Lakh per year) on loans and working capital for upgrades in technology.
3. Reimbursement of 50 percent of expenses (up to Rs. 75,000) incurred for quality certification.
4. Reimbursement of 50 percent of expenses (up to 5 lakh) for obtaining patents.
5. Total exemption from electricity duties for a period of 15 years form the date of commencement of commercial production.
6. Exemption from stamp duty on deeds executed for purchase or lease of land and buildings and deeds relating to loans and advances to be taken by the company for a period of three years from the date of registration.
7. Exemption from payment of ''entry tax'' for 7 years (excluding minerals obtained from mining in the state).
8. 50 percent reduction of the service charges for acquisition of private land by Chhattisgarh Industrial Development Corporation for use by the company.
9. Allotment of land in industrial areas at a discount up to 100 percent.

D. State Government of Gujarat Programs

1. Gujarat Special Economic Zone (SEZ) Act
a. Stamp duty and registration fees for land transfers, loan agreements, credit deeds, and mortgages.
b. Sales tax, purchase tax, and other taxes payable on sales and transactions.
c. Sales and other state taxes on purchases of inputs (both goods and services) for the SEZ or a Unit within the SEZ.
2. Captive Port Facilities
a. Discount on Gujarat wharfage charges.
b. Credit for the cost of the capital (including interest) to construct the port facilities, which is then applied as an offset to the wharfage charges due Gujarat on cargo shipped through the captive jetty.

E. State Government of Jharkhand Programs

1. Grants and Tax Exemptions under the State Industrial Policy of 2001
2. Subsidies for Mega Projects under the JSIP of 2001

F. State Government of Maharashstra Programs

1. Refunds of Octroi Under the PSI of 1993, Maharastra Industrial Policy of 2001, and Maharastra Industrial Policy of 2006.
2. Infrastructure Assistance for Mega Projects.
3. Land for Less than Adequate Remuneration.
4. Loan Guarantees Based on Octroi Refunds by the SGM.
5. Investment Subsidy.

Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we have calculated an individual subsidy rate for each reviewed company for the period January 1, 2006, through December 31, 2006. These rates are summarized in the table below:

Company	Total Net Countervailable Subsidy Rate
Essar Steel Ltd.	12.87 percent *ad valorem*
Ispat Industries Ltd.	13.42 percent *ad valorem*
JSW Steel Ltd.	505.20 percent *ad valorem*
Tata Steel Ltd.	29.21 percent *ad valorem*

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 each respondent at the countervailing duty rate indicated above of the f.o.b. invoice price on all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. We will also 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.

These deposit requirements, when imposed, shall remain in effect until further notice.

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. The Department will notify interest parties of the briefing schedule after the date of publication of this notice. 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, pursuant to 19 CFR 351.309(d)(1). Parties who submit argument in this proceeding are requested to submit with the argument: (1) a statement of the issues, and (2) a brief summary of the argument. Parties submitting case and/or rebuttal briefs are requested to provide the Department copies of the public version 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(c), within 30 days of the date of publication of this notice, interested parties may request a public hearing on 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, 37 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, under 19 CFR 351.309(c)(ii), are due. *See* 19 CFR 351.305(b)(3). 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 of review 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: December 31, 2007.

Susan H. Kuhbach,

Acting Assistant Secretary for Import Administration.

[FR Doc. E8–179 Filed 1–8–08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–423–809]

Stainless Steel Plate in Coils from Belgium: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review

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

EFFECTIVE DATE: January 9, 2008.

FOR FURTHER INFORMATION CONTACT: David Layton at (202) 482–0371 or David Neubacher at (202) 482–5823; AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On June 29, 2007, the Department published a notice of initiation of administrative review of the countervailing duty order on Stainless Steel Plate in Coils from Belgium, covering the period January 1, 2006, through December 31, 2006. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part and Deferral of Administrative Review*, 72 FR 35690 (June 29, 2007).

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department of Commerce (''the Department'') to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and the final results of review within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

Extension of Time Limits for Preliminary Results

This administrative review is extraordinarily complicated due to the nature of the countervailable subsidy practices and the fact that we have not conducted an administrative review of the countervailing duty order on stainless steel plate in coils from Belgium since 2001. Because the Department requires additional time to review, analyze, and possibly verify the information, and to issue supplemental questionnaires, it is not practicable to complete this review within the originally anticipated time limit (*i.e.*, by January 31, 2008). Therefore, the Department is extending the time limit for completion of the preliminary results to not later than May 30, 2008, in accordance with section 751(a)(3)(A) of the Act.

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

Dated: January 3, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–180 Filed 1–8–08; 8:45 am]

Billing Code: 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; High Seas Fishing Permit Application Information

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before March 10, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Robert Dickinson, (301) 713–2276 or *Bob.Dickinson@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

U.S. vessels that fish on the high seas (waters beyond the U.S. exclusive economic zone) are required to possess a permit issued under the High Seas Fishing Compliance Act. Applicants must submit information to identify their vessels and intended fishing areas. The application information is used to process applications and to maintain a register of vessels authorized to fish on the high seas.

II. Method of Collection

Paper forms must be mailed to NOAA.

III. Data

OMB Control Number: 0648–0304.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 200.
Estimated Time per Response: 30 minutes.
Estimated Total Annual Burden Hours: 100.
Estimated Total Annual Cost to Public: $10,000.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 4, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–166 Filed 1–8–08; 8:45 am]

BILLING CODE 3510–22–P