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International Trade Administration
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Administrative Review
POR: 01/01/2012 – 12/31/2012
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Office III, Operations: JSC; EBG

September 30, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

RE: Countervailing Duty (CVD) Administrative Review: Certain Lined Paper Products from India

SUBJECT: Decision Memorandum for Preliminary Results

Summary

The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on lined paper products from India. The review covers one producer/exporter of the subject merchandise, A.R. Printing & Packaging India Pvt. Ltd. (AR Printing). The period of review (POR) is January 1, 2012, through December 31, 2012. We preliminarily determine that AR Printing received countervailable subsidies during the POR.

Background

On September 28, 2006, the Department published the *Lined Paper Order*.[1] On September 3, 2013, the Department published a notice of opportunity to request an administrative review of this CVD order.[2] On September 27, 2013, we received a timely request for review of the CVD order from AR Printing. On September 30, 2013, we received a timely request for review of the CVD order from Navneet Publications (India) Ltd. (Navneet), a producer of the subject merchandise. On September 30, 2013, we received a timely request for review of the *Lined Paper Order* from the Association of American School Paper Suppliers (AASPS or Petitioner) of AR Printing.[3]

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[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia*, 71 FR 56949 (September 28, 2006) (*Lined Paper Order*).
[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 78 FR 54235 (September 3, 2013).
[3] The individual members of the AASPS are: ACCO Brands USA LLC; Norcom, Inc.; and Top Flight, Inc.

On November 8, 2013, the Department published the initiation of this administrative review covering AR Printing and Navneet, for the period January 1, 2012, through December 31, 2012.[4] On January 6, 2014, Navneet submitted a timely withdrawal of its review request. On January 21, 2014, AR Printing also submitted a withdrawal of its review request. Based on the timely withdrawal of the request for review of Navneet, we rescinded the review with respect to Navneet.[5] However, because Petitioner did not withdrawal its request for a review of AR Printing, we are conducting the review of AR Printing.

AR Printing did not respond to the Department's November 23, 2014 questionnaire. The Government of India (GOI) provided a response to the Department's November 25, 2013, questionnaire on January 17, 2014. On May 16, 2014, and June 24, 2014, the Department issued supplemental questionnaires to the GOI, to which the GOI responded on June 9, 2014, and July 8, 2014.

Scope of the Order

The scope of this order includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for loose leaf filler paper) including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, loose leaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8-3/4 inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or "tear-out" size), and are measured as they appear in the product (i.e., stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this order whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this order are:

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Review and Request for Revocation in Part*, 78 FR 67104 (November 8, 2013).
[5] *See Certain Lined Paper Products from India: Notice of Partial Rescission of Countervailing Duty Administrative Review: 2012*, 79 FR 5377 (January 31, 2014).

- unlined copy machine paper;
- writing pads with a backing (including but not limited to products commonly known as "tablets," "note pads," "legal pads," and "quadrille pads"), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;
- three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- index cards;
- printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- newspapers;
- pictures and photographs;
- desk and wall calendars and organizers (including but not limited to such products generally known as "office planners," "time books," and "appointment books");
- telephone logs;
- address books;
- columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- lined business or office forms, including but not limited to: pre-printed business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- lined continuous computer paper;
- boxed or packaged writing stationary (including but not limited to products commonly known as "fine business paper," "parchment paper," and "letterhead"), whether or not containing a lined header or decorative lines;
- Stenographic pads ("steno pads"), Gregg ruled ("Gregg ruling" consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book), measuring 6 inches by 9 inches;

Also excluded from the scope of this order are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- FiveStar®Advance™: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic

material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1" wide elastic fabric band. This band is located 2-3/8" from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar®Advance™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

- FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

Merchandise subject to this order is typically imported under headings 4810.22.5044, 4811.90.9050, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2050, 4820.10.2060, and 4820.10.4000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.[6]

[6] *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia*, 71 FR 56949 (September 28, 2006) (*CLPP Order*).

Application of AFA – AR Printing

AR Printing failed to provide a response to the initial questionnaire. 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; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

In failing to respond to the initial questionnaire, AR Printing withheld requested information, failed to provide requested information by the established deadlines, and significantly impeded this proceeding. Also, because AR Printing failed to provide the requested information by the established deadlines, the Department does not have the necessary information to determine the net subsidies received by AR Printing under the GOI and state government programs under examination in this administrative review. Therefore, the Department must base its determination on the facts otherwise available in accordance with sections 776(a)(1) and (2)(A) – (C) of the Tariff Act of 1930, as amended (the Act) with respect to the net subsidies received from GOI and state government programs covered in this review.

Section 776(b) of the Act provides that the Department may use an adverse inference in applying the fact 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. Because AR Printing did not provide the requested information on any of the programs covered by this review, we find that AR Printing failed to cooperate by not acting to the best of its ability and, therefore, pursuant to section 776(b) of the Act, we are employing adverse inferences in selecting from among the facts otherwise available.

Section 776(b) of the Act also authorizes the Department to use, as AFA, information derived from the petition, the final determination in the original investigation, a previous administrative review, or other information placed on the record. Therefore, as facts otherwise available with an adverse inference (adverse facts available or AFA), we find that AR Printing received a benefit under section 771(5)(E) of the Act from all existing programs we find constitute a financial contribution and are specific under the Act, as described under sections 771(5)(D) and 771(5A) of the Act, respectively.

Because AR Printing did not respond to the Department's initial questionnaire, as described above, in accordance with sections 776(a) and (b) of the Act, we determine that AR Printing used and benefitted from the subsidy programs included in the initial questionnaire, provided that information on the record indicates that the program is specific and constitutes a financial contribution. However, in prior CVD proceedings involving uncooperative company respondents, we stated that, where the foreign government can "demonstrate through complete, verifiable, positive evidence" that a non-cooperating mandatory respondent (including all facilities and cross-owned affiliates) is not located in particular provinces whose subsidies are being investigated, we will not include those provincial programs in determining the countervailable subsidy rate for those companies.[7] Thus, if the participating foreign government provides complete, verifiable, positive evidence on the record the Department will consider certain types of information for purposes of determining the extent to which a non-cooperating mandatory respondent used investigated subsidy programs in a given proceeding.

In assigning net subsidy rates for each of the programs for which specific information was required from AR Printing, we were guided by the Department's approach in the prior reviews, as well as recent CVD investigations involving India.[8] In these preliminary results, as AFA, we first sought to apply, where available, the highest, above *de minimis* subsidy rate calculated for an *identical* program from any segment of this proceeding. Absent such a rate, we have applied, where available, the highest, above *de minimis* subsidy rate calculated for a *similar* program (based on type of benefit) from any segment of this proceeding. Absent such a rate, we sought to apply, where available, the highest, above *de minimis* subsidy rate calculated for an identical program from an Indian CVD proceeding outside of the *CLPP Order*. Where no such rate was available, we sought to apply the highest, above *de minimis* subsidy rate calculated for a similar/comparable program from an Indian CVD proceeding, outside of the *CLPP Order*. Where an above *de minimis* rate for an identical or similar program has not been previously calculated, we used the highest calculated rate for any program from any CVD proceeding involving India, so long as the producer of the subject merchandise or the industry to which it belongs could have used the program for which the rates were calculated. In accordance with this methodology, we have selected AFA rates and have assigned these rates to AR Printing for all the subsidy programs as discussed further below.

Corroboration of Secondary Information

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."[9] The SAA provides that to "corroborate" secondary information, the Department will satisfy itself that the secondary information to be used has probative value.[10]

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[7] *See Aluminum Extrusions From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521(April 4, 2011) (*Extrusions from the PRC*) and accompanying Issues and Decisions Memorandum (Extrusions Decision Memorandum) at 11.
[8] *See, e.g.*, *Certain Hot-Rolled Carbon Steel Flat Products from India: Final Results and Partial Rescission of Countervailing Duty Administrative Review*, 74 FR 20923 (May 6, 2009) (*Final Results of Fifth HRS Review*), and accompanying Issues and Decision Memorandum (Final Results of Fifth HRS Decision Memorandum) at "SGOC Industrial Policy 2004-2009" section.
[9] *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, vol. 1 at 870 (1994) (SAA).
[10] *Id*.

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.[11]

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. With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. In the absence of record evidence concerning the programs under review resulting from AR Printing's decision not to respond to our questionnaire, we reviewed Indian subsidy programs in this and other proceedings for calculated subsidy rates. For those programs for which the Department found a program-type match, we find that, because these are the same or similar programs, they are relevant to the programs under review in this case. For the programs for which there is no program-type match, we selected the highest calculated subsidy rate for any Indian program from which a member of the lined paper industry could conceivably have used. The relevance of these rates is that they are actual calculated CVD rates for an India program from which AR Printing could actually receive a benefit. Also, the Department will not use information where circumstances indicate that the information is not appropriate as AFA.[12]

In the instant review, we preliminarily determine that no evidence has been presented or obtained that contradicts the relevance of the information from prior Indian CVD proceedings. Therefore, in the instant case, we preliminarily determine that the information used in this preliminary determination has been corroborated to the extent practicable.

Analysis of Programs

Programs Preliminarily Determined to be Countervailable

1. Advance Authorization Program (AAP)

This program, formally known as the Advance License Program, is jointly administered by the Director General of Foreign Trade (DGFT) and Department of Revenue, Ministry of Finance. The AAP enables duty free import of inputs required for export production. The program is based on standard input/output norms that are incorporated in the export products. The AAP exempts duty on inputs used for export production.[13]

Based on information provided by the GOI, we find that the duty exemptions provided under the AAP constitute a financial contribution in the form of revenue forgone and are contingent upon

[11] *Id*., at 869-870.
[12] *See, e.g.*, *Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).
[13] *See Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from Indi*a, 71 FR 45034, (August 8, 2006) and accompanying Issue and Decisions Memorandum at Comment 10.

export and, therefore, specific under sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively.

In its January 17, 2014, initial questionnaire response (IQR); the GOI claimed that AR Printing was not eligible to use the program.[14] In its June 9, 2014, first supplemental response (1SQR), the GOI further stated that AR Printing did not use the program by virtue of the fact that AR Printing used the Export Oriented Units (EOU) Program.[15] The GOI claimed that because EOUs undertake to export their entire production in order to qualify for benefits under the EOU program, a company would not undertake additional export requirements in order to qualify for the Advanced License Program.[16] Additionally, the GOI cited to the statute that allows companies that exit from the EOU to seek benefits under the Advanced License Program.[17] In its July 8, 2014, second supplemental questionnaire (2SQR), the Department requested the GOI to further explain its statements of non-use and the GOI again cited to legislation and claimed that the legislation demonstrated that the Advanced License Program is inapplicable to a unit operating under the EOU program.[18]

We reviewed the language from the relevant sections of Handbook of Procedure under the Foreign Trade Policy (FTP), as cited by the GOI and find, for purposes of these preliminary results that the language is inconclusive as to whether benefits under the EOU are mutually exclusive from benefits provided under the ALP. For example, in its IQR the GOI stated that the programs are mutually exclusive and provided an excerpt from the law governing the program. However, we preliminarily determine that the excerpt provided by the GOI does not indicate the programs are mutually exclusive. We further preliminarily determine that the GOI's supplemental questionnaire response failed to clarify the GOI's explanation that the programs are mutually exclusive. Furthermore, in several administrative reviews of the CVD order on PET Film from India one of the participating respondents reported that it was able to be classified as an EOU, while at the same time receiving benefits pursuant to the ALP program.[19] Additionally, we preliminarily determine that there is no information on the record indicating that the GOI has since modified the FTP that was in effect during the period of review (POR) of *PET Film from India*.

Therefore, where, as described above, AR Printing failed to cooperate, as AFA pursuant to sections 776(a)(1) and (2) and 776(b) of the Act, we preliminarily determine that AR Printing used and benefitted from this program during the POR within the meaning of section 771(5)(E) of the Act.

