

DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-853]

Circular Welded Carbon-Quality Steel Pipe From India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination

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

SUMMARY: The Department of Commerce preliminarily determines that countervailable subsidies are being provided to producers and exporters of circular welded carbon-quality steel pipe ("circular welded pipe") from India. For information on the estimated subsidy rates, see the "Suspension of Liquidation" section of this notice.

DATES: *Effective Date:* March 30, 2012.

FOR FURTHER INFORMATION CONTACT: Shane Subler, Thomas Schauer, or David Layton, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-0189, (202) 482-0410, and (202) 482-0371, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The following events have occurred since the publication of the Department of Commerce's ("Department") notice of initiation in the **Federal Register**. See *Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigations*, 76 FR 72173 (November 22, 2011) ("*Initiation Notice*"), and the accompanying Initiation Checklist.

On December 16, 2011, the U.S. International Trade Commission ("ITC") published its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized imports of circular welded pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam ("Vietnam"). See *Circular Welded Carbon-Quality Steel Pipe From India, Oman, the United Arab Emirates, and Vietnam*, 76 FR 78313 (December 16, 2011).

On December 6, 2011, Petitioners¹ requested that the Department postpone the preliminary determination and extend the deadline to submit new subsidy allegations. In response to Petitioners' request, on December 19, 2011, the Department postponed the deadline for the preliminary determination in this investigation until March 26, 2012. See *Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Emirates, and Vietnam: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 76 FR 78615 (December 19, 2011). In conjunction with this postponement, the Department also postponed the deadline for the submission of new subsidy allegations until February 15, 2012. See Memorandum to the File from Joshua S. Morris, "New Subsidy Allegation Deadline: *Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Emirates, and Vietnam*", dated December 15, 2011. In response to requests from Petitioners for additional extensions of the deadline for the submission of new subsidy allegations, the Department subsequently extended this deadline to February 24, 2012 and then to February 28, 2012. See Memorandum to the File from Susan Kuhbach, "New Subsidy Allegation Deadline: *Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Emirates, and the Socialist Republic of Vietnam*", dated February 6, 2011, and Letter to All Interested Parties, dated February 24, 2011.

On December 19, 2011, we selected Lloyds Metals and Engineers Ltd. ("Lloyds") and Zenith Birla Ltd. ("Zenith") as the mandatory respondents in this proceeding. See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from India: Respondent Selection Memorandum," dated December 19, 2011. The public version of this memorandum and all other memoranda referenced in this notice are on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). Access to IA ACCESS is available in the Department's Central Records Unit in Room 7046 of the main Department building.

On December 22, 2011, we issued a questionnaire to the Government of India ("GOI"). See letter from the Department to the GOI, "Countervailing Duty Investigation: Circular Welded Carbon-Quality Steel Pipe from India," dated December 22, 2011. In the cover letter of the questionnaire, we specifically requested that the GOI respond to Section II of the questionnaire, which applied to the GOI. Further, we instructed the GOI to forward the questionnaire to the mandatory respondents, Lloyds and Zenith. We requested that either the GOI or the mandatory respondents submit a response to Section III of the questionnaire, which applied to the mandatory respondents.

We received responses to the original December 22, 2011, questionnaire from the GOI on January 30, 2012 ("GQR"), and from Zenith on February 13, 2012 ("ZQR"). Supplemental questionnaires were sent to the GOI on February 10 and March 1, 2012. We received a response to the former on March 3, 2012 ("G1SR"), and to the latter on March 5, 2012 ("G2SR"). We sent supplemental questionnaires to Zenith on February 17, and February 28, 2012, and received responses on February 21, 2012 ("ZSR"), March 9, 2012 ("Z2SR"), and March 15, 2012 ("Z3SR").

On February 22, 2012, we received deficiency comments from Wheatland Tube, one of the petitioners, pertaining to Zenith's February 13, 2012, questionnaire response.

On February 28, 2012, Wheatland Tube submitted a new subsidy allegation requesting the Department expand its countervailing duty ("CVD") administrative review to include one additional subsidy. On March 16, 2012, the Department issued a memorandum recommending investigating the new subsidy allegation. See Memorandum to Susan H. Kuhbach, Director, Office 1 from David Layton, International Trade Analyst, Office 1, "Analysis of New Subsidy Allegations," dated March 16, 2012.

We received pre-preliminary comments from Wheatland Tube on March 19, 2012.

Period of Investigation

The period for which we are measuring subsidies, *i.e.*, the period of investigation ("POI"), is April 1, 2010, through March 31, 2011. GOI and Zenith reported this same period as their fiscal year. See GQR at 1; see also the cover letter of Zenith's February 13, 2012, questionnaire response.

Scope Comments

In accordance with the preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of that notice. See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997), and *Initiation Notice*, 76 FR at 72173. On December 5, 2011, SeAH Steel VINA Corp. ("SeAH VINA"), a mandatory respondent in the concurrent CVD circular welded pipe from Vietnam investigation, filed comments arguing that the treatment of double and triple stenciled pipe in the scope of these investigations differs from previous treatment of these products under other orders on circular welded pipe. Specifically, SeAH VINA claims that the Brazilian, Korean, and Mexican orders on these products exclude "Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil and gas pipelines * * *" See, *e.g.*, *Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea, and Taiwan; and Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Order*, 76 FR 66899, 66900 (Oct. 28, 2011). According to SeAH VINA: (i) If the term "class or kind of merchandise" has meaning, it cannot have a different meaning when applied to the same products in two different cases; and (ii) the distinction between standard and line pipe reflected in the Brazil, Korean and Mexican orders derives from customs classifications administered by U.S. Customs and Border Protection ("CBP") and, thus, is more administrable.

On December 14, 2011, Allied Tube and Conduit, JMC Steel Group, and Wheatland Tube (collectively, "certain Petitioners"), responded to SeAH VINA's comments stating that the scope as it appeared in the *Initiation Notice* reflected Petitioners' intended coverage. Certain Petitioners contend that pipe that is multi-stenciled to both line pipe and standard pipe specifications and meets the physical characteristics listed in the scope (*i.e.*, is 32 feet in length or less; is less than 2.0 inches (50mm) in outside diameter; has a galvanized and/or painted (*e.g.*, polyester coated) surface finish; or has a threaded and/or coupled end finish) is ordinarily used in standard pipe applications. Certain Petitioners state that, in recent years, the Department has

¹ Allied Tube and Conduit, JMC Steel Group, Wheatland Tube, and United States Steel Corporation (collectively, Petitioners).

rejected end-use scope classifications, preferring instead to rely on physical characteristics to define coverage, and the scope of these investigations has been written accordingly. Therefore, certain Petitioners ask the Department to reject SeAH VINA's proposed scope modification.

We agree with certain Petitioners that the Department seeks to define the scopes of its proceedings based on the physical characteristics of the merchandise. See *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China*, 73 FR 31970 (June 5, 2008) and accompanying Issues and Decision Memorandum at Comment 1. Moreover, we disagree with SeAH VINA's contention that once a "class or kind of merchandise" has been established that the same scope description must apply across all proceedings involving the product. For example, as the Department has gained experience in administering antidumping duty ("AD") and CVD orders, it has shifted away from end use classifications to scopes defined by the physical characteristics. *Id.* Thus, proceedings initiated on a given product many years ago may have end use classifications while more recent proceedings on the product would not. Compare, e.g., *Countervailing Duty Order: Oil Country Tubular Goods from Canada*, 51 FR 21783 (June 16, 1986) (describing subject merchandise as being "intended for use in drilling for oil and gas") with *Certain Oil Country Tubular Goods From the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 3203 (January 20, 2010) (describing the subject merchandise in terms of physical characteristics without regard to use or intended use). Finally, certain Petitioners have indicated the domestic industry's intent to include multi-stenciled products that otherwise meet the physical characteristics set out in the scope. Therefore, the Department is not adopting SeAH VINA's proposed modification of the scope.

Scope of the Investigation

This investigation covers welded carbon-quality steel pipes and tube, of circular cross-section, with an outside diameter ("O.D.") not more than 16 inches (406.4 mm), regardless of wall thickness, surface finish (e.g., black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or

industry specification (e.g., American Society for Testing and Materials International ("ASTM"), proprietary, or other) generally known as standard pipe, fence pipe and tube, sprinkler pipe, and structural pipe (although subject product may also be referred to as mechanical tubing). Specifically, the term "carbon quality" includes products in which: (a) Iron predominates, by weight, over each of the other contained elements; (b) the carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

- (i) 1.80 percent of manganese;
- (ii) 2.25 percent of silicon;
- (iii) 1.00 percent of copper;
- (iv) 0.50 percent of aluminum;
- (v) 1.25 percent of chromium;
- (vi) 0.30 percent of cobalt;
- (vii) 0.40 percent of lead;
- (viii) 1.25 percent of nickel;
- (ix) 0.30 percent of tungsten;
- (x) 0.15 percent of molybdenum;
- (xi) 0.10 percent of niobium;
- (xii) 0.41 percent of titanium;
- (xiii) 0.15 percent of vanadium;
- (xiv) 0.15 percent of zirconium.

Subject pipe is ordinarily made to ASTM specifications A53, A135, and A795, but can also be made to other specifications. Structural pipe is made primarily to ASTM specifications A252 and A500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. Fence tubing is included in the scope regardless of certification to a specification listed in the exclusions below, and can also be made to the ASTM A513 specification. Sprinkler pipe is designed for sprinkler fire suppression systems and may be made to industry specifications such as ASTM A53 or to proprietary specifications. These products are generally made to standard O.D. and wall thickness combinations. Pipe multi-stenciled to a standard and/or structural specification and to other specifications, such as American Petroleum Institute ("API") API-5L specification, is also covered by the scope of this investigation when it meets the physical description set forth above, and also has one or more of the following characteristics: is 32 feet in length or less; is less than 2.0 inches (50mm) in outside diameter; has a galvanized and/or painted (e.g., polyester coated) surface finish; or has a threaded and/or coupled end finish.

The scope of this investigation does not include: (a) Pipe suitable for use in boilers, superheaters, heat exchangers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) finished electrical conduit; (c) finished

scaffolding;² (d) tube and pipe hollows for redrawing; (e) oil country tubular goods produced to API specifications; (f) line pipe produced to only API specifications; and (g) mechanical tubing, whether or not cold-drawn. However, products certified to ASTM mechanical tubing specifications are not excluded as mechanical tubing if they otherwise meet the standard sizes (e.g., outside diameter and wall thickness) of standard, structural, fence and sprinkler pipe. Also, products made to the following outside diameter and wall thickness combinations, which are recognized by the industry as typical for fence tubing, would not be excluded from the scope based solely on their being certified to ASTM mechanical tubing specifications:

- 1.315 inch O.D. and 0.035 inch wall thickness (page 20)
- 1.315 inch O.D. and 0.047 inch wall thickness (page 18)
- 1.315 inch O.D. and 0.055 inch wall thickness (page 17)
- 1.315 inch O.D. and 0.065 inch wall thickness (page 16)
- 1.315 inch O.D. and 0.072 inch wall thickness (page 15)
- 1.315 inch O.D. and 0.083 inch wall thickness (page 14)
- 1.315 inch O.D. and 0.095 inch wall thickness (page 13)
- 1.660 inch O.D. and 0.047 inch wall thickness (page 18)
- 1.660 inch O.D. and 0.055 inch wall thickness (page 17)
- 1.660 inch O.D. and 0.065 inch wall thickness (page 16)
- 1.660 inch O.D. and 0.072 inch wall thickness (page 15)
- 1.660 inch O.D. and 0.083 inch wall thickness (page 14)
- 1.660 inch O.D. and 0.095 inch wall thickness (page 13)
- 1.660 inch O.D. and 0.109 inch wall thickness (page 12)
- 1.900 inch O.D. and 0.047 inch wall thickness (page 18)
- 1.900 inch O.D. and 0.055 inch wall thickness (page 17)
- 1.900 inch O.D. and 0.065 inch wall thickness (page 16)
- 1.900 inch O.D. and 0.072 inch wall thickness (page 15)
- 1.900 inch O.D. and 0.095 inch wall thickness (page 13)
- 1.900 inch O.D. and 0.109 inch wall thickness (page 12)
- 2.375 inch O.D. and 0.047 inch wall thickness (page 18)

² Finished scaffolding is defined as component parts of a final, finished scaffolding that enters the United States unassembled as a "kit." A "kit" is understood to mean a packaged combination of component parts that contain, at the time of importation, all the necessary component parts to fully assemble a final, finished scaffolding.

2.375 inch O.D. and 0.055 inch wall thickness (gauge 17)
 2.375 inch O.D. and 0.065 inch wall thickness (gauge 16)
 2.375 inch O.D. and 0.072 inch wall thickness (gauge 15)
 2.375 inch O.D. and 0.095 inch wall thickness (gauge 13)
 2.375 inch O.D. and 0.109 inch wall thickness (gauge 12)
 2.375 inch O.D. and 0.120 inch wall thickness (gauge 11)
 2.875 inch O.D. and 0.109 inch wall thickness (gauge 12)
 2.875 inch O.D. and 0.134 inch wall thickness (gauge 10)
 2.875 inch O.D. and 0.165 inch wall thickness (gauge 8)
 3.500 inch O.D. and 0.109 inch wall thickness (gauge 12)
 3.500 inch O.D. and 0.148 inch wall thickness (gauge 9)
 3.500 inch O.D. and 0.165 inch wall thickness (gauge 8)
 4.000 inch O.D. and 0.148 inch wall thickness (gauge 9)
 4.000 inch O.D. and 0.165 inch wall thickness (gauge 8)
 4.500 inch O.D. and 0.203 inch wall thickness (gauge 7)

The pipe subject to this investigation is currently classifiable in Harmonized Tariff Schedule of the United States ("HTSUS") statistical reporting numbers 7306.19.1010, 7306.19.1050, 7306.19.5110, 7306.19.5150, 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.5050, and 7306.50.5070. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the investigation is dispositive.

Alignment of Final Determination

On November 22, 2011, the Department initiated an AD investigation concurrent with this CVD investigation of circular welded pipe from India. See *Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 76 FR 72164 (November 22, 2011). The scope of the merchandise being covered is the same for both the AD and CVD investigations. On March 23, 2012, Petitioners submitted a letter, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended ("the Act"), requesting alignment of the final CVD determination with the final determination in the companion AD investigation. Therefore, in accordance

with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued on August 6, 2012.

Use of Facts Otherwise Available

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

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority" if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

Section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available ("AFA") information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

For the reasons explained below, the Department preliminarily determines that application of facts otherwise available is warranted and that an adverse inference is warranted, pursuant to section 776(b) of the Act because, by not responding to our requests for information, the GOI, Zenith and Lloyds failed to cooperate by not acting to the best of their ability.

I. Government of India

The GOI did not provide information we requested that is necessary to determine whether certain programs under investigation constitute countervailable subsidies. Specifically, for the programs listed below, the GOI did not provide the information necessary to determine whether the GOI provided a financial contribution under these programs and whether the programs are specific. The GOI provided no information based on its contention that no respondent used the programs.

- Government of India Loan Guarantees Program.
- Research and Technology Scheme Under Empowered Committee Mechanism With Steel Development Fund Support.
- Special Economic Zones ("SEZ") Programs.
- Provision of Captive Mining Rights for Coal and Iron Ore; the Provision of High-Grade Ore for LTAR.
- Programs Administered by the State Government of Maharashtra Programs (Except the Value-Added Tax Refunds Under State Government of Maharashtra Package Scheme)

CVD investigations necessarily rely on information from the government regarding the administration of the alleged subsidy programs, including information on use of the programs by the respondents. As our original questionnaire to the GOI stated, "The government is responsible for providing the information requested (in the questionnaire) for each company respondent, for each of the respondent's cross-owned companies, and for each trading company through which the respondent sells subject merchandise to the United States." See Section II of the questionnaire, dated December 22, 2011, at 2. In its original questionnaire response, the GOI claimed that the respondents did not avail themselves of the programs listed above. See GQR at 77–80 and 95–110. However, it was not clear whether the GOI covered the respondents' cross-owned companies in its response.

Accordingly, in our February 10, 2012, supplemental questionnaire to the GOI, we asked the GOI to confirm that its responses for the programs listed

above covered respondents' cross-owned companies. For example, we asked the GOI to "{c}onfirm that your response covers all GOI Loan Guarantees that the GOI provided to the mandatory respondents (including their responding cross-owned companies) on loans that were outstanding during the POI. Please coordinate with the mandatory respondents to obtain the names of these cross-owned companies if you do not already have them." See the Department's supplemental questionnaire to the GOI dated February 10, 2012, at 6. The GOI responded,

It has been reported by the Zenith (Birla) Ltd. that neither they nor any of their cross-owned companies has availed of the said scheme. The Government of India would also like to clarify that this response is based solely on the declaration of Zenith (Birla) Ltd. as the GOI does not maintain any record of the so-called cross-owned companies of the mandatory respondents. As regards Lloyds Metals & Engineers Ltd., it appears that they have since shut down manufacture of the Product under Consideration and they are not participating in the investigations. Therefore, the GOI is in no position to provide further answers to the queries of the USDOC with regard to the cross-owned companies of this particular mandatory respondent.

See the G1SR at, *e.g.*, 9.

After receiving the G1SR on February 10, 2012, we received Zenith's ZQR. As we explain in the section below for Zenith, Zenith's response in the ZQR indicated that Zenith was cross-owned with many other companies. This contradicted the GOI's claim in the GQR and G1SR that Zenith had no cross-owned companies.

Accordingly, on March 1, 2012, we sent a second supplemental questionnaire to the GOI. We noted our request to Zenith for responses on behalf of certain cross-owned companies, and we requested that the GOI update its questionnaire responses for any subsidies these cross-owned companies received. Thus, for any of the programs identified above, the GOI should have updated its response if any responding cross-owned companies used the program.

On March 5, 2012, the GOI responded to this supplemental questionnaire. The GOI stated the following:

The response of the GOI to the First Supplemental Questionnaire was based on the information supplied by Zenith. It is presumed that Zenith had included all the above companies in their response. The Government of India would also like to reiterate that this response is also based solely on the declaration of Zenith (Birla) Ltd. as the GOI does not maintain any record of the so-called cross-owned companies of the mandatory respondents. GOI has nothing further to add.

See the G2SR at 1. Thus, the GOI did not update its original responses by either providing information on subsidies that the responding cross-owned companies received or by stating that none of Zenith's cross-owned companies for which we requested a response had used the program.

Further, for the Provision of Hot-Rolled Steel by the Steel Authority of India ("SAIL") for Less Than Adequate Remuneration ("LTAR"), the GOI claimed in both the GQR and the G1SR that it had no involvement in the purchasing decisions of the mandatory respondents and refused to provide any information on the program. See GQR at 18 and G1SR at 16. The GOI did not respond to our questions and did not respond to our request in the supplemental questionnaire to explain in detail the efforts it made to obtain this necessary information. See G1SR at 16.

Finally, for the Provision of Land for LTAR, the GOI's original response stated, "The Government of India does not have such information." See GQR at 27. Because information from the GOI in response to the questions from our December 22, 2011, questionnaire was necessary for our analysis of the program, we asked the GOI again to answer our original questions. In response, the GOI stated, "State governments make provisions of land as a part of overall infrastructure development and the development of industry which cannot be considered as a subsidy under the ASCM." See G1SR at 26. The GOI did not respond to our questions and did not respond to our request in the supplemental questionnaire to explain in detail the efforts it made to obtain this necessary information.

As explained above, section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as AFA information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. The Department has determined that an adverse inference is warranted, pursuant to section 776(b) of the Act because, by not responding to our requests for information with respect to these programs, the GOI failed to cooperate by not acting to the best of its ability. When the government fails to provide requested information concerning alleged subsidy programs,

the Department, as AFA, typically finds that a financial contribution exists under the alleged program and that the program is specific. See, *e.g.*, *Notice of Preliminary Results of Countervailing Duty Administrative Review: Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea*, 71 FR 11397, 11399 (March 7, 2006) (unchanged in the *Notice of Final Results of Countervailing Duty Administrative Review: Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea*, 71 FR 38861 (July 10, 2006), in which the Department relied on adverse inferences in determining that the Government of Korea directed credit to the steel industry in a manner that constituted a financial contribution and was specific to the steel industry within the meaning of sections 771(5)(D) and 771(5A)(D)(iii) of the Act, respectively).

Accordingly, as AFA, we preliminarily determine that the GOI Loan Guarantees program, the Research and Technology Scheme Under Empowered Committee Mechanism with Steel Development Fund Support, all of the SEZ Programs, all of the Input Programs (including the provision of hot-rolled steel by SAIL for LTAR), and all of the State Government of Maharashtra Programs (including the provision of land for LTAR, but with the exception of the Value-Added Tax ("VAT") Refunds under State Government of Maharashtra Package Scheme) provided a financial contribution within the meaning of section 771(5)(D) of the Act and were specific within the meaning of 771(5A) of the Act. For further details with respect to these programs, see the "Analysis of Programs" section, below.

II. Lloyds

Lloyds did not provide any of the information requested by the Department that is necessary to determine a CVD rate for this preliminary determination. Specifically, Lloyds did not respond to the Department's December 22, 2011, questionnaire. As a result, we have none of the required data necessary to calculate a subsidy rate for Lloyds. Accordingly, in reaching our preliminary determination, pursuant to section 776(a)(2)(A) and (C) of the Act, we have based Lloyds's CVD rate on facts otherwise available.

The Department has determined that an adverse inference is warranted, pursuant to section 776(b) of the Act because, by not responding to our questionnaire, Lloyds failed to cooperate by not acting to the best of its

ability. Accordingly, our preliminary determination is based on AFA.

III. Zenith

Zenith did not provide information we requested that is necessary to determine a CVD rate for this preliminary determination. Specifically, among numerous other deficiencies, Zenith did not provide complete responses with respect to its cross-owned companies.

Our December 22, 2011, questionnaire instructed the respondents that they must provide a complete questionnaire response for all cross-owned affiliates that meet one of the following criteria: (1) The cross-owned company produces the subject merchandise; (2) the cross-owned company is a holding company or a parent company (with its own operations) of the respondent; (3) the cross-owned company supplies an input product that is primarily dedicated to the production of the subject merchandise; (4) the cross-owned company has received a subsidy and transferred it to the respondent; (5) the cross-owned company is not a producer or manufacturer but provides a good or service to the respondent. See Section III of the questionnaire dated December 22, 2011, at 2. Regarding its ownership, Zenith initially only reported that it “has been a Birla Group Company (under the management of Birla family) since incorporation in the year 1960.” See ZQR at 5. Zenith also identified 38 affiliated companies in its initial response, but claimed that none were cross-owned companies and provided no response for any of them. *Id.* at 3 and Annexure 1.

On February 17, 2012, we sent a supplemental questionnaire to Zenith to clarify the relationship between Zenith, the affiliated companies Zenith identified in Annexure 1 of the ZQR, and Birla Group. See the Department’s supplemental questionnaire dated February 17, 2012. In its response regarding the relationship of Birla Group and Zenith, Zenith stated, “Since Mr. Yashovardhan Birla is heading (Zenith) and he controls (Zenith) through other his affiliated companies and other entities and therefore we recognize all these companies and other entities as Yash Birla Group.” See ZSR at 1. Regarding the affiliated companies Zenith identified at Annexure 1 of the ZQR, Zenith stated, “it is clarified that these all affiliated companies along with Zenith Birla (India) Limited is controlled and managed by Yash Birla Group either through common

management or by voting rights.”³ Therefore, Zenith’s responses indicate that Yash Birla Group, or the “companies and other entities” that are collectively Yash Birla Group, was the parent company of Zenith by virtue of its control of Zenith. Furthermore, Zenith’s responses indicate that Zenith was cross-owned with all 38 affiliated companies under 19 CFR 351.525(b)(6)(vi) through Yash Birla Group’s common control of Zenith and all of its reported affiliates.

Despite the instructions in the December 22, 2011, questionnaire that Zenith provide a complete response for a parent company (*i.e.*, the second criterion indicated above), Zenith did not provide a response for the Yash Birla Group, or the “companies and other entities” that are collectively Yash Birla Group. Based on Zenith’s responses to the ZQR and ZSR, Yash Birla Group is the parent company of Zenith by virtue of its control of Zenith. In addition, we identified at least three other cross-owned companies for which Zenith should have provided a response based on information in the ZQR and ZSR. Zenith acknowledged that one of these companies, Birla Power Solutions Limited, supplied raw material to Zenith during the POI. See ZSR at 2. Furthermore, the financial statements Zenith submitted with the ZQR indicate that Zenith purchased goods and services from “related parties,” which indicates these related parties potentially met the third and fifth criteria indicated above from our December 22, 2011, questionnaire. See ZQR at Annexures 3 through 5 and our supplemental questionnaire dated February 28, 2012, at 4.

We sent a second supplemental questionnaire to Zenith to request responses for all cross-owned companies that meet one or more of the criteria identified in our December 22, 2011, questionnaire, as well as to address other deficiencies in Zenith’s response. Regarding cross-owned companies, we requested the following:

- We stated that Zenith’s responses indicated that Yash Birla Group was the parent company, either directly or indirectly, of Zenith during the POI. Thus, we requested a complete questionnaire response on behalf of Yash Birla Group or the collective “companies and other entities” to which Zenith referred as Yash Birla Group at page 1 of the ZSR.

- We requested a response on behalf of Birla Power Solutions Limited, a company

³ Zenith clarified that the company it referred to as “Birla Group” in the ZQR was the same as Yash Birla Group (“It is clarified that mention of Birla Group here and elsewhere in our earlier response refers to Yash Birla Group.”) See ZSR at 1–2.

cross-owned with Zenith through Yash Birla Group’s common control. Zenith acknowledged in the ZSR that this company provided raw materials to Zenith during the POI. See ZSR at 2.

- We requested a response on behalf of Birla Global Corporate Pvt. Limited, a cross-owned company under Yash Birla Group’s common control, because Zenith’s financial statements indicated that Zenith had charges for services from this company during the POI.

- We requested a complete questionnaire response on behalf of Tungabhadra Holdings Private Limited (“THPL”). Zenith’s submitted financial statements indicated that Zenith merged with THPL in 2009 and that THPL was the original owner of two of Zenith’s three plants. Thus, subsidies that THPL received prior to its merger with Zenith would be attributable to Zenith.

- The financial statements Zenith submitted with the ZQR indicated that Zenith purchased goods and services from “related parties,” which indicates that these related parties potentially met the third and fifth criteria indicated above from our December 22, 2011, questionnaire. Therefore, we asked Zenith to identify these “related parties” and to provide responses on behalf of any companies within this group that were cross-owned with Zenith through Yash Birla Group’s common control.

We requested that Zenith provide complete questionnaire responses for any other cross-owned companies that met one or more of the criteria identified in our December 22, 2011, questionnaire.

For a complete list of the questions, see our supplemental questionnaire dated February 28, 2012, at 1–5.

Zenith asked for two extensions of the deadline for responding to our February 28, 2012, supplemental questionnaire. See Zenith’s letter entitled “Extension Request” dated March 5, 2012, and Zenith’s letter dated March 12, 2012. Because of the impending fully extended deadline for the preliminary determination, we were only able to grant Zenith a partial extension. See our letters to Zenith dated March 6, 2012, and March 12, 2012.

In its response, Zenith filed what it claimed was “a complete response on behalf of Yash Birla Group.” See Z3SR at 1. Zenith filed individual responses on behalf of seven individual companies, which Zenith described as follows:

We wish to clarify that entities mentioned at serial number 1 to 6 were involved in manufacturing and export of various products but not the subject merchandise and all of them have received any of various subsidy program as identified by the DOC during the POI and therefore we have reported separate response for each of them and same is enclosed as Annexure-48 to Annexure-53. As far as (Birla Global Corporate Pvt. Limited) is concerned Zenith Birla (India) Limited has paid service charges to that entity and therefore we have reported

separate response for that entity and same is enclosed as Annexure-54.

Id. at 2.

Zenith also filed one response that it claimed covered 28 other companies. In this response, Zenith stated the following:

We further wish to clarify that all other 28 companies of Yash Birla Group as identified in Annexure-56 were neither involved in production or sales of subject merchandise nor any of them have any export sales and therefore in absence of export sales question of export subsidy does not arise at all and therefore we have reported a single response for all these companies as Annexure-55.

Id.

Zenith did not provide information we requested that is necessary to determine a CVD rate for this preliminary determination for the following reasons. First, we requested that Zenith respond on behalf of the Yash Birla Group because, as we described above, Zenith's responses indicate that Yash Birla Group was the parent company to Zenith. See the supplemental questionnaire dated February 28, 2012, at 1–2. In response, Zenith filed incomplete responses on behalf of individual companies under the control of the Yash Birla Group (see below), but filed no response on behalf of the Yash Birla Group. See Z3SR at 2. Therefore, we have no response for Yash Birla Group, which is Zenith's parent company based on Zenith's responses. Consequently, we cannot identify subsidies Zenith's controlling or parent company received that may be attributable to Zenith under 19 CFR 351.525(b)(6)(iii).

Second, we are not able to identify the universe of cross-owned companies with subsidies attributable to Zenith. Although Zenith initially responded that it has no cross-owned companies, Zenith's responses revealed that Zenith is cross-owned with 38 companies through Yash Birla Group's common control. See ZQR at Annexure 1. In accordance with the instructions in the original questionnaire, Zenith should have responded on behalf of any of these companies that may have received subsidies attributable to Zenith under our regulations. For example, subsidies to a cross-owned input supplier to Zenith are attributable to Zenith under 19 CFR 351.525(b)(6)(iv) if production of the input product is primarily dedicated to production of the downstream product. As we stated above, Zenith's financial statements showed purchases from "related parties," suggesting that Zenith may have cross-owned input suppliers with subsidies attributable to Zenith under

19 CFR 351.525(b)(6)(iv). Thus, we requested that Zenith identify these companies. See the supplemental questionnaire dated February 28, 2012, at 4. Zenith did not answer this question. See Z3SR at 5. Consequently, we do not know the universe of cross-owned companies for which Zenith should have provided questionnaire responses, and we do not know the universe of subsidies attributable to Zenith that these cross-owned companies received.

Third, Zenith's responses on behalf of its cross-owned companies in the Z3SR are unusable for the following reasons. For 28 of these companies, Zenith claimed that none received any of the subsidies under investigation. *Id.* at Annexure 56. Zenith, however, argued that it was not required to provide financial statements or tax returns for any of these companies because they did have export sales and, thus, the question of receiving any subsidy benefit was not relevant. *Id.* Under the Department's regulations, however, the universe of cross-owned companies receiving subsidies attributable to Zenith is not limited to cross-owned companies that export. See 19 CFR 351.525(b) and (c).

In the individual responses for seven specific companies in the Z3SR, Zenith failed to provide requested worksheets reconciling sales to the financial statements. *Id.* at Annexures 48–54. The sales as reported are unusable to calculate the level of subsidy benefits if they include intercompany sales with other responding cross-owned companies. Because Zenith did not provide the requested reconciliations, we cannot determine whether Zenith properly excluded these sales.

Moreover, Zenith did not provide requested documentation and benefit amounts for the seven individual companies in the Z3SR on the grounds that any benefits the companies received were not related to subject merchandise. *Id.*, e.g., at Annexure 48 at 8. Absent a determination by the Department that a subsidy is "tied" to a specific product under 19 CFR 351.525(b)(5), the Department does not limit the attribution of a benefit from a subsidy program to a specific product. The Department bases these determinations on information on the record, including the questionnaire responses of respondent companies. Therefore, it is incumbent on Zenith to provide information necessary for our determination by submitting complete and timely responses to the Department's questionnaires.

Furthermore, Zenith did not respond with respect to certain programs on the

grounds that its cross-owned companies had not used the program "during the POI," even though we specifically asked for reporting during the entire average useful life ("AUL") period. *Id.*, e.g., at Annexure 48 at 20.

Also, certain cross-owned companies for which Zenith reported no subsidy information show subsidies under investigation in their annual reports. For example, the 2010–2011 Annual Report of Birla Precision Technologies Limited identifies a Sales Tax Deferred Payment Loan, a Mahartasha Value Added Tax Credit, an Export Promotion Capital Goods Scheme, an Export-oriented Unit, and consumption of steel during the POI (indicating that this company purchased steel during the POI). *Id.*, Annexure 48, at 31, 32, and 37. All of these items in the Annual Report relate to programs under investigation. In its narrative response, however, Zenith stated that the questions in the questionnaire were "not applicable to us" and did not report any subsidies or answer any of the questions from the December 22, 2011, questionnaire. *Id.* at 8 and 11. See also *id.* at 17 and 20.

Finally, Zenith also did not provide a complete questionnaire response on behalf of itself. Zenith's financial statements show that Zenith merged with THPL, which was the previous owner of two of Zenith's three plant locations during the POI. See ZQR at Annexure 4 at 12. Although Zenith later claimed that its response "includes all the benefits received by Tungabhadra Holdings Private Limited in the AUL period," Zenith provided no requested information (such as financial statements or description of operations or benefits received prior to its amalgamation with Zenith in 2009) with respect to THPL. This makes it impossible to evaluate what subsidies THPL may have availed prior to its amalgamation with Zenith which could potentially be attributable to Zenith. See Z3SR at 3.

Furthermore, Zenith responded that it did not purchase land from the GOI during the AUL period. *Id.* at 4. Zenith's response indicates, however, that THPL "acquired Murbad property (held by Sunlight Pipes and Tubes Private Limited) from Andhra Bank in a public auction in year 2005." *Id.* at 4. Publicly available information shows that the Government of India owned a majority of the shares of Andhra Bank in 2005. See Memorandum to file, entitled "Calculation of the Adverse Facts Available Rate for Lloyds Metals and Engineers Ltd. and Zenith Birla Ltd.," dated March 26, 2012, at Attachment III. Zenith's response also indicates that the Tarapur plant was "acquired by

Tungabhadra Holdings Private Limited from Podar Tubes and Tyers Private Limited and part land (G-39) for Tarapur plant were acquired by the Tungabhadra Holdings Private Limited in a public auction by Debt Recovery Tribunal in a year 2003.” *Id.* at 4. Publicly available information shows that Debt Recovery Tribunals are entities constituted by the GOI. See Memorandum to file, entitled “Calculation of the Adverse Facts Available Rate for Lloyds Metals and Engineers Ltd. and Zenith Birla Ltd.,” dated March 26, 2012, at Attachment III. Thus, Zenith’s claim in the Z3QR that its Murbad and Tarapur plants were “not acquired from any government authority” does not take into account this information. By not responding to the questions regarding land received at less than adequate remuneration, Zenith prevented us from evaluating whether these plants received any subsidies which could potentially be attributable to Zenith.

Because of the numerous deficiencies identified above, it is impossible to calculate a credible subsidy rate based on Zenith’s responses. We provided Zenith two chances, including multiple deadline extensions, to provide a complete questionnaire response. Zenith filed no notification of difficulty in responding to the questionnaire within 14 days of the date of receipt of the questionnaire, as required by our regulations and the questionnaire. See Section III of the questionnaire dated December 22, 2011, at 3; see also 19 CFR 351.301(c)(2)(iv). Accordingly, in reaching our preliminary determination, pursuant to sections 776(a)(2)(A) and (C) of the Act, we have based Zenith’s CVD rate on facts otherwise available. Moreover, Zenith’s failure to provide complete responses, as described above, despite our repeated requests for such responses, constitutes a failure on Zenith’s part to cooperate by not acting to the best of its ability. Accordingly, our preliminary determination is based on AFA.

Selection of the Adverse Facts Available Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. The Department’s practice when selecting an adverse rate from among the possible sources of information is to ensure that the rate is sufficiently adverse “as to effectuate the purpose of

the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner.” See *Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan*; 63 FR 8909, 8932 (February 23, 1998). The Department’s practice also ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.” See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 316, 103rd Cong., 2d Session (1994) (“SAA”), at 870. In choosing the appropriate balance between providing a respondent with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent’s prior commercial activity, selecting the highest prior margin “reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.” See *Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990).

In assigning net subsidy rates for each of the programs for which specific information was required from Lloyds and Zenith, we were guided by the Department’s approach in prior India CVD reviews as well as recent CVD investigations involving the People’s Republic of China. See, e.g., *Certain Hot-Rolled Carbon Steel Flat Products from India: Final Results and Partial Rescission of Countervailing Duty Administrative Review*, 74 FR 20923 (May 6, 2009) (“*Fifth HