

## Public Comment

The Department will disclose calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c). Rebuttal briefs limited to issues raised in the case briefs may be filed no later than five days after the time limit for submitting the case briefs. *See* 19 CFR 351.309(d). Parties who submit argument in these proceedings are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, parties submitting case briefs and/or rebuttal briefs are requested to provide the Department with an additional copy of the public version of any such argument on diskette. The Department will issue final results of this administrative review, including the results of our analysis of the issues in any such argument or at a hearing, within 120 days of publication of these preliminary results, unless extended. *See* section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

## Duty Assessment

Upon completion of this administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we will calculate importer-specific *ad valorem* assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. The total customs value is based on the entered value reported by Mexinox for all U.S. entries of subject merchandise initially entered for consumption to the United States made during the POR. *See* Preliminary Analysis Memorandum. In accordance with 19 CFR 356.8(a), the Department intends to issue assessment instructions to CBP on or after 41 days following the publication of the final results of review.

The Department clarified its "automatic assessment" regulation on

May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by the company included in these preliminary results for which the reviewed company did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company or companies involved in the transaction.

## Cash Deposit Requirements

Furthermore, the following cash deposit requirements will be effective for all shipments of S4 in coils from Mexico entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of this review, except if the rate is less than 0.50 percent (*de minimis* within the meaning of 19 CFR 351.106(c)(1)), the cash deposit will be zero; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the all-others rate of 30.85 percent, which is the all-others rate established in the LTFV investigation. *See Order*. These deposit requirements, when imposed, shall remain in effect until further notice.

## Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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

Dated: July 31, 2009.

**John M. Andersen,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-533-825]

### Polyethylene Terephthalate Film, Sheet, and Strip from India: 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 order on polyethylene terephthalate (PET) film, sheet and strip from India for the period January 1, 2007, through December 31, 2007. We preliminarily determine that subsidies are being provided on the production and export of PET film from India. *See* the "Preliminary Results of Administrative Review" section, below. If the final results remain the same as the preliminary results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties. Interested parties are invited to comment on the preliminary results of this administrative review. *See* the "Public Comment" section of this notice, below.

**EFFECTIVE DATE:** August 7, 2009.

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

## SUPPLEMENTARY INFORMATION:

### Background

On July 1, 2002, the Department published in the **Federal Register** the countervailing duty (CVD) order on PET film from India. *See Countervailing Duty Order: Polyethylene Terephthalate Film, Sheet and Strip (PET Film) from India*, 67 FR 44179 (July 1, 2002) (*PET Film Order*). On July 11, 2008, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity*

to Request Administrative Review, 73 FR 39948 (July 11, 2008).

On July 15, 2008, the Department received a timely request to conduct an administrative review of the PET Film Order from Jindal Poly Films Limited of India (Jindal), formerly named Jindal Polyester Limited, an Indian producer and exporter of subject merchandise. On August 26, 2008, the Department initiated an administrative review of the CVD order on PET film from India covering Jindal for the period January 1, 2007, through December 1, 2007. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 73 FR 50308 (August 26, 2008).

The Department issued questionnaires to the Government of India (GOI) and Jindal on September 9, 2008. On October 23, 2008, the GOI submitted its questionnaire response. Jindal submitted its questionnaire response on October 30, 2008. The Department issued its first supplemental questionnaires to the GOI and Jindal on February 13, 2009. On March 9, 2009, the GOI submitted its first supplemental response, and Jindal submitted its first supplemental response on March 11, 2009.

On April 2, 2009, the Department extended the time limit for the preliminary results of the countervailing duty administrative review until July 31, 2009. *See Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review*, 74 FR 14960 (April 2, 2009).

The Department issued a second supplemental questionnaire to the GOI and Jindal on July 6, 2009 and on June 23, 2009, respectively. Jindal filed its second supplemental response on July 14, 2009. On July 20, 2009, the GOI filed its response to the Department's second supplemental questionnaire.

### Scope of the Order

For purposes of the order, the products covered are all gauges of raw, pretreated, or primed Polyethylene Terephthalate Film, Sheet and Strip, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00.90. HTSUS subheadings are provided for convenience and customs

purposes. The written description of the scope of this proceeding is dispositive.

### Subsidies Valuation Information Allocation Period

Under 19 CFR § 351.524(d)(2)(i), we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) prescribed by the Internal Revenue Service (IRS) for renewable physical assets of the industry under consideration (as listed in the IRS's 1977 Class Life Asset Depreciation Range System, and as updated by the Department of the Treasury). This presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets of the company or industry under investigation. Specifically, the party must establish that the difference between the AUL from the tables and the company-specific AUL or country-wide AUL for the industry under investigation is significant, pursuant to 19 CFR § 351.524(d)(2)(i) and (ii). For assets used to manufacture plastic film, such as PET film, the IRS tables prescribe an AUL of 9.5 years.<sup>1</sup> In the 2003 administrative review, the Department determined that Jindal had rebutted the presumption and applied a company-specific AUL of 17 years for Jindal. *See Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 71 FR 7534 (February 13, 2006) (*PET Film Final Results of 2003 Review*). Because there is no new evidence on the record that would cause the Department to reconsider this decision in this review, the Department has preliminarily determined to continue to use an AUL of 17 years for Jindal in allocating non-recurring subsidies.

### Benchmark Interest Rates and Discount Rates

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

use a national average interest rate, pursuant to 19 CFR § 351.505(a)(3)(ii).

Pursuant to 19 CFR § 351.505(a)(2)(iv), if a program under review is a government provided, short-term loan program, the preference would be to use a company-specific annual average of the interest rates on comparable commercial loans during the year in which the government-provided loan was taken out, weighted by the principal amount of each loan. For this review, the Department required a rupee-denominated short-term loan benchmark rate to determine benefits received under the Pre-Shipment Export Financing and Post-Shipment Export Financing programs. For further information regarding this program, *see* the "Pre-Shipment and Post-Shipment Export Financing" section below.

In a prior review of this case, the Department determined that Inland Bill Discounting (IBD) loans are more comparable to pre-shipment and post-shipment export financing loans than other types of rupee-denominated short-term loans. *See Preliminary Results and Rescission in Part of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 70 FR 46483, 46485 (August 10, 2005) (*PET Film Preliminary Results of 2003 Review*) (unchanged in the final results). There is no new information or evidence of changed circumstances which would warrant reconsidering this finding. Therefore, for these preliminary results, we continue to use IBD loans as the basis for the short-term rupee-denominated benchmark for all applicable programs for Jindal.

Jindal did not have any US dollar-denominated short-term loans during the POR. Therefore, in accordance with 19 CFR § 351.505(a)(3)(ii), the Department used a national average dollar-denominated short-term interest rate, as reported in the International Monetary Fund's publication *International Financial Statistics* (IMF Statistics) for Jindal.

Further, for those programs requiring a rupee-denominated discount rate or the application of a rupee-denominated long-term benchmark rate, we used, where available, company-specific, weighted-average interest rates on comparable commercial long-term, rupee-denominated loans. For this review, the Department required benchmarks to determine benefits received under the Export Promotion Capital Goods Scheme (EPCGS) and Export Oriented Units (EOU) programs. Jindal did not have comparable commercial long-term rupee-

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

denominated loans for all 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, we used national average interest rates, pursuant to 19 CFR § 351.505(a)(3)(ii), from the IMF Statistics.

#### *A. Programs Preliminarily Determined to be Countervailable*

##### *1. Pre-Shipment and Post-Shipment Export Financing*

The Reserve Bank of India (RBI), through commercial banks, provides short-term pre-shipment financing, or "packing credits," to exporters. Upon presentation of a confirmed export order or letter of credit to a bank, companies may receive pre-shipment loans for working capital purposes (*i.e.*, purchasing raw materials, warehousing, packing, transportation, etc.) for merchandise destined for exportation. Companies may also establish pre-shipment credit lines upon which they draw as needed. Limits on credit lines are established by commercial banks and are based on a company's creditworthiness and past export performance. Credit lines may be denominated either in Indian rupees or in a foreign currency. Commercial banks extending export credit to Indian companies must, by law, charge interest at rates determined by the RBI.

Post-shipment export financing consists of loans in the form of discounted trade bills or advances by commercial banks. Exporters qualify for this program by presenting their export documents to the lending bank. The credit covers the period from the date of shipment of the goods to the date of realization of the proceeds from the sale to the overseas customer. Under the Foreign Exchange Management Act of 1999, exporters are required to realize proceeds from their export sales within 180 days of shipment. Post-shipment financing is, therefore, a working capital program used to finance export receivables. In general, post-shipment loans are granted for a period of not more than 180 days.

In the original investigation, the Department determined that the pre-shipment and post-shipment export financing programs conferred countervailable subsidies on the subject

merchandise because: (1) the provision of the export financing constitutes a financial contribution pursuant to section 771(5)(D)(i) of the Act as a direct transfer of funds in the form of loans; (2) the provision of the export financing confers benefits on the respondents under section 771(5)(E)(ii) of the Act to the extent that the interest rates provided under these programs are lower than comparable commercial loan interest rates; and (3) these programs are specific under section 771(5A)(A) and (B) of the Act because they are contingent upon export performance. See *Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet and Strip (PET Film) From India*, 67 FR 34905 (May 16, 2002), and accompanying *Issues and Decision Memorandum (PET Film Final Determination)*, at "Pre-Shipment and Post-Shipment Financing." There is no new information or evidence of changed circumstances that would warrant reconsidering this finding. Therefore, for these preliminary results, we continue to find this program countervailable.

Jindal reported that it did not receive any post-shipment export financing during the POR. However, it did report receiving pre-shipment export financing during the POR. With regard to pre-shipment loans, the benefit conferred is the difference between the amount of interest the company paid on the government loan and the amount of interest it would have paid on a comparable commercial loan (*i.e.*, the short-term benchmark). Because pre-shipment loans are tied to a company's exports rather than exports of subject merchandise, we calculated the subsidy rate for these loans by dividing the total benefit by the value of Jindal's total exports during the POR. See 19 CFR § 351.525(b). On this basis, we preliminarily determine the net countervailable subsidy from pre-shipment export financing for Jindal to be 0.08 percent *ad valorem* during the POR.

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

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

the POR, Jindal used advance licenses to import certain materials duty free.

In the 2005 administrative review of this proceeding, the GOI indicated that it had revised its Foreign Trade Policy and Handbook of Procedures for the ALP during that POR. The Department analyzed the changes introduced by the GOI to the ALP in 2005 and acknowledged that certain improvements to the ALP system were made. However, the Department found that systemic issues continued to exist in the ALP system during the POR. See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 73 FR 7708 (February 11, 2008), and accompanying *Issues and Decision Memorandum, at Comment 3 (PET Film Final Results of 2005 Review)*; 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), and accompanying *Issues and Decision Memorandum, at Comment 10 (Lined Paper - Final Determination)*. Based on the information submitted by the GOI and examined during previous reviews of this proceeding, the Department noted that the systemic issues previously identified by the Department continued to exist. See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 72 FR 6530 (February 12, 2007), at *Comment 3, (PET Film Final Results of 2004 Review)*. See also *PET Film Final Results of 2005 Review, Issues and Decision Memorandum, at "Advance License Program (ALP)," and Comment 3*. In the 2005 review, the Department specifically stated that it continues to find the ALP countervailable because of the systemic deficiencies in the ALP identified in that review:

the GOI's lack of 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. Specifically, we still have concerns with regard to several aspects of the ALP including (1) the GOI's inability to provide the SION calculations that reflect the production experience of the PET film industry as a whole; (2) the lack of evidence regarding the implementation of penalties for companies not meeting the export requirements under the ALP or for claiming excessive credits; and, (3)

the availability of ALP benefits for a broad category of “deemed” exports. See *PET Film Final Results of 2005 Review*, at *Comment 3*.<sup>2</sup>

Further, in that same review, the Department found that PET film producers “do not have to keep track of wastage since it is not recoverable for the production of PET film.” *Id.* Accordingly, no allowance was made by the GOI to account for waste to ensure that the amount of duty deferred would not exceed the amount of import charges on imported inputs consumed in the production of the exported subject merchandise. See *id.* Furthermore, the Department found that, in developing the SIONs for Pet Film, the GOI did not tie the relevant production numbers to a producer’s accounting system or financial statement. *Id.*