Pursuant to the CVD AFA rate selection methodology described above, for this program, we are assigning a net subsidy rate of 2.55 percent *ad valorem*, which corresponds to the highest above

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[14] *See* IQR at 12.
[15] *See* 1SQR at 7.
[16] *Id.* at 8.
[17] *See* IQR at Exhibit 4, specifically sections 6.18(d) and 6.18(g) of the Handbook of Procedure under the Foreign Trade Policy.
[18] *See* 1SQR at 8.
[19] *See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 75 FR 6634 (February 10, 2010) (2007 PET Film from India) and accompanying Decision Memorandum (2007 PET Film from India Decision Memorandum) at 6 and 12.

de minimis subsidy rate calculated for the similar program in another segment of this proceeding.[20]

2. Export Promotion of Capital Goods Scheme (EPCGS)

The EPCGS provides for a reduction or exemption of customs duties and an exemption for 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)[21] 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 previously determined that the import duty reductions provided under the EPCGS constitute a countervailable export subsidy.[22] Specifically, the Department found that under the EPCGS program, the GOI provides a financial contribution within the meaning of section 771(5)(D)(ii) 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.[23] No new information or evidence of changes in these respects has been provided with respect to this program.

The GOI asserts that AR Printing did not use the EPCGS program because as an EOU entity the benefits that it would gain under this program are redundant to the ones it would receive under the EPCGS program; exemption of payment of import duties upon exportation of goods.[24]

However, the Department notes that the GOI did not cite any specific statute or regulations which state that both programs are mutually exclusive and in the past the Department determined that companies have simultaneously used both programs.[25]

Therefore, where, as described above, AR Printing failed to cooperate, as AFA pursuant to sections 776(a)(1) and (2) and 776(b) of the Act, we preliminarily determine that AR Printing used and benefitted from this program during the POR within the meaning of section 771(5)(E)

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[20] *See Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from India*, 71 FR 45034 (August 8, 2006) (*Lined Paper from India Investigation*), and accompany Issues and Decision Memorandum (Lined Paper from India Investigation Decision Memorandum) at "Advance License Program."

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

[22] *See e.g., Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From India*, 66 FR 49635 (September 28, 2001) (*HRS from India Investigation*), and accompanying Issues and Decision Memorandum (HRS from India Investigation Decision Memorandum) at "Export Promotion Capital Goods Scheme)."

[23] *Id*.

[24] *See* GOI's 1SQR at 7.

[25] *See Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review* 75 FR 6634 (February 10, 2010) and accompanying Issues and Decisions Memorandum at Comment 5 and *see Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India,* 71 FR 7534 (February 13, 2006) and accompanying Issues and Decision Memorandum at Comment 5.

of the Act.

Pursuant to the CVD AFA rate selection methodology described above, for this program, we have assigned a net subsidy rate of 1.36 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in another segment of this proceeding.[26]

3. Pre and Post-Shipment Loans

The GOI's Department of Banking Operations & Development, Directives Division of Reserve Bank of India (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 receive 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 transit period between the date of shipment of exported merchandise and payment from export customers.[27] In *Steel Threaded Rod From India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances,* the Department found that the GOI no longer dictated the interest rates charged on pre- and post-shipment loans denominated in foreign currencies as of July 1, 2010. However, the Department found that GOI continued to exert control over the interest rates charged on rupee-denominated loans under the program[28] through interest subvention programs and placing interest caps on subvention loans. In the IQR and 1SQR, the GOI provided a narrative assertion of AR Printing's non-use of the pre- and post-shipment loan programs without offering any type of supporting documentation.[29]

The Department 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.[30] 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. The Department also determined this program to be

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[26] *See Certain Lined Paper Products From India: Final Results of Countervailing Duty Administrative Review,* 74 FR 6573 (February 10, 2009) (*2006 Review of Lined Paper from India*), and accompanying Issues and Decision Memorandum (2006 Review of Lined Paper from India Decision Memorandum) at "Export Promotion Capital Goods Scheme."
[27] *See Steel Threaded Rod From India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 40712 (July 14, 2014) and accompanying Issues and Decision Memorandum at 11-12.
[28] *Id.* at 11-12.
[29] *See* the IQR at 22 and the ISQR at 8.
[30] *See, e.g.*, *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 72 FR 6530 (February 12, 2007) (*2004 PET Film from India*), and accompanying Issues and Decision Memorandum (2004 PET Film from India Decision Memorandum) at "Pre-Shipment and Post-Shipment Export Financing" section.

contingent upon exports and therefore, specific within the meaning of section 771(5A)(B) of the Act. No new information or evidence of changes in these respects has been presented in this review to warrant a reconsideration of the Department's determination in this regard.

As explained above in the "Adverse Facts Available" section, AR Printing failed to cooperate by not submitting a response to the Department's initial questionnaire. Therefore, as AFA pursuant to sections 776(a)(1) and (2) and 776(b) of the Act, we preliminarily determine that AR Printing used and benefitted from pre-and post-export financing during the POR within the meaning of section 771(5)(E)(ii) of the Act.

