

Manufacturers/producers/ exporters	Margin (percent)
Large Diameter Pipe from Japan:	
Nippon Steel Corporation .....	107.80
Kawasaki Steel Corporation .....	107.80
Sumitomo Metal Industries, Ltd ..	107.80
All Others .....	68.88
Small Diameter Pipe from Japan:	
Nippon Steel Corporation .....	106.07
Kawasaki Steel Corporation .....	106.07
Sumitomo Metal Industries, Ltd ..	106.07
All Others .....	70.43
Small Diameter Pipe from Ro- mania:	
Metal Business International S.R.L .....	11.08
S.C. Petrotub S.A .....	11.08
Sota Communication Company ..	15.15
S.C. Silcotub .....	15.15
All Others .....	13.06

This notice also serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the final results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: July 29, 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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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 under the countervailing duty (CVD) order on polyethylene terephthalate film, sheet and strip (PET Film) from India. This review covers one respondent, Ester

Industries Ltd. (Ester), a producer and exporter of PET Film from India.

We preliminarily determine that Ester has benefitted from countervailable subsidies 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 intend to 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 "Disclosure and Public Hearing" section of this notice, below.

**DATES:** *Effective Date:* August 5, 2011.

**FOR FURTHER INFORMATION CONTACT:** Toni Page or 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) 482-1398 or (202) 482-0197, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On July 1, 2002, the Department published in the **Federal Register** the CVD order on PET Film from India. See *Notice of Countervailing Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India*, 67 FR 44179 (July 1, 2002). On July 1, 2010, the Department published a notice of opportunity to request an administrative review of the countervailing duty order on PET Film from India covering the period January 1, 2009, through December 31, 2009 (POR). See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 75 FR 38074 (July 1, 2010). The Department received a request for review from the petitioners (Dupont Teijin Films, Mitsubishi Polyester Film, Inc., SKC, Inc., and Toray Plastics (America), Inc.) and two companies, Ester and SRF Limited. On August 31, 2010, the Department published a notice of initiation of administrative review with respect to Ester and SRF Limited. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Initiation of Administrative Review*, 75 FR 53274 (August 31, 2010). On October 1, 2010, SRF Limited withdrew its request for an administrative review. On July 7, 2011, the Department published a rescission, in part, with respect to SRF Limited. See *Polyethylene Terephthalate Film, Sheet and Strip*

*From India: Rescission, in Part, of Countervailing Duty Administrative Review*, 76 FR 39855 (July 7, 2011).

The Department issued the initial questionnaires to the Government of India (GOI), Ester, and SRF Limited on September 15, 2010. Ester submitted its questionnaire response on October 20, 2010, while the GOI submitted its questionnaire response on October 21, 2010. The Department issued its first supplemental questionnaires to the GOI and Ester on February 16, 2011. On March 11, 2011, Ester submitted its first supplemental questionnaire response. The GOI filed its first supplemental questionnaire response after the deadline established by the Department. Because the GOI missed the filing deadline and did not request a timely extension of the filing deadline, the Department rejected the GOI's late filing and no further supplemental questionnaires have been sent to the GOI. The Department issued a second supplemental questionnaire to Ester on June 16, 2011 and received the company's second supplemental questionnaire response on July 5, 2011.

On March 28, 2011, the Department extended the deadline for the preliminary results of the countervailing duty administrative review from April 2, 2011 to August 1, 2011. See *Polyethylene Terephthalate Film, Sheet, and Strip From India: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review*, 76 FR 18156 (April 1, 2011).

On July 20, 2011, petitioners filed pre-preliminary comments regarding Ester's data.

##### **Scope of the Order**

The products covered by the countervailing duty order 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 currently 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 the countervailing duty order is dispositive.

##### **Period of Review**

This countervailing duty administrative review covers the period

January 1, 2009, through December 31, 2009.

### 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 2006 Class Life Asset Depreciation Range System, 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). In the IRS Tables, PET Film falls under the category "Manufactured Chemicals and Allied Products." For that category, the IRS tables specify a class life of 9.5 years, which is rounded to establish an AUL of 10 years.

In the investigation period of this case, Ester rebutted the presumption and the Department determined to apply a company-specific AUL of 18 years. 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 Final Determination*), and accompanying Issues and Decision Memorandum, at "Allocation Period." In the instant administrative review, Ester argues that the Department should adjust its 18 year company-specific AUL to 20 years for any non-recurring subsidies received after the period of investigation (POI). For the preliminary results of this countervailing duty administrative review, the Department determines that Ester has not provided the type of information required to establish that its AUL should be changed in accordance with the Department's regulations as set forth in 19 CFR 351.524(d)(2)(i) and (iii) and that its proposed AUL should not be used to determine the allocation period for non-recurring subsidies received after the POI. Therefore, the Department will continue to use the original company-specific AUL of 18 years that Ester demonstrated in the investigation to allocate all 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 would pay on a comparable commercial loan that the company could obtain on the market. Also, 19 CFR 351.505(a)(3)(i) states 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 and Post-Shipment Export Financing program. For further information regarding this program, see the "Pre-Shipment and Post-Shipment Export Financing" section below.

In prior reviews of this case, the Department determined that Inland Bill Discounting (IBD) loans are more comparable to pre- and post-shipment export financing loans than other types of rupee-denominated short-term loans. See, e.g., *Notice of 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 *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 "Benchmarks for Loans and Discount Rate" (*PET Film Final Results of 2003 Review*).

In the *Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Determination With Final Antidumping Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) From India*, 66 FR

53389, 53390–91 (October 22, 2001), at "Benchmarks for Loans and Discount Rate," unchanged in *PET Film Final Determination*, the Department determined that, in the absence of IBD loans, cash credit (CC) loans are the next most comparable type of short-term loans to pre-shipment and post-shipment export financing. Like pre-shipment export financing, CC loans are denominated in rupees and take the form of a line of credit which can be drawn down by the recipient. There is no new information or evidence of changed circumstances which would warrant reconsidering this finding. Ester did not obtain IBD loans during the POR; however, it did take out CC short-term loans during the POR. Therefore, for these preliminary results, we used the weighted average interest rate (derived from the amount of interest paid by Ester on its rupee-denominated short-term CC loans) as the benchmark for Ester's pre- and post-shipment export financing.

Pursuant to 19 CFR 351.505(a)(2)(iii), in selecting a comparable loan if a program under review is a government provided, long-term loan program, the preference would be to use a loan the terms of which were established during, or immediately before, the year in which the terms of the government-provided loan were established. Pursuant to 19 CFR 351.505(a)(2)(ii) the Department will not consider a loan provided by a government-owned special purpose bank to be a commercial loan for purposes of selecting a loan to compare with a government-provided loan. The Department has previously determined that the Industrial Development Bank of India (IDBI) is a government-owned special purpose bank. See *PET Film Final Results of 2003 Review*, and accompanying Issues and Decision Memorandum, at Comment 3. Further, the Department previously has determined that the Industrial Finance Corporation of India (IFCI) and the Export-Import Bank of India (EXIM) are government-owned special purpose banks. 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 "Benchmark Interest Rates and Discount Rates." As such, the Department does not use loans from the IDBI, IFCI, or EXIM, if reported by the respondents, as a basis for a commercial loan benchmark.

In this review, Ester had comparable commercial long-term rupee-denominated loans for some of the required years which the Department

was able to use for long-term benchmarks. However, for the years which we did not have company-specific loan information, and where the relevant information was on the record, 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 long-term interest rates, pursuant to 19 CFR 351.505(a)(3)(ii), from the International Monetary Fund's publication *International Financial Statistics (IMF Statistics)*.

Ester received exemptions from import duties on the importation of capital equipment under the Export Promotion Capital Goods Scheme (EPCGS) program. As discussed in more detail below, Ester had not fulfilled its export obligation for certain EPCGS licenses. We treat EPCGS licenses with unfulfilled export obligations as interest-free contingent liability loans. See, e.g., *PET Film Preliminary Results of 2003 Review*, 70 FR at 46488, unchanged in *PET Film Final Results of 2003 Review*. For the EPCGS licenses with unfulfilled export obligations, the Department used as long-term benchmarks, Ester's long-term loans from the required year or the preceding year as well as interest rates from *IMF Statistics*, as described above.

Finally, we determine grants to be non-recurring benefits in accordance with 19 CFR 351.524; thus, the Department must identify an appropriate discount rate for purposes of allocating these non-recurring benefits over time in accordance with 19 CFR 351.524(d)(3). The regulations provide several options in order of preference. The first among these is the cost of long-term fixed-rate loans of the firm in question for each year in which the government agreed to provide the non-recurring subsidies excluding any loans which have been determined to be countervailable and excluding loans from government banks. As the second option, the regulations direct us to use the average annual cost of long-term, fixed-rate loans in the country in question. Thus, for those years for which Ester did not report any long-term fixed-rate commercial loans, we used the yearly average long-term lending rate in India from the *IMF Statistics* as the discount rate.

## Denominator

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, the Department considers the basis for the respondent's receipt of benefits under each program at issue. As discussed in further detail below, we preliminarily determine that the benefits received by Ester under all of the programs found countervailable were contingent upon export performance. Therefore, for our calculations for EPCGS benefits, we will use total export sales inclusive of deemed exports as the denominator. Because DEPS and Pre-Shipment and Post-Shipment Export Financing require that the recipient demonstrate physical exports, we used total export sales net of deemed exports. See 19 CFR 351.525(b)(2); see also *Polyethylene Terephthalate Film, Sheet, and Strip From India: Final Results of Countervailing Duty New Shipper Review*, 76 FR 30910 (May 27, 2011), and accompanying Issues and Decision Memorandum at the "Denominator" section. In addition, the Department has previously found that exporters qualify for Post-Shipment Export Financing by presenting their export documents to the lending bank. See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 72 FR 6530 (February 12, 2007) and accompanying Issues and Decision Memorandum at "Pre-Shipment and Post-Shipment Export Financing." Therefore, we used Ester's total export sales of subject merchandise to the United States as the denominator for Post-Shipment Export Financing.

### 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, and may be obtained in Indian rupees and in foreign currencies. 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 Tariff Act of 1930, as amended (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)(B) of the Act because they are contingent upon export performance. See *PET Film Final Determination* at "Pre-Shipment and Post-Shipment Export 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.

Ester reported receiving both pre- and post-shipment export financing during the POR. The benefit conferred by the pre-shipment and post-shipment loans is the difference between the amount of interest the company paid on the government loan and the amount of interest it would have paid on a comparable commercial loan (*i.e.*, the short-term benchmark). Because pre-shipment loans are tied to a company's total physical exports rather than physical exports of subject merchandise, we calculated the subsidy rate for these loans by dividing the total benefit by the value of Ester's total exports, net of deemed exports, during the POR. See 19

CFR 351.525(b)(2). Because post-shipment loans are tied to specific shipments of a particular product to a particular country, we divided the total benefit from post-shipment loans tied to exports of subject merchandise to the United States by the value of total exports of subject merchandise to the United States during the POR pursuant to 19 CFR 351.525(b)(4). On this basis, we preliminarily determine the countervailable subsidy from pre- and post-shipment export financing for Ester to be 7.72 percent *ad valorem*.

## 2. 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 an interest penalty.

In the investigation, the Department determined that import duty reductions or exemptions provided under the EPCGS are countervailable export subsidies because the scheme: (1) Provides a financial contribution pursuant to section 771(5)(D) of the Act; (2) provides two different benefits under section 771(5)(E) of the Act; and (3) is specific pursuant to section 771(5A) (B) of the Act because the program is contingent upon export performance. *See, e.g., PET Film Final Determination* and accompanying Issues and Decision Memorandum at “EPCGS.” Because there is no new information or evidence of changed circumstances that would warrant reconsidering our determination that this program is countervailable, we continue to find that this program is countervailable for these preliminary results.

Since the unpaid duties are a liability contingent on subsequent events, under the EPCGS, the exempted import duties would have to be paid to the GOI if the accompanying export obligations are not met. It is the Department’s practice to treat any balance on an unpaid liability that may be waived in the future, as a contingent-liability interest-free loan pursuant to 19 CFR 351.505(d)(1). *See PET Film Final Determination*, and

accompanying Issues and Decision Memorandum, at “EPCGS.” These contingent-liability loans constitute the first benefit under the EPCGS. The second benefit arises when the GOI waives the 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 approved 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) and past practice, we are treating these import duty exemptions on capital equipment as non-recurring benefits. *See, e.g., 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 Decision Memorandum at Comment 9.

Ester imported capital goods at reduced import duty rates under the EPCGS in the years prior to the POR. Information provided by Ester indicates that certain licenses were issued for the purchase of capital goods involved in the production of both subject and non-subject merchandise. *See* Ester’s July 5, 2011 Second Supplemental Questionnaire Response at Exhibit 10. Based on the information and documentation submitted by Ester, we cannot determine which 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 Ester’s EPCGS licenses benefit all of the company’s exports.

Ester met the export requirements for certain EPCGS licenses prior to December 31, 2009, and the GOI has formally waived the relevant import duties. For most of its licenses, however, Ester has not yet met its export obligation as required under the program. Therefore, although Ester 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 Ester’s capital equipment imports where its export obligation was met prior to December 31, 2009, we considered the total amount of duties waived, *i.e.*, the calculated duties payable less the duties actually paid in the year, net of required application fees, in accordance with section 771(6) of the Act, to be the benefit and treated these amounts as grants pursuant to 19 CFR 351.504. 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 Ester’s outstanding import duties. *See PET Film Final Determination*, and accompanying Issues and Decision Memorandum, at Comment 5. Next, we performed the “0.5 percent test,” as prescribed under 19 CFR 351.524(b)(2), for the total value of duties waived, for each year in which the GOI granted Ester an import duty waiver. For any years in which the value of the waived import duties was less than 0.5 percent of Ester’s total export sales, we expensed the value of the duty waived to the year of receipt. For years in which the value of the waivers exceeded 0.5 percent of Ester’s total export sales in that year, we allocated the value of the waivers using Ester’s company-specific allocation period of 18 years for non-recurring subsidies, in accordance with 19 CFR 351.524(d)(2). *See* “Allocation Period” section, above. For purposes of allocating the value of the waivers over time, we used the appropriate discount rate for the year in which the GOI officially waived the import duties. *See* “Benchmark Interest Rates and Discount Rates” section, above.

As noted above, import duty reductions or exemptions that Ester received on the imports of capital equipment for which it has 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 are treating the unpaid import duty liability as an interest-free loan. *See* 19 CFR 351.505(d)(1), *PET Film Final Determination*, and accompanying 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), and accompanying Issues and Decision Memorandum at “Export Promotion Capital Goods Scheme (EPCGS).”

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 officially waived by the GOI. Accordingly, we find the benefit to be the interest that Ester would have paid during the POR had it borrowed the full amount of the duty reduction or exemption at the time of importation. *See, e.g., PET Film Preliminary Results of 2003 Review*, 70 FR at 46488, unchanged in *PET Film Final Results of 2003 Review*.

As stated above under this section, the time period for fulfilling the export requirement 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 of Ester's comparable commercial long-term, rupee-denominated loans for the year in which the capital good was imported. For the years where Ester did not have any comparable long-term commercial loans, we used the loans from the preceding year or the national average interest rates from the *IMF Statistics* pursuant to 19 CFR 351.505(a)(2)(iii) and (a)(3)(ii). *See* "Benchmarks Interest Rates and Discount Rates" 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 capital good was imported and summed these amounts to determine the total benefit from these contingent liability loans.

The benefit received under the EPCGS is the sum of: (1) The benefit attributable to the POR from the formally waived duties for imports of capital equipment for which the respondents met export requirements by the end of the POR; and (2) interest due on the contingent-liability loans for imports of capital equipment that have not met export requirements. We then divided the total benefit received by Ester under the EPCGS program by Ester's total exports, inclusive of deemed exports, to determine a

countervailable subsidy of 30.97 percent *ad valorem*.

### 3. Duty Entitlement Passbook Scheme (DEPS)

India's DEPS was enacted on April 1, 1997, as a successor to the Passbook Scheme (PBS). As with PBS, DEPS enables exporting companies to earn import duty exemptions in the form of passbook credits rather than cash. All exporters are eligible to earn DEPS credits on a post-export basis, provided that the GOI has established a standard input-output norm for the exported product. DEPS credits can be applied to subsequent imports of any materials, regardless of whether they are consumed in the production of an exported product. DEPS credits are valid for twelve months and are transferable after the foreign exchange is realized on the export sales from which the DEPS credits are earned.

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

In accordance with past practice and pursuant to 19 CFR 351.519(b)(2), we find that benefits from the DEPS are conferred as of the date of exportation of the shipment for which the pertinent DEPS credits are earned. *See, e.g., Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From India*, 64 FR 73131, 73134 and Comment 4 (December 29, 1999) (*Final Determination Carbon Steel Plate from India*). We calculated the benefit on an as-earned basis upon export because DEPS credits are provided as a

percentage of the value of the exported merchandise on a shipment-by-shipment basis and, as such, it is at this point that recipients know the exact amount of the benefit (*e.g.*, the duty exemption).

Ester reported that it received post-export credits under the DEPS during the POR. Because DEPS credits are earned on a shipment-by-shipment basis, we normally calculate the subsidy rate by dividing the benefit earned on subject merchandise exported to the United States by total exports of subject merchandise to the United States during the POR. *See, e.g., Final Determination Carbon Steel Plate from India*, 64 FR at 73134. Ester reported that it earned DEPS credits on exports of both subject and non-subject merchandise. Although Ester reported that it was able to separate the DEPS credits earned on exports to the United States in the DEPS data it provided to the Department, our analysis indicates that Ester earned DEPS credits for shipments of subject and non-subject merchandise as well as for shipments to multiple countries on the same DEPS license. Therefore, since we are unable to tie the benefits received to subject merchandise in accordance with 19 CFR 351.505(b)(5), we have calculated the subsidy rate using the value of all DEPS export credits that Ester earned during the POR. We divided the total amount of the benefit by Ester's total export sales to all markets, net of deemed exports, during the POR.

On this basis, we preliminarily determine Ester's countervailable subsidy from DEPS to be 74.25 percent *ad valorem*.

### B. Programs Preliminarily Determined To Be Not Used

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

#### GOI Programs

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*.

#### State Programs

6. *State Sales Tax Incentive Schemes*.
7. *Octroi Refund Scheme State of Maharashtra (SOM)*.
8. *Waiving of Interest on Loans by SICOM Limited (SOM)*.
9. *State of Uttar Pradesh (SUP) Capital Incentive Scheme*.
10. *Infrastructure Assistance Schemes (State of Gujarat)*.

11. *Capital Incentive Scheme Uttaranchel.*
12. *Capital Incentive Schemes (SOM).*
13. *Electricity Duty Exemption Scheme (SOM).*
14. *Union Territories Sales Tax Exemption.*

#### Preliminary Results of Administrative Review

In accordance with section 751(a)(2)(B)(i) of the Act and 19 CFR 351.221(b)(4)(i), we have calculated an individual subsidy rate for Ester for the POR. We preliminarily determine the total countervailable subsidy to be 112.95 percent *ad valorem* for Ester.

#### Assessment Rates/Cash Deposits

If these preliminary results are adopted in our final results of this review, the Department intends to issue assessment instructions to U.S. Customs and Border Protection (CBP) 15 days after publication of the final results of this review.

The Department also intends to instruct CBP to collect cash deposits of estimated countervailing duties at the rate of 112.95 percent *ad valorem* of the entered value on shipments of the subject merchandise produced and exported by Ester, and entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. We intend to instruct CBP to continue to collect cash deposits for non-reviewed companies at the applicable company-specific CVD rate for the most recent period or all-others rate established in the investigation. These deposit rates, when imposed, shall remain in effect until further notice.

#### Disclosure and Public Hearing

We will disclose the calculations used in our analysis to parties to this segment of the proceeding within ten days of the public announcement of these preliminary results of review. *See* 19 CFR 351.224(b). Interested parties who wish to request a hearing on arguments to be raised in case or rebuttal briefs, must submit a written request 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) to the extent practicable, a list of arguments to be raised.

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 responding 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 signature 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: August 1, 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2011-19949 Filed 8-4-11; 8:45 am]

**BILLING CODE 3510-DS-P**

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

**RIN 0648-XA607**

##### **Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); South Atlantic Black Sea Bass (*Centropristis striata*) and Golden Tilefish (*Lopholatilus chamaeleonticeps*)**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of a date change for SEDAR 25 Review Workshop for South Atlantic black sea bass and golden tilefish.

**SUMMARY:** The SEDAR 25 Review of the South Atlantic stock of black sea bass and golden tilefish will consist of one workshop, originally scheduled for September 20–22, 2011, will now be held October 11–13, 2011. This is the

twenty-fifth SEDAR. *See* **SUPPLEMENTARY INFORMATION.**

**DATES:** The SEDAR 25 Review Workshop will take place October 11–13, 2011. *See* **SUPPLEMENTARY INFORMATION.**

**ADDRESSES:** The SEDAR 25 Review Workshop will be held at the Crowne Plaza, 4831 Tanger Outlet Boulevard, North Charleston, SC 29418, telephone: (843) 740-7028.

**FOR FURTHER INFORMATION CONTACT:** Kari Fenske, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; (843) 571-4366; [kari.fenske@safmc.net](mailto:kari.fenske@safmc.net).

**SUPPLEMENTARY INFORMATION:** The original notice published in the **Federal Register** on July 28, 2011 (76 FR 45231). All other information previously published remains unchanged.

The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR includes three workshops: (1) Data Workshop, (2) Stock Assessment Workshop and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Stock Assessment Workshop is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Consensus Summary documenting Panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Panelists for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office and Southeast Fisheries Science Center. SEDAR participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and Federal agencies.