In this review, Jindal, reporting the revisions addressed in the above referenced 2005 administrative review of the order, argued that the ALP “now meets the Department’s criteria for being non-countervailable.” See *Jindal’s Original Questionnaire Response*, at 78 (October 30, 2008). Specifically, Jindal argued that the GOI, in order to strengthen the supervision and monitoring system of the ALP, conducted an on-the-spot verification of Jindal’s plant to review the actual consumption and utilization of the inputs imported duty free under the ALP. Jindal also provided supporting documentation and copies of GOI publications on the administration of the ALP, the introduction of Appendix 23, and the revision of the PET Film SION. The Department requested Jindal to provide a copy of the GOI’s verification of Jindal’s Appendix 23 consumption register for the actual quantity imported during the POR, against the quantities included in the SION for PET Film, as enumerated in paragraph 4.28(v) of the Handbook of Procedures 2004–2009. However, Jindal was unable to do so because none of its advance licenses had been redeemed for which it is required to maintain an Appendix 23 to this date. Thus, the Department was unable to examine whether the Appendix 23 is indeed effective in tracing the consumption of the quantities of inputs imported duty free to the quantities of subject merchandise exported, in accordance with the 2005 SION for PET Film. Therefore, there is no record evidence demonstrating the functionality and

accuracy of the GOI’s new monitoring procedures to ensure that the inputs imported duty free were consumed in the production of subject merchandise exported, in accordance with the newly established PET Film SION. Moreover, Jindal did not address any concerns the Department had in the 2005 review with respect to the formulation and verification of the PET Film SION. In particular, the GOI did not require Jindal to tie the inventory and consumption data to Jindal’s accounting systems and financial statements in order to verify the accuracy of Jindal’s data, or to account for waste, normally incurred in the production. In addition, in the current review the Department noted inconsistencies between the inputs listed in the revised SIONs for PET Film (H209 and H210), as reported in Exhibit 31(c) of *Jindal’s Original Questionnaire Response*, and certain input items listed as allowed to be imported under an advance license by Jindal. Specifically, it appears that several of the items imported, or allowed to be imported, under Jindal’s advance licenses were not listed in the SIONs. See Jindal’s Second Supplemental Questionnaire Response, Exhibit S2–39 (July 14, 2009) (*Jindal’s Second Supplemental Questionnaire Response*). The Department intends to further investigate these inconsistencies.

Because the systemic deficiencies in the ALP system identified above still exist, the Department continues to find 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 that would otherwise be due; (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, making normal allowance for waste nor did the GOI carry out an examination of actual inputs involved to confirm which inputs are consumed in the production of the exported product, and in what amounts; 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 specific under section 771(5A)(A) and (B) of the Act because it is contingent upon exportation.

Pursuant to 19 CFR § 351.524(c)(1), the exemption of import duties normally provides a recurring benefit.

Under this program, for 2007, Jindal did not have to pay certain import duties for inputs that were used in the production of subject merchandise. Thus, we are treating the benefit provided under the ALP as a recurring benefit.

Jindal received various ALP licenses, which it reported separately for the production of: (1) subject merchandise; (2) non-subject merchandise; and (3) in the case of invalidated licenses, both subject and non-subject merchandise. However, upon close examination of those exhibits, the Department was not able to determine whether certain licenses are in fact tied to the production of a particular product within the meaning of 19 CFR § 351.525(b)(5). The Department, after examining all original ALP licenses submitted in Exhibit S2–39 of *Jindal’s Second Supplemental Questionnaire Response*, and comparing those to the data reported in Exhibits 31(a) and (b), noted certain inconsistencies. For further clarification, see *Memorandum to File from Elfi Blum: Calculations for the Preliminary Results: Jindal Poly Films of India Limited (Jindal) (July 31, 2009)*. As a result, we cannot determine that the ALP licenses are tied to the production of a particular product within the meaning of 19 CFR § 351.525(b)(5), and we find that Jindal’s ALP licenses benefit all of the company’s exports. Therefore, we have divided the resulting net benefit by Jindal’s total export sales. On this basis, we determine the countervailable subsidy provided under the ALP to be 1.35 percent *ad valorem* for Jindal.

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

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

In the investigation, the Department determined that import duty reductions provided under the EPCGS are countervailable export subsidies because the scheme: (1) provides a financial contribution pursuant to

<sup>2</sup> See Memorandum to File from Elfi Blum: Placing the GOI Verification Report of the 2005 Countervailing Duty Administrative Review on the Record of the 2007 Countervailing Duty Administrative Review.

section 771(5)(D)(ii) in the form of revenue forgone for not collecting import duties; (2) respondents receive two different benefits under section 771(5)(E) of the Act; and (3) the program is contingent upon export performance, and is specific under section 771(5A)(A) and (B) of the Act. *See, e.g., PET Film Final Results of 2004 Review*, 72 FR 6530, Issues and Decision Memorandum, at "EPCGS." There is no new information or evidence of changed circumstances that would warrant reconsidering our determination that this program is countervailable. Therefore, for these preliminary results, we continue to find this program countervailable.

The first benefit is the amount of unpaid import duties that would have to be paid to the GOI if accompanying export obligations are not met. The repayment of this liability is contingent on subsequent events, and in such instances, it is the Department's practice to treat any balance on an unpaid liability as a contingent liability interest-free loan, pursuant to 19 CFR § 351.505(d)(1). *Id.* The second benefit is the waiver of duty on imports of capital equipment covered by those EPCGS licenses for which the export requirement has already been met. For those licenses for which companies demonstrate that they have completed their export obligation, we treat the import duty savings as grants received in the year in which the GOI waived the contingent liability on the import duty exemption, pursuant to 19 CFR § 351.505(d)(2).

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

Jindal reported that they imported capital goods under the EPCGS in the years prior to and during the POR. Jindal received various EPCGS licenses, which it reported were for the production of: (1) subject merchandise, and (2) non-subject merchandise. However, information provided by Jindal indicates that some of the licenses were issued for the purchase of capital goods and materials used in the production of both subject and non-

subject merchandise, or were reported as such in a prior review. *See Jindal's Original Questionnaire Response*, at Exhibits 20(a), 20(c), 22(a), and 22(b), and Jindal's First Supplemental Response, at Exhibit S1-1 and S1-20(b). Further, license documentation included in Jindal's most recent supplemental response indicates an endorsement by the GOI for the export of both subject and non-subject merchandise, and capital equipment reported imported for the production of non-subject merchandise only, endorsed by the GOI for the export of subject merchandise. *See Jindal's Second Supplemental Questionnaire Response*, at Exhibit S2-29. Based on the information and documentation submitted by Jindal, we cannot determine that the EPCGS licenses are tied to the production of a particular product within the meaning of 19 CFR § 351.525(b)(5). As such, we find that all of Jindal's EPCGS licenses benefit all of the company's exports.

Jindal met the export requirements for certain EPCGS licenses prior to December 31, 2007, and the GOI has formally waived the relevant import duties. For most of its licenses, however, Jindal has not yet met its export obligation as required under the program. Therefore, although Jindal has received a deferral from paying import duties when the capital goods were imported, the final waiver on the obligation to pay the duties has not yet been granted for many of these imports.

To calculate the benefit received from the GOI's formal waiver of import duties on Jindal's capital equipment imports where its export obligation was met prior to December 31, 2007, we considered the total amount of duties waived (net of required application fees) to be the benefit. Further, consistent with the approach followed in the investigation, we determine the year of receipt of the benefit to be the year in which the GOI formally waived Jindal's outstanding import duties. *See PET Film Final Determination*, and accompanying Issues and Memorandum, at *Comment 5*. Next, we performed the "0.5 percent test," as prescribed under 19 CFR § 351.524(b)(2), for each year in which the GOI granted Jindal an import duty waiver. Those waivers with values in excess of 0.5 percent of Jindal's total export sales in the year in which the waivers were granted were allocated using Jindal's company-specific AUL, while waivers with values less than 0.5 percent of Jindal's total export sales were expensed in the year of receipt. *See "Allocation Period" section, above.*

As noted above, import duty reductions that Jindal received on the

imports of capital equipment for which they have not yet met export obligations may have to be repaid to the GOI if the obligations under the licenses are not met. Consistent with our practice and prior determinations, we will treat the unpaid import duty liability as an interest-free loan. *See* 19 CFR § 351.505(d)(1); and *PET Film Final Determination and Issues and Decision Memorandum*, at "EPCGS"; *see also Final Affirmative Countervailing Duty Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin From India*, 70 FR 13460 (March 21, 2005) (*Indian PET Resin Final Determination*).

The amount of the unpaid duty liabilities to be treated as an interest-free loan is the amount of the import duty reduction or exemption for which the respondent applied, but, as of the end of the POR, had not been finally waived by the GOI. Accordingly, we find the benefit to be the interest that Jindal would have paid during the POR had it the full amount of the duty reduction or exemption at the time of importation. *See, e.g., Preliminary Results and Rescission in Part of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 70 FR 46483, 46485 (August 10, 2005) (*PET Film Preliminary Results of 2003 Review*) (unchanged in the final results, 71 FR 7534); *see also (Indian PET Resin Final Determination)*.

As stated above, under the EPCGS program, the time period for fulfilling the export commitment expires eight years after importation of the capital good. As such, pursuant to 19 CFR § 351.505(d)(1), the benchmark for measuring the benefit is a long-term interest rate because the event upon which repayment of the duties depends (*i.e.*, the date of expiration of the time period to fulfill the export commitment) occurs at a point in time that is more than one year after the date of importation of the capital goods (*i.e.*, under the EPCGS program, the time period for fulfilling the export commitment is more than one year after importation of the capital good). As the benchmark interest rate, we used the weighted-average interest rate from all comparable commercial long-term, rupee-denominated loans for the year in which the capital good was imported. *See* the "Benchmarks for Loans and Discount Rate" section above for a discussion of the applicable benchmark. We then multiplied the total amount of unpaid duties under each license by the long-term benchmark interest rate for the year in which the license was approved and summed these amounts to

determine the total benefit for each company.

The benefit received under the EPCGS is the total amount of: (1) the benefit attributable to the POR from the formally waived duties for imports of capital equipment for which respondents met export requirements by December 31, 2007, and/or (2) interest due on the contingent liability loans for imports of capital equipment that have not met export requirements. We then divided that total by Jindal's total exports to determine a subsidy of 4.06 percent *ad valorem*.

#### 4. Export Oriented Units (EOU)

Companies that are designated as an EOU are eligible to receive various forms of assistance in exchange for committing to export all of the products they produce, excluding rejects and certain domestic sales, for five years. Companies designated as EOUs may receive the following benefits: (1) duty-free importation of capital goods and raw materials; (2) reimbursement of central sales taxes (CST) paid on capital goods and materials procured within India; (3) purchase of materials and other inputs free of central excise duty; and (4) receipt of duty drawback on furnace oil procured from domestic oil companies. Consistent with its previous administrative review, Jindal reported that it had been designated as an EOU. See *PET Film Final Results of 2004 Review*, and accompanying Issues and Decision Memorandum, at "Export Oriented Units." Specifically, Jindal reported receiving the following benefits: (1) the duty-free importation of capital goods and materials; (2) the reimbursement of CST paid on raw materials and capital goods procured domestically; and (3) the purchase of materials and other inputs free of central excise duty.

The Department previously determined that the purchase of materials and/or inputs free of central excise duty is not countervailable. See *Indian PET Resin Final Determination*, Issues and Decision Memorandum, at "Export Oriented Units (EOUs) Programs: Purchase of Material and other Inputs Free of Central Excise Duty." With respect to the other categories of benefits enumerated above, the Department determined that the EOU program was specific, within the meaning of section 771(5A)(A) and (B) of the Act, because the receipt of benefits under this program was contingent upon export performance. See, e.g., *Indian PET Resin Final Determination*, Issues and Decision Memorandum, at "Export-Oriented Unit (EOU) Program: Duty-Free Import

of Capital Goods and Raw materials," and "Export-Oriented Unit (EOU) Program: Reimbursement of Central Sales Tax (CST) Paid on Materials Procured Domestically." There is no new information or evidence of changed circumstances that would warrant reconsidering this finding.

In this review, Jindal reported also receiving benefits from the "EOU Duty Drawback on Furnace Oil Procured From Domestic Oil Companies" program and the "EOU Income Tax Exemption Scheme (Section 10B)," both programs previously reported as not used in prior reviews of this proceeding. We determined that the EOU Duty Drawback on Furnace Oil Procured From Domestic Oil Companies was countervailable in *Indian PET Resin Final Determination*, Issues and Decision Memorandum, at "Export-Oriented Unit (EOU) Program: Duty Drawback on Furnace Oil Procured from Domestic Oil Companies." There is no new information or evidence of changed circumstances that would warrant reconsidering this finding. The countervailability of the EOU Income Tax Exemption Scheme (Section 10B) is discussed below under section (d).

#### a. Duty-Free Importation of Capital Goods and Raw Materials

Under this program, an EOU is entitled to import, duty-free, capital goods and raw materials for the production of exported goods in exchange for committing to export all of the products it produces over five years. The Department previously determined that the duty-free importation of capital goods and raw materials provides a financial contribution and confers benefits equal to the amount of exemptions of customs duties. See Sections 771(5)(D)(ii) and (E) of the Act. See also, *Indian PET Resin Final Determination*, Issues and Decision memorandum, at "Export-Oriented Unit (EOU) Program: Duty-Free Import of Capital Goods and Raw Materials." With respect to raw material imports, the GOI was not able to demonstrate that it has in place and applies 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, making normal allowance for waste.

Based on the information provided by Jindal in the form of copies of its "Executed Legal agreement for EOU Unit" with the GOI, at Exhibits 26(b.i.), and 26(b.ii.), until an EOU demonstrates that it has fully met its export requirement, the company remains

contingently liable for the import duties. See *Jindal's Original Questionnaire Response*, at Exhibits 26(b.i.) and 26(b.ii.). Jindal has not yet met its export requirement under this program and will owe the unpaid duties if the export requirement is not met. (Upon Jindal meeting its export requirement, the Department will treat the waived duties as a grant.) Therefore, consistent with 19 CFR § 351.505(d)(1), until the contingent liability for the unpaid duties is officially waived by the GOI, we consider the unpaid duties to be an interest-free loan made to Jindal at the time of importation. We determine the benefit to be the interest that Jindal would have paid during the POR had it borrowed the full amount of the duty reduction or exemption at the time of importation.

Pursuant to 19 CFR § 351.505(d)(1), the benchmark for measuring the benefit is a long-term interest rate because the event upon which repayment of the duties depends (*i.e.*, the date of expiration of the time period to fulfill the export commitment) occurs at a point in time that is more than one year after the date of importation of the capital goods (*i.e.*, under the EOU program, the time period for fulfilling the export commitment is more than one year after importation of the capital good). We used the long-term, rupee-denominated benchmark interest rate discussed in the "Benchmarks for Loans and Discount Rate" section above for each year in which capital goods were imported as the benchmark.

Further, for duty exemptions under this program that are tied to capital equipment purchases, in accordance with 19 CFR § 351.524(c)(2)(iii), we are treating these exemptions as non-recurring benefits and allocating those benefits over Jindal's company specific AUL.

For the duty free importation of capital goods, because Jindal did not fulfill any export obligation under the EOU program, we determined the benefit for each year is the total amount of interest that would have been paid if Jindal had received a loan to pay the duties. To calculate the benefit to Jindal under this program, we summed the amount of interest that would have been paid during the POR, and the duty exemptions on raw material inputs received during the POR. We then divided Jindal's total benefits under this program by its total export sales during the POR. On this basis, we determine the countervailable subsidy from this category of the program to be 1.09 percent *ad valorem* for Jindal.



*b. Reimbursement of CST Paid on Materials Procured Domestically*

Under this program, Jindal was also reimbursed for the CST it paid on raw materials and capital goods procured domestically. The Department previously determined that the reimbursement of CST paid on materials procured domestically provides a financial contribution and confers benefits equal to the amount of reimbursements of sales taxes pursuant to sections 771(5)(D)(ii) and (E) of the Act. *See, e.g., PET Film Preliminary Results of 2003 Review*, 70 FR at 46490 (unchanged in the final results). Specifically, the benefit associated with domestically purchased materials is the amount of reimbursed CST received by Jindal during the POR.

Normally, tax reimbursements, such as the CST, are considered to be recurring benefits. However, a portion of the benefit of this program is tied to the purchase of capital assets. As such, pursuant to 19 CFR § 351.524(c)(2)(iii), we would normally treat such reimbursements as non-recurring benefits. However, we performed the “0.5 percent test,” as prescribed under 19 CFR § 351.524(b)(2) and found that the amount of CST reimbursements tied to capital goods received during the POR was less than 0.5 percent of total export sales for 2007. We also performed the “0.5 percent test on Jindal’s reimbursements of CST on its purchases of capital assets for the 2006 and 2005 review periods, and found that they were less than 0.5 percent of total export sales for the respective years. Therefore, the benefits under this program were expensed entirely in the year earned and the only benefit was from the CST reimbursements claimed under this program during the POR. *See* 19 CFR § 351.524(b)(2). To calculate the benefit for Jindal, we first summed the total amount of CST reimbursements for capital goods and raw materials received during the POR. We divided this amount by the total value of Jindal’s export sales during the POR. On this basis, we preliminarily determine the countervailable subsidy provided to Jindal through the reimbursement of CST under the EOU program to be 0.03 percent *ad valorem*.

*c. EOU Duty Drawback on Furnace Oil Procured From Domestic Oil Companies*

During the POR Jindal was reimbursed for duties paid on its furnace oil purchased from domestic oil companies. This duty drawback rate on furnace oil purchases is only available to EOUs. The “all-industry” rate is calculated in part, on the total cost of

insurance and freight (CIF) value of oil imported by the two major Indian oil suppliers. This duty drawback on furnace oil is not tied to the production process of any particular industry or product, including the subject merchandise, but applies only to the overall import charges on furnace oil without taking into consideration how the furnace oil is used by an EOU, and even if it is consumed in the production process. An EOU’s reimbursement is based on the FOB value of the invoice received from the Indian oil supplier, inclusive of the import duties paid by the Indian oil supplier. *See Memorandum from Sean Carey to Barbara Tillman, Acting Deputy Assistant Secretary for Import Administration: Countervailing Duty Investigation of Polyethylene Terephthalate (PET) Resin from India: Preliminary Analysis of the Export Oriented Unit (EOU) Program on Duty Drawback on Furnace Oil Procured from Domestic Oil Companies Program and Purchases of Materials and Other Inputs Free of Central Excise Duty*, at 1–3 (February 14, 2005).

As mentioned above, the Department previously determined that this program is limited to EOUs and therefore, is specific as an export subsidy under section 771(5A)(A) and (B) of the Act. In addition, the Department found that this program provides a financial contribution in accordance with section 771(5)(D)(ii) of the Act, in the amount of the reimbursement claimed. Finally, a benefit is conferred in accordance with section 771(5)(D)(ii) of the Act and section 771(5)(E) of the Act and 19 CFR § 351.519(a)(4)(ii) in the entire amount of the reimbursement claimed under this program, since the GOI does not have a system or procedure in place to confirm the amount of furnace oil consumed in the production of exports for purposes of claiming duty drawback. *See* 19 CFR § 351.519(a)(1)(i); *see also Indian PET Resin Final Determination*, at “Export-Oriented Unit (EOU) Program: Duty Drawback on Furnace Oil Procured from Domestic Oil Companies.”

To calculate the countervailable export subsidy for Jindal, we summed the amount of duty drawback claimed under this program during the POR, and divided this benefit by Jindal’s total export sales during the POR. Thus, the countervailable subsidy is 0.07 percent *ad valorem* for Jindal.

*d. EOU Income Tax Exemption Scheme (Section 10B)*

In the instant review, Jindal reported that, in accordance with Section 10B of the Income Tax Act, 1961, it was

allowed to deduct its profits derived from the export sales as an EOU, as defined in the FTP, from its taxable income during the POR. Specifically, Section 10B states that:

Subject to the provisions of this section, a deduction of such profits and gains as are derived by a hundred per cent export-oriented undertaking. . . for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce . . . shall be allowed from the total income of the assessee . . .

*See Jindal’s Original Questionnaire Response*, at Exhibit 35(a). According to Jindal, an EOU does not have to file a formal application to make this deduction under the program. *See id.*, at 97. According to the GOI, “no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2010 and subsequent years.” *See GOI’s Original Questionnaire Response*, at 57.

Based on the information above, we preliminarily determine this program to be a countervailable export subsidy, because it is contingent upon export performance and, therefore, specific in accordance with section 771(5A)(A) and (B) of the Act. Pursuant to section 771(5)(D)(ii) of the Act, the GOI provides a financial contribution in the form of revenue forgone. The benefit equals the difference between the amount of income taxes that would be payable absent this program and the actual amount of taxes payable by Jindal, pursuant to section 771(5)(E) of the Act. We also determine that the EOU Income Tax Exemption Scheme (Section 10B) provides a recurring benefit under 19 CFR § 351.509(c) and 19 CFR § 351.524(c). We then divided this benefit by Jindal’s total export sales during the POR, to determine a countervailable subsidy of 0.15 percent *ad valorem* for Jindal.

*5. State and Union Territory Sales Tax Incentive Programs*

According to the GOI, state governments in India grant exemptions to, or deferrals from, sales taxes in order to encourage regional development. *See GOI’s Original Questionnaire Response*, at 46 to 50 (October 16, 2008; revised October 23, 2008) and the GOI’s First Supplemental Response, at 18 to 19 (March 9, 2009). These incentives allow privately-owned (*i.e.*, not 100 percent owned by the GOI) manufacturers, that are in selected industries and are located in the designated regions, to sell

goods without charging or collecting state sales taxes.

In the original CVD investigation, we determined that the operation of these types of state sales tax programs confer countervailable subsidies. See *PET Film Final Determination, Issues and Decision Memorandum*, at “State of Maharashtra Programs” and “State of Uttar Pradesh Programs.” Sales Tax Incentives;” see also, *PET Film Final Results of 2005 Review*, at “State Sales Tax Incentive Programs.” Specifically, the Department found that these programs provide a financial contribution in the form of revenue foregone by the respective state governments pursuant to section 771(5)(D)(ii) of the Act, and confer a benefit equal to the amount of the tax exemption, pursuant to section 771(5)(E) of the Act. Pursuant to section 771(5A)(A) and (D)(iv) of the Act, these programs are specific because they are limited to certain geographical regions within the respective states administering the programs.

To calculate the benefit, we first calculated the total sales tax reduction or exemption the respondents received during the POR by subtracting taxes paid from the amount that would have been paid on their purchases during the POR absent these programs. We then divided this amount by Jindal’s total sales during the POR to calculate a net countervailable subsidy of 0.35 percent *ad valorem* for Jindal.

In the current review, Jindal argues that the sales tax law in the State of Maharashtra (SOM), under which Jindal did not pay or collect sales taxes, was repealed and a value-added tax (VAT) regime replaced it. Furthermore, Jindal states that the exemption of sales tax on purchases has not been replaced by any other scheme of the GOI. Thus, Jindal contends that this meets the requirements of a program-wide change under section 351.526 of the Department’s regulations. See *Jindal’s Original Questionnaire Response*, at 85. Exhibits S1–18(b) and S1–18 of *Jindal’s First Supplemental Questionnaire Response* provide notification of the SOM VAT Tax Act, 2002, published in the SOM Gazette on March 9, 2005, effective date April 1, 2009, and an excerpt of section 95 of the SOM VAT Act, stating that the SOM Sales Tax Act has been repealed, respectively. Further, Jindal states that, under the VAT regime, the exemption of sales tax on sales available under the Package Scheme of Incentives of Maharashtra continues until May 26, 2011, for Jindal. See *Jindal’s Original Questionnaire Response*, at 84. However, they note that

the exemption from sales tax on purchases is no longer available.

The GOI, in its original response confirms that the Bombay Sales Tax Act, 1959, has been repealed, and that a VAT regime (provided for under SOM VAT Rules, 2005) has been introduced. Further, the GOI argues that no benefits are available under the previous scheme. See *GOI’s Original Questionnaire Response*, at 50.

Record evidence shows that the existing state sales tax incentive program provides residual benefits. Jindal does not have to collect sales taxes or VAT on its sales until May 26, 2011. Likewise, suppliers to Jindal are still exempted from collecting sales tax under the Package Scheme of Incentives for its sales to Jindal. Thus, Jindal is still benefiting from this scheme in the form of uncollected sales taxes from suppliers. Therefore, the Department preliminarily determines that the conditions of 19 CFR § 351.526(d)(1) have not been met, and no adjustment to the cash deposit rate is warranted. In addition, the Department intends to issue another questionnaire to Jindal and the GOI to further investigate the existence of an additional benefit through the reimbursement of the VAT, following these preliminary results of review.

#### **B. Programs Preliminarily Determined to be Not Used**

We preliminarily determine that Jindal did not apply for or receive benefits during the POR under the programs listed below:

1. Duty Free Replenishment Certificate (DFRC) (GOI)
2. Target Plus Scheme (GOI)
3. Capital Subsidy (GOI)
4. Exemption of Export Credit from Interest Taxes (GOI)
5. Loan Guarantees from the GOI
6. Income Tax Exemption Scheme (Sections 10A) (GOI)
7. Duty Entitlement Passbook Scheme (DEPS/DEPB)
8. State of Maharashtra (SOM) Electricity Duty Exemption
9. State Sales Tax Incentive Programs other than from the SOM, Uttaranchel, and State of Gujarat
10. Octroi Refund Scheme-(SOM)
11. Waiving of Interest on Loans by SICOM Limited (SOM)
12. State Sales Tax Incentives-section 4–A of the Uttar Pradesh Trade Tax Act
13. State of Uttar Pradesh Capital Incentive Scheme
14. SOG Infrastructure Assistance Schemes
15. Capital Incentive Scheme of Uttaranchel

#### **C. Programs for which more Information is Required**

##### *1. Invalidated Licenses under the ALP*

In its original questionnaire response Jindal points out that an Advance License is not transferable, in accordance with the Indian EXIM Policy 2002–2007 and the Foreign Trade Policy (FTP) 2004–2009. However, in accordance with Para 4.1.1(b) of the EXIM Policy, 2002–2007, and Para 4.13 of the Handbook of Procedures, 2002–2007, and Para 4.1.11 of the FTP 2004–2009, Jindal noted that an Advance License can be invalidated in favor of a domestic supplier. See *Jindal’s Original Questionnaire Response*, at 73 to 74 (October 30, 2008) (*Jindal’s Original Questionnaire Response*). Once the GOI has invalidated an Advance License, in whole or in part, the import entitlement under the advance license is reduced to the extent of the invalidation, and the GOI will issue an Advance Intermediate License to the supplier. Subsequently, the domestic supplier has to follow all procedures of the Advance License for imports and exports. See *Jindal’s First Supplemental Response*, at 21 to 22 (March 11, 2009) (*Jindal’s First Supplemental Response*).

According to Jindal, the issuance of an Advance Intermediate License to the supplier for the quantity and value of inputs against which the existing Advance License was reduced or invalidated, ensures that inputs imported duty free and consumed in the production of the intermediate product are consumed in the production of a final product for which the Advance License was issued, and that that product is ultimately exported. See *Jindal’s Original Questionnaire Response*, at 73–74.

In response to the Department’s request to explain under what circumstances Jindal will request that the GOI invalidate an Advance License, Jindal responded that this is based on its business decisions, such as availability of indigenous inputs, size of consignments and inventory. Jindal further explained that, based on its request to the GOI, the GOI will invalidate the requested quantity for direct import and will issue a corresponding invalidation letter to Jindal, specifying the quantity and value of the invalidated item, and includes the name of the domestic supplier obtaining the advance intermediate license, and the amount and value assigned to the advance intermediate license. In addition, Jindal points out that it does not have any information concerning the import of inputs on part of the domestic supplier against its



intermediate advance license. *Id.*, at 34–37.

Further, Jindal reported that it purchased materials from such domestic suppliers who received Advance Intermediates Licenses from the GOI based on the quantity and value of Jindal's invalidated licenses during the POR. In its second supplemental questionnaire response, Jindal provided the Department with a detailed listing, reporting the date and value of its purchases from these domestic suppliers by invoice, exclusive of any excise tax or value added tax. *See Jindal's Second Supplemental Questionnaire Response*, at 32.

In its second supplemental response, the GOI explained that the decision of an Advance License holder to invalidate a license or parts thereof, is based on business or economic reasons, such as price, availability, or technical specifications of the input. The export obligation (EO) accompanying the Advance Intermediate License, according to the GOI, is monitored by the DGFT, which maintains the records in a master register. Like the holder of an Advance License, the holder of an Advance Intermediate License is required to separately fulfill its EO in correlation to the inputs this domestic supplier imports, and is required to file the requisite forms with the DGFT. The amount of inputs the holder of the Advance Intermediate License can import remains the same as was authorized in the original advance license. *See GOI's Second Supplemental Response*, at 3 to 4 (July 20, 2009) (*GOI's Second Supplemental Response*).

The information provided on the record of this review by Jindal and the GOI indicates that both the benefit and the EO in the amount of the invalidation of the original license in quantity and value, are transferred to the recipient of the Advance Intermediate License (*i.e.*, the domestic supplier). Jindal provided supporting documentation issued by the GOI that discloses the amount and total value of the invalidation for the input, as well as the name and address of the domestic supplier receiving the endorsement. *See Jindal's First Supplemental Questionnaire Response*, at Exhibit S1–15. Further, the holder of the Advance Intermediate License has to file certifications, *i.e.*, an ANF 4F form, with the DGFT to demonstrate that it is meeting its export commitment in accordance with the authorized duty free imports, indicating that both the benefit and the EO in the amount of invalidation are transferred from Jindal to the domestic supplier. *See GOI's Second Supplemental Response*, at 3 and Annexure 2.

At this time we do not have sufficient information from Jindal or the GOI to determine whether the GOI's invalidation of Jindal's Advanced Licenses provided a benefit to Jindal under section 771(5)(E) of the Act. Specifically, the record is unclear as to what consideration, if any, that Jindal received from its suppliers in return for the license(s) invalidated by the GOI.

We intend to seek further information and issue an interim analysis describing our preliminary findings with respect to this program before the final determination, so that parties will have the opportunity to comment on our findings before the final results of review.

#### **Preliminary Results of Administrative Review**

In accordance with 19 CFR § 351.221(b)(4)(i), we have calculated an individual subsidy rate for Jindal for the POR. We preliminarily determine the total countervailable subsidy to be 7.18 percent *ad valorem* for Jindal.

#### **Cash Deposit Requirements**

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent, and therefore, *de minimis* within the meaning of 19 CFR § 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or in the original countervailing duty investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 20.40 percent *ad valorem*, the all-others rate made effective by the CVD investigation. *See PET Film Final Determination*, 67 FR at 34906. These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### **Assessment Rates**

Upon publication of the final results of this review, the Department shall determine, and Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries. Pursuant to 19 CFR § 351.212(b)(2), the Department will instruct CBP to assess countervailing duties by applying the rates included in the final results of the review to the entered value of the merchandise. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of the final results of this review.

The Department clarified its “automatic assessment” regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification applies to entries of subject merchandise during the POR produced by any company included in the final results of review for which the reviewed company did not know that the merchandise it sold to the intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, the Department will instruct CBP to liquidate un-reviewed entries at the “all others” rate if there is no rate for the intermediary involved in the transaction. *See id.*

#### **Disclosure and Public Hearing**

We will disclose the calculations used in our analysis to parties to this segment of the proceeding within five days of the public announcement of this notice. *See* 19 CFR § 351.224(b). Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, within 30 days of the date of publication of this notice. *See* 19 CFR § 351.310(c). Requests should contain: (1) the party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed.

Pursuant to 19 CFR § 351.309, interested parties may submit written comments in response to these preliminary results. Unless the time period is extended by the Department, case briefs are to be submitted within 30 days after the date of publication of this notice in the **Federal Register**. *See* 19 CFR § 351.309(c). Rebuttal briefs, which must be limited to arguments raised in case briefs, are to be submitted no later than five days after the time limit for filing case briefs. *See* 19 CFR § 351.309(d). Parties who submit arguments in this proceeding are

requested to submit with the argument: (1) a statement of the issues; (2) a brief summary of the argument; and (3) a table of authorities cited. Further, we request that parties submitting written comments provide the Department with a diskette containing an electronic copy of the public version of such comments. Case and rebuttal briefs must be served on interested parties, in accordance with 19 CFR § 351.303(f).

Unless extended, the Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

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

Dated: July 31, 2009.

**John M. Andersen,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. E9-19007 Filed 8-6-09; 8:45 am]

**BILLING CODE 3510-DS-S**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List Additions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to the Procurement List.

**SUMMARY:** This action adds to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**DATES:** *Effective Date:* September 7, 2009.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

**FOR FURTHER INFORMATION CONTACT:** Barry S. Lineback, Telephone: (703) 603-7740, Fax: (703) 603-0655, or e-mail [CMTEFedReg@AbilityOne.gov](mailto:CMTEFedReg@AbilityOne.gov).

### SUPPLEMENTARY INFORMATION:

#### Additions

On June 15, 2009, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (74 FR 28221-28222) of proposed addition to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the products and services proposed for addition to the Procurement List.

### End of Certification

Accordingly, the following products and services are added to the Procurement List:

#### Products

NSN: 7530-00-NIB-0878—Folder File.

NSN: 7530-00-NIB-0879—Folder File.

NSN: 7530-00-NIB-0889—Folder File.

NPA: Association for Vision Rehabilitation and Employment, Inc., Binghamton, NY.

*Contracting Activity:* Federal Acquisition Service, GSA/FSS OFC SUP CTR—Paper Products, New York, NY.

*Coverage:* A-list for the total Government requirement as aggregated by the General Services Administration.

NSN: 7510-00-NIB-0862—Tape, Pressure Sensitive .75 × 1000 6 rolls per pack.

NSN: 7510-00-NIB-0863—Tape, Pressure Sensitive .75 × 1000 6 rolls per pack.

NSN: 7510-00-NIB-0864—Tape, Pressure Sensitive .75 × 1000 10 rolls per pack.

NPA: Alphapointe Association for the Blind, Kansas City, MO.

*Contracting Activity:* Federal Acquisition Service, GSA/FSS OFC SUP CTR—Paper Products, New York, NY.

*Coverage:* A-list for the total Government requirement as aggregated by the General Services Administration.

NSN: 7520-00-NIB-2016—Highlighter, Biodegradable.

NPA: West Texas Lighthouse for the Blind, San Angelo, TX.

*Contracting Activity:* Federal Acquisition Service, GSA/FSS OFC SUP CTR—Paper Products, New York, NY.

*Coverage:* A-list for the total Government requirement as aggregated by General Services Administration.

NSN: MR 520—3 Pack Holiday Soy Candle.

NPA: Industries for the Blind, Inc., West Allis, WI.

*Contracting Activity:* Defense Commissary Agency (DeCA)—Military Resale, Fort Lee, VA.

*Coverage:* C-list for the total requirement of Defense Commissary Agency.

NSN: 7220-00-NSH-0007—Mat, Floor.

NSN: 7220-00-NSH-0009—Mat, Floor.

NSN: 7220-00-NSH-0010—Mat, Floor.

NPA: Northeastern Michigan Rehabilitation and Opportunity Center (NEMROC), Alpena, MI.

*Contracting Activity:* Federal Acquisition Service, GSA/FAS Southwest Supply Center (QSDAC), Fort Worth, TX.

*Coverage:* B-list for the broad Government requirement as aggregated by the General Services Administration.

NSN: MR 300—Camelbak Thermos Shippers.

NSN: MR 832—Tomato Saver Shippers.

NPA: Winston-Salem Industries for the Blind, Winston-Salem, NC.

*Contracting Activity:* Defense Commissary Agency (DeCA)—Military Resale, Fort Lee, VA.

*Coverage:* C-list for the total requirement of Defense Commissary Agency.

#### Services

*Service Type/Location:* Custodial Services; U.S. Capitol Building, Capitol Visitor Center, 2nd and D Street, SW, Washington, DC.

NPA: FEDCAP Rehabilitation Services, Inc., New York, NY.

*Contracting Activity:* Architect of the Capitol, Washington, DC.

*Service Type/Location:* Facility Management; Schofield Barracks, Schofield, HI, Helemano Military Reservation, Wahiawa, HI,

Tripler Army Medical Center, HI, Wheeler Army Air Field, Schofield Barracks, HI, Fort Shafter, HI.

NPA: Goodwill Contract Services of Hawaii, Inc., Honolulu, HI.

*Service Type/Location:* Grounds Maintenance Service;

Schofield Barracks, Schofield, HI, Helemano Military Reservation, Wahiawa, HI,

Tripler Army Medical Center, HI, Wheeler Army Air Field, Schofield Barracks, HI, Fort Shafter, HI.

NPA: Lanakila Rehabilitation Center, Honolulu, HI.

*Contracting Activity:* Department of the Army, Fort Shafter, HI.

**Barry S. Lineback,**

*Director, Business Operations.*

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