Pursuant to the CVD AFA rate selection methodology described above, for this program, we have assigned a net subsidy rate of 1.02 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in another segment of this proceeding.[31]

4. Export Oriented Units (EOUs)

Pursuant to paragraph 6.1 of the Foreign Trade Policy (FTP) 2004-2009, the GOI designates firms that export 100 percent of their production of goods and services, excepting permissible sales in Domestic Tariff Areas (DTAs), as EOUs. Firms designated as EOUs are eligible for certain benefits (*e.g.*, duty-free importation of capital goods and raw materials, reimbursement of central sales tax paid on capital goods and material procured from India, purchase of materials and other inputs free of central excise duty, and receipt of duty drawback on furnace oil procured from domestic oil companies) from the GOI.[32] Firms that meet the eligibility criteria are able to import capital goods and raw materials, components, consumables, intermediates, spares, and packing materials without payment of import duties.[33]

In the *Final Determination of PET Resin from India*, the Department determined that this program was countervailable.[34] We found that this program provides a financial contribution in the form of forgone revenue within the meaning of section 771(5)(D)(ii) of the Act and confers a benefit in the amount of exemptions and reimbursements of customs duties and certain sales taxes on capital equipment in accordance with section 771(5)(E) of the Act and 19 CFR 351.519(4)(i).[35] We further found that the assistance provided under this program was specific as an export subsidy within the meaning of section 771(5A)(B) of the Act.[36] Furthermore, in the *2010 Final Results of Lined Paper from India*, the Department treated reimbursements of central

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[31] *See* Lined Paper from India Investigation Decision Memorandum at "Pre- and Post-Shipment Export Financing."
[32] *See* the GOI's IQR at 22; *see also* 2007 PET Film from India Decision Memorandum at 11-12.
[33] *See* the GOI's IQR at 23-33 for a full description of the EOU Program.
[34] *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment With Final Antidumping Duty Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin From India (Preliminary Determination of PET Resin from India*), 69 FR 52866, 52870 (August 30, 2004) (unchanged in the *Final Affirmative Countervailing Duty Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin From India*, 70 FR 13460 (March 21, 2005) (*Final Determination of PET Resin from India*), and accompanying Issues and Decision Memorandum (PET Resin Investigation I&D Memorandum) at "EUO Program: Duty-Free Import of Capital Goods and Raw Materials."
[35] *Id.*
[36] *See Preliminary Determination of PET Resin from India*, 69 FR at 52870; unchanged in *Final Determination of PET Resin from India*.

sales tax (CST) paid on materials procured domestically and duty-free imports of capital goods and raw materials under the EOU as separate programs for purposes of the benefit calculations.[37] We preliminarily determine that interested parties have not submitted any information or argument that warrants reconsideration of the Department's findings regarding this program.

Where, as described above, AR Printing failed to cooperate, as AFA pursuant to sections 776(a)(1) and (2) and 776(b) of the Act, we preliminarily determine that AR Printing used and benefitted from pre-and post-export financing during the POR within the meaning of section 771(5)(E) of the Act. In its response, the GOI stated that AR Printing used this program during the POR.[38]

We find that CST reimbursements under the EOU have not been used by a respondent in any prior segment of this proceeding. Therefore, pursuant to the CVD AFA rate selection methodology described above, for this aspect of the program, we are assigning a net subsidy rate of 2.74 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding.[39]

Concerning the duty exemptions on importation of capital goods and raw materials under the program, we are assigning a net subsidy rate of 6.93 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding.[40]

5. Market Development Assistance (MDA)

In *Iron Castings from India* the Department found that the Federation of Indian Export Organization administers grants under the MDA program, subject to approval by the Ministry of Commerce.[41] The purpose of the programs is to provide grants-in-aid to approved organizations (*i.e.*, export houses) to promote the development of markets for Indian goods abroad. Such development projects may include market research, export publicity, and participation in trade fairs and exhibitions.[42] The Department found that the MDA grants were countervailable.[43] The Department found that program provides a direct financial contribution and confers a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, and is specific as an export

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[37] *See Certain Lined Paper Products from India: Preliminary Results of Countervailing Duty Administrative Review; Calendar Year 2010*, 77 FR 61742 (October 11, 2012) (2010 Preliminary Results of Lined Paper from India) and accompanying Issues and Decision Memorandum (2010 Preliminary Results of Lined Paper from India Decision Memorandum) at 5-6; unchanged in *2010 Final Results of Lined Paper from India* and 2010 Final Results of Lined Paper from India Decision Memorandum at 3-4.

[38] *See* IQR at 22-33.

[39] *See* Lined Paper from India Investigation Decision Memorandum at "Income Tax Exemption Scheme Under the 80HHC."

[40] *See* 2006 Review of Lined Paper from India Decision Memorandum at "Duty Entitlement Passbook Scheme."

[41] *See Preliminary Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings From India*, 55 FR 46699, 46702 (November 6, 1990) (*Preliminary Results of Sixth Castings Review*) (unchanged in *Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings From India*, 56 FR1956 (January 18, 1991) (*Castings from India*)). Though the Department countervailed the MDA program in this proceeding, the calculated net subsidy was not above *de minimis*.

[42] *Id*.

[43] *Id*.

subsidy within the meaning of section 771(5A)(B) of the Act.[44]

In the instant review, we preliminarily determine that the GOI's provision of assistance under this program continues to provide a financial contribution, in the form of a direct transfer of funds, and is specific as an export subsidy within the meaning of sections 771(5)(D)(i) and 771(5A)(B) of the Act, respectively.

In the IQR the GOI stated that AR Printing did not use the program.[45] In the 1SQR, the GOI provided a letter from the Export Promotion Council, the government agency that disburses funds under the program, stating that AR Printing did not use the program. The Export Promotion Council based its statement on non-use on a review of its records[46]

Concerning the MDA program, the GOI bases its non-use claim on information supplied by the Export Promotion Council, specifically the Export Promotion Council's statement that, "Per our record M/s. AR Printing did not claim benefits under the MDA Exporters Subsidy & MAI Scheme from this council."[47] As noted above, we previously stated that where the foreign government can "demonstrate through complete, verifiable, positive evidence" that a non-cooperating mandatory respondent (including all facilities and cross-owned affiliates) is not located in particular provinces whose subsidies are being investigated, we will not include those provincial programs in determining the countervailable subsidy rate for those companies.[48] Thus, we will, in certain situations, consider certain types of information from a foreign government for purposes of determining the extent to which a non-cooperating mandatory respondent used investigated subsidy programs in a given proceeding.

However, we preliminarily determine that the information the GOI provided to substantiate its claims of non-use on behalf of AR Printing with respect to this program does not satisfy this standard. While the GOI bases its claim of non-use on the Export Promotion Council's review of its records, the GOI and the Export Promotion Council did not, for example, describe what steps it took to ensure the company did not use the program in question, nor did the government describe or provide the type of records it examined or elaborate on the methodology used to conduct the review of non-use. Therefore, where, as described above, AR Printing failed to cooperate, as AFA pursuant to sections 776(a)(1) and (2) and 776(b) of the Act, we preliminarily determine that AR Printing used and benefitted from the program during the POR within the meaning of section 771(5)(E) of the Act.

No respondent has used the MDA program in this proceeding. Furthermore, we find that no Indian respondent in any prior Indian CVD proceeding has used the MDA program or a similar program (*e.g.*, a grant program) in a manner that resulted in an above *de minimis* net subsidy rate. Therefore, pursuant to the Department's CVD AFA methodology described above, we have used the highest calculated subsidy rate from any CVD proceeding involving India that a

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[44] *Id*.
[45] *See* IQR at 34.
[46] *See* 1SQR at 8 and Exhibit S3.
[47] *Id*.
[48] *See* Extrusions Decision Memorandum at 11.

member of the lined paper industry could have conceivably used. Accordingly, as AFA, we assigned to AR Printing a net subsidy rate 16.63 percent *ad valorem*.[49]

However, we determine it appropriate to provide the GOI another opportunity to demonstrate "through complete, verifiable, positive evidence" that AR Printing did not use this specific program and intend to issue an additional questionnaire. We intend to conduct verification of the GOI in the event that the GOI provides complete responses to all of the Department's requests for additional information. Nonetheless, until the GOI provides such information, we will, pursuant to sections 776(a) and 776(b) of the Act, determine that AR Printing used and benefited from this program during the POR.

6. Status Certificate Program

In the *2008 Review of HRS From India*, the Department explained that India's Status Certificate Program is detailed under paragraph 3.5 of its Foreign Trade Policy Handbook and that the program provides the following to exporters, depending on their export performance for the current year, plus the preceding three years:

- Authorizations and Customs clearances for both imports and exports on self-declaration basis;
- Fixation of Input-Output norms on priority within 60 days;
- Exemption from compulsory negotiation of documents through banks. The remittance, however, would continue to be received through banking channels;
- 100 percent retention of foreign exchange in EEEC account;
- Enhancement in normal repatriation period from 180 days to 360 days;
- Exemption from furnishing of Bank Guarantee in Schemes under this Policy.[50]

Information from the GOI leads us to preliminarily determine that the program continues to operate in the manner described above.[51] We therefore preliminarily determine that the retention of foreign exchange under this program constitutes a financial contribution under section 771(5)(D)(i) of the Act.[52] Because the program is contingent upon exports, we preliminarily determine that the program is specific under section 771(5A)(B) of the Act.

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[49] *See Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From India*, 66 FR 49635 (September 28, 2001) (*HRS from India Investigation*), and accompanying Issues and Decision Memorandum (HRS from India Investigation Decision Memorandum) at "Export Promotion Capital Goods Scheme)."

[50] *See Certain Hot-Rolled Carbon Steel Flat Products From India: Final Results of Countervailing Duty Administrative Review*, 75 FR 43488 (July 26, 2010) (*2008 Review of HRS From India*), and accompanying Issues and Decision Memorandum (2008 Review HRS from India Decision Memorandum) at "Status Certificate Program."

[51] *See* IQR at 34.

[52] The Department examined the Status Certificate Program in the *2006 Review of HRS from India* and adopted an approach in which it examined usage information from the respondent in order to determine whether a benefit was conferred. *See Certain Hot-Rolled Carbon Steel Flat Products From India: Final Results of Countervailing Duty Administrative Review*, 73 FR 40295 (July 14, 2008) (*2006 Review of HRS from India*), and accompanying Issues and Decision Memorandum (2006 HRS from India I&D Memorandum) at "Status Certificate Program."

In the IQR, the GOI stated that AR Printing did not use the program.[53] In the 1SQR the GOI provided a letter from the Directorate General of Foreign Trade (DGFT), the agency that administers the program, that the company did not use the program. The administering agency indicates that it based its statement of non-use on a review of its records.[54]

The GOI bases its non-use claim on information supplied by the DGFT, specifically the Directorate's statement that, per its review of records, AR Printing did not claim benefits under the program.[55] As noted above, we will, in certain situations, consider certain types of information from a foreign government for purposes of determining the extent to which a non-cooperating mandatory respondent used investigated subsidy programs in a given proceeding. However, we preliminarily determine that the information the GOI provided to substantiate its claims of non-use on behalf of AR Printing with respect to this program does not satisfy this standard. While the GOI bases its claim of non-use on the DGFT's review of its records, the GOI and the DGFT did not describe the type of records examined or elaborate on the methodology used to conduct the review of non-use. Therefore, where, as described above, AR Printing failed to cooperate, as AFA pursuant to sections 776(a)(1) and (2) and 776(b) of the Act, we preliminarily determine that AR Printing used and benefitted from the program during the POR within the meaning of section 771(5)(E) of the Act.

Pursuant to the Department's CVD AFA rate selection methodology described above, for this program we have assigned a net subsidy rate of 1.02 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding.[56]

However, we determine it appropriate to provide the GOI another opportunity to demonstrate "through complete, verifiable, positive evidence" that AR Printing did not use this specific program. We intend to conduct verification of the GOI in the event that the GOI provides complete responses to all of the Department's requests for additional information. Nonetheless, until the GOI provides such information, we will, pursuant to sections 776(a) and 776(b) of the Act, determine that AR Printing used and benefited from this program during the POR.

7. Market Access Initiative (MAI)

In *2010 Final Results of Lined Paper from India*, the Department stated that pursuant to section 3.2 of the GOI's Foreign Trade Policy 2004-2009, the MAI was:

> . . . intended to provide financial assistance for medium term export promotion efforts with a sharp focus on a country/product, and is administered by the Indian Department of Commerce. Financial assistance is available for Export Promotion Councils, Industry and Trade Associations, Agencies of State Governments, Indian Commercial Missions abroad and other eligible entities as may be notified. A whole range of activities can be funded under the MAI scheme. These include, amongst others, market studies, sales

[53] *See* IQR at 34.
[54] *See* 1SQR at 8 and Exhibit S4.
[55] *Id*.
[56] *See* Lined Paper from India Investigation Decision Memorandum at "Pre- and Post-Shipment Export Financing."

promotion campaigns, and publicity campaigns.[57]

In past proceedings, the Department investigated this program to the extent that it provides financial assistance from the GOI to approved organizations which promote exports by offsetting the expense of foreign market analysis and promotional publications.[58] The GOI reported that this program was not changed during the POR.[59]

Based on information from the GOI, we preliminarily determine that benefits under this program constitute a financial contribution, in the form of a direct transfer of funds, and are specific as an export subsidy within the meaning of sections 771(5)(D)(i) and 771(5A)(B) of the Act, respectively.

In the IQR the GOI stated that AR Printing did not use the program.[60] In the 1SQR the GOI provided a letter from the Export Promotion Council, the administering authority that disburses funds under the program, indicating that AR Printing did not use the program.[61]

The GOI bases its non-use claim on information supplied by the Export Promotion Council, specifically the Council's statement that, "Per our records" AR Printing did not "claim benefits under the MAI…from this council."[62] As noted above, we will, in certain situations, consider certain types of information from a foreign government for purposes of determining the extent to which a non-cooperating mandatory respondent used investigated subsidy programs in a given proceeding. However, we preliminarily determine that the information the GOI provided to substantiate its claims of non-use on behalf of AR Printing with respect to this program does not satisfy this standard. While the GOI bases its claim of non-use on the Export Promotion Council's review of its records, the GOI and the Export Promotion Council did not describe the type of records examined or elaborate on the methodology used to conduct the review of non-use. Therefore, where, as described above, AR Printing failed to cooperate, as AFA pursuant to sections 776(a)(1) and (2) and 776(b) of the Act, we preliminarily determine that AR Printing used and benefitted from the program during the POR within the meaning of section 771(5)(E) of the Act.

No respondent has used the MAI program in this proceeding. Furthermore, we find that no Indian respondent in any prior Indian CVD proceeding has used the MAI program or a similar program (*e.g.*, a grant program) in a manner that resulted in an above *de minimis* net subsidy rate. Therefore, pursuant to the Department's CVD AFA rate selection methodology described above, we have used the highest calculated subsidy rate from any CVD proceeding involving India that a member of the lined paper industry could have conceivably used. Accordingly, as AFA, we assigned to AR Printing a net subsidy rate 16.63 percent *ad valorem*.[63]

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[57] *See* Preliminary Results of Lined Paper from India Decision Memorandum at 7-8; unchanged in 2010 Final Results of Lined Paper from India Decision Memorandum at 4.
[58] *Id.*
[59] *See* IQR at 34.
[60] *Id.*
[61] *See* 1SQR at 8-9 and Exhibit S3.
[62] *Id.*
[63] HRS from India Investigation Decision Memorandum at "Export Promotion Capital Goods Scheme.

However, we determine it appropriate to provide the GOI another opportunity to demonstrate "through complete, verifiable, positive evidence" that AR Printing did not use this specific program. We intend to conduct verification of the GOI in the event that the GOI provides complete responses to all of the Department's requests for additional information. Nonetheless, until the GOI provides such information, we will, pursuant to sections 776(a) and 776(b) of the Act, infer that AR Printing used and benefited from this program during the POR.

8. State Government of Maharashtra (SGOM) Programs

The Department is examining a total of four separate programs administered by the SGOM. We discuss each program below. The GOI claimed that AR Printing did not use any of the programs administered by the SGOM. Specifically, in the 1SQR the GOI stated that since AR Printing was not located in Maharashtra, it was not eligible to use the programs.[64]

As noted above, we will, in certain situations, consider certain types of information from a foreign government for purposes of determining the extent to which a non-cooperating mandatory respondent used investigated subsidy programs in a given proceeding. However, we preliminarily determine that the information the GOI provided to substantiate its claims of non-use on behalf of AR Printing with respect to this program does not satisfy this standard. Specifically, we preliminarily determine that a mere assertion by the SGOM's Directorate of Industries that AR Printing is not located in Maharashtra, without providing documentation or a summary of the information or records reviewed that supports such assertion, is insufficient for purposes of demonstrating non-use by AR Printing.[65] Therefore, where, as described above, AR Printing failed to cooperate, as AFA pursuant to sections 776(a) and 776(b) of the Act, we preliminarily determine that AR Printing used and benefitted from the SGOM programs discussed below during the POR within the meaning of section 771(5)(E) of the Act.

However, we determine it appropriate to provide the GOI another opportunity to demonstrate "through complete, verifiable, positive evidence" that AR Printing did not use this specific program and that it is not located in Maharashtra. We may conduct verification of the GOI in the event that the GOI provides complete responses to all of the Department's requests for additional information. Nonetheless, until the GOI provides such information, we will, pursuant to sections 776(a) and 776(b) of the Act, determine that AR Printing used and benefited from this program during the POR.

A. Sales Tax Incentives Provided by SGOM

In another CVD proceeding involving India, the Department found that certain states in India (including the state of Maharashtra) provide a package of incentives to encourage the development of certain regions of those states. These incentives are provided to privately-owned (as defined by the GOI to not be 100 percent government owned) manufacturers in selected industries which are located in designated regions. One incentive is the exemption or deferral of state sales taxes. Specifically, under these state programs, companies are exempted from paying

[64] *See* 1SQR at 9-10 and Exhibits S7 and S8.
[65] *See* 1SQR at 9-10 and Exhibits S7 and S8

state sales taxes on purchases, and from collecting state sales taxes on sales.[66]

We preliminarily determine that this program constituted a financial contribution, in the form of revenue forgone, and is regionally specific, under sections 771(5)(D)(ii) and 771(5A)(D)(iv) of the Act, respectively. Further, as noted above, we preliminarily determine as AFA that AR Printing used and benefited from the program during the POR pursuant to section 771(5)(E) of the Act.

Pursuant to the Department's CVD AFA rate selection methodology described above, for this program, we are assigning a net subsidy rate of 2.74 percent *ad valorem* for the SGOM's tax incentive program, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding.[67]

B. Electricity Duties Exemptions Under the SGOM Package Program of Incentives of 1993

In this review, the Department is examining the SGOM's Package Scheme of Incentives of 1993 (PSI of 1993), in which the SGOM allegedly implemented a policy to encourage industrialization of regions in Maharashtra that are less developed than the Bombay and Pune metropolitan areas. Specifically, the Department is examining the extent to which the SGOM, under the PSI of 1993, exempts eligible companies from paying taxes on electricity use.[68]

We preliminarily determine that this program constituted a financial contribution, the form of revenue forgone, and is regionally-specific, under sections 771(5)(D)(ii) and 771(5A)(D)(iv) of the Act, respectively. Further, as noted above, we preliminarily determine as AFA that AR Printing used and benefited from the program during the POR pursuant to section 771(5)(E) of the Act.

Pursuant to the Department's CVD AFA rate selection methodology described above, for this program, we are assigning a net subsidy rate of 2.74 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding.[69]

C. Loan Guarantees Based on Octroi Refunds by the SGOM

In this review, the Department is examining whether firms in Maharashtra receive loan guarantees based on expected refunds of Octroi taxes from the SGOM authority that distributes

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[66] *See, e.g., Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 71 FR 7534 (February 13, 2006) (*2003 Review of PET Film from India*), and accompanying Issues and Decision Memorandum (2003 Review of PET Film from India Decision Memorandum) at "State Sales Tax Incentives" section.
[67] *See* Lined Paper from India Investigation Decision Memorandum at "Income Tax Exemption Scheme under 80HHC (80HHC)."
[68] *See* IQR at 41 and 1SQR at 10.
[69] *See* Lined Paper from India Investigation Decision Memorandum at "Income Tax Exemption Scheme under 80HHC (80HHC)."

the refunds. [70]

In the *PET Film from India Investigation* the Department determined that the SGOM limited loan guarantees provided under this program to firms located outside of the Bombay and Pune metropolitan areas and, thus, that the program was limited to certain geographical areas inside the State of Maharashtra and, therefore, specific under section 771(5A)(D)(iv) of the Act.[71] The GOI has not provided any information that warrants a reconsideration of the Department's specificity finding. Therefore, for purposes of these preliminary results, we continue to find this program to be regionally specific under section 771(5A)(D)(iv) of the Act. We also preliminarily determine that this program constitutes a financial contribution, in the form of a direct transfer of funds under section 771(5)(D)(ii) Act. Further, as noted above, we preliminarily determine as AFA that AR Printing used and benefited from the program during the POR pursuant to section 771(5)(E) of the Act.

Pursuant to the Department's CVD AFA rate selection methodology as described above, for this program, we are assigning a net subsidy rate of 1.02 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding.[72]

D. Land for Less than Adequate Remuneration (LTAR)

In this review, the Department is examining whether the SGOM sells land for LTAR to firms operating in areas outside of the Bombay and Pune metropolitan areas.[73] We preliminarily determine that this program constitutes a financial contribution, in the form of the provision of a good, and is regionally-specific, under sections 771(5)(D)(iii) and 771(5A)(D)(iv) of the Act, respectively. Further, as noted above, we preliminarily determine as AFA that AR Printing used and benefited from the program during the POR pursuant to section 771(5)(E) of the Act.

The SGOM's alleged subsidy program involving the provision of land to firms located in areas outside of Bombay and Pune metropolitan areas is not limited to firms engaged in specific industries. Further, because AR Printing failed to respond to the Department's initial questionnaire, we lack information regarding the location of its facilities as well as the location of any of AR Printing's cross-owned affiliates. In addition, the GOI failed to provide any information indicating the location of AR Printing's facilities. Therefore, in accordance with sections 776(a) and 776(b) of the Act, we are determining as AFA that AR Printing was eligible to receive benefits under this program.

No respondent has used this program in this proceeding. Furthermore, we find that no Indian respondent in any prior Indian CVD proceeding has used this program or a similar program (*e.g.*, an LTAR) that the lined paper industry could conceivably use in a manner that resulted in an

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[70] *See* IQR at 41.
[71] See Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India, 67 FR 34905 (May 16, 2002) (PET Film from India Investigation) and accompanying Decision Memorandum (PET Film from India Investigation Decision Memorandum) at "State of Maharashtra Octroi Refund Scheme."
[72] *See* Lined Paper from India Investigation Decision Memorandum at "Pre- and Post-Shipment Export Financing."
[73] *See* IQR at 42.

above *de minimis* net subsidy rate. Therefore, pursuant to the Department's CVD AFA rate selection methodology described above, we have used the highest calculated subsidy rate from any CVD proceeding involving India that a member of the lined paper industry could have conceivably used. Accordingly, as AFA, we assigned to AR Printing a net subsidy rate 16.63 percent *ad valorem*.[74]

Programs Preliminarily Determined to be Terminated

1. Duty Entitlement Passbook Scheme

The DEPS program served to remit duties on inputs used in the manufacture of exported products. The main objective of the program, which the GOI introduced on April 1, 1997, was to neutralize the incidence of custom duties on the import content of the exported product. According to the GOI, DEPS was terminated effective October 1, 2011. The GOI provided the relevant copy of the Ministry of Finance circular terminating the DEPS for shipments made on or after October 1, 2011. The GOI also stated that there is no successor program to DEPS.[75]

When a subsidy program is terminated, 19 CFR 351.526(d) requires that there be no residual benefits and that the government not implement a replacement program for the terminated program. In *Shrimp from India*, the Department determined that no residual benefits from DEPS existed after September 30, 2011.[76] Therefore, we preliminarily determine that the DEPS program is terminated effective October 1, 2011. Further, since we determined in *Shrimp from India* that the DEPS provided no residual benefits after September 30, 2011, AR Printing could not have received benefits under this program as of September 30, 2011. Therefore, based on this information, we preliminarily determine that this program has been terminated and we further preliminarily determined not to assign a net subsidy rate to AR Printing with regard to this program.

2. Export Processing Zones (Renamed Special Economic Zones)

In prior CVD proceedings, the Department found that the GOI enacted the SEZ program in April of 2005 and that they are administered by the GOI's Development Commissioners assigned to each zone. The Department further found that the objective of the SEZ legislation is to promote exports, investment, infrastructure development, and employment. Under the program, exporting firms located in SEZs are exempted from customs duties.[77]

In the 1SQR the GOI stated that AR Printing did not use this program[78] and provided a circular provided by the Central Board of Excise and Customs, dated April 3, 2003, stating that the

[74] *See* HRS from India Investigation Decision Memorandum at "Export Promotion Capital Goods Scheme."
[75] *See* the GOI's IQR at 12.
[76] *See Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination*, 78 FR 50385 (August 19, 2013) (*Shrimp from India*) and accompanying Issues and Decision Memorandum at 9.
[77] *See* Preliminary Results of Lined Paper from India Decision Memorandum at 11-12; unchanged in Final Results of Lined Paper from India Decision Memorandum at 4.
[78] *See* IQR at 33.

program had been terminated.[79] Upon review of this information, we preliminarily determine that the GOI terminated this program, that no residual benefits were provided during the POR, and that GOI did not implement a successor program. Accordingly, we preliminarily determine not to assign a net subsidy rate to AR Printing with regard to this program.

3. State Government of Gujarat (SGOG) Tax Incentives

In past proceedings, the Department examined tax incentives offered by the SGOG to 100 percent privately-owned firms located in certain regions of the state. The Department found that the tax incentives include exemption or deferral of state sales taxes on purchases as well as exemptions or deferrals from collecting states sales taxes.[80]

In the 2SQR the GOI provided a copy of the government resolution for the termination of the program and the last date firms could apply for benefits, last date of residual benefit and that the Government of Gujarat discontinued tax incentives and there are no successor programs.[81] Upon review of this information, we preliminarily determine that the SGOG terminated this program, that no residual benefits were provided during the POR, and that SGOG did not implement a successor program. Accordingly, we preliminarily determine not to assign a net subsidy rate to AR Printing with regard to this program.

Programs Preliminarily Determined to be Not Used During the POR

1. The GOI's Loan Guarantee Program

Under this program, the GOI as well as the State Bank of India provides guarantees on rupee and foreign-currency loans to firms that have at least 51 percent ownership by Indian government entities on either the federal, provincial or municipal level.[82]

In the IQR the GOI stated that AR Printing did not use the program.[83] In the 1SQR the GOI further stated that it limited benefits under the program to public sector companies, not private sector companies, and that AR Printing was a privately held company.[84] In the 2SQR the GOI stated that a company is only considered a government company if the government owns majority shares. The GOI reiterated that it does not own any shares of AR Printing and provided the Companies Act which defined the difference between private and public companies under Indian Law.[85]

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[79] *See* 1SQR at 8 and Exhibit S1.

[80] *See e.g.*, Memorandum to Paul Piquado, Assistant Secretary for Import Administration, 'Post-Preliminary Issues and Decision Memorandum: Certain Lined Paper Products from India," (February 1, 2013) (2010 Post-Preliminary Results of Lined Paper from India Decision Memorandum) at 6; unchanged in 2010 Final Results of Lined Paper from India Decision Memorandum at 5-6. For a copy of this memorandum, see the Memorandum to the File from John Conniff, Trade Analyst, Office III, Operations, "Placement of Post-Preliminary Decision Memorandum from 2010 Countervailing Duty Administrative Review of Lined Paper Products from India," dated concurrently with this decision memorandum.

[81] *See* 2SQR at 8 and Exhibit SS3.

[82] *See* 2010 Final Results of Lined Paper from India Decision Memorandum at 4.

[83] *See* IQR at 35.

[84] *See* 1SQR at 9.

[85] *See* 2SQR at 7 and Exhibit SS2.

Based on this information from the GOI we preliminarily determine that AR Printing did not use this program during the POR.

2. Income Deduction (801B Tax Program)

In past proceedings, the Department found that pursuant to the Income Tax Act of 1961, as amended by the Finance Act 2007, Chapter VIA, 80IB(4) (India) (2007), the GOI has implemented a tax policy to foster economic development of certain "industrially backward" regions in India. The tax exemptions allowed under the 801B Tax Program are only available to companies located in designated geographical areas (referred to as "backward areas" by the GOI) within India. Under the 801B Tax Program, the GOI allows domestic companies that invest in economically less developed areas of India to reduce their corporate taxable income by up to 100 percent of profit gained at production facilities located in designated geographical areas for a period of five years and by up to 30 percent for the next five years. The benefit is applied to the gross total income of the tax payer and is claimed when a company files its income tax return at the end of every financial year.[86]

In the IQR the GOI stated that AR Printing did not use the program.[87] In the 1SQR the GOI reiterated its statement and provided a letter issued by the jurisdictional income tax authority along with screenshots of AR Printing's tax filings that the GOI claims demonstrates AR Printing's non-use of the program.[88] In the 2SQR the GOI reiterated that AR Printing did not use this program by directing the Department to review its previously submitted exhibit.[89]

Based on this information contained in the screenshots from the GOI we preliminarily determine that AR Printing did not use this program during the POR.

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[86] *See* 2010 Preliminary Results of Lined Paper from India Decision Memorandum at 9; unchanged in 2010 Final Results of Lined Paper from India Decision Memorandum at 4.
[87] *See* IQR at 35.
[88] *See* 1SQR at 9 and Exhibit S5.
[89] *See* 2SQR at 8.

Recommendation

Based on our analysis of the record, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of the review in the *Federal Register*.

________ ________
Agree Disagree

____
Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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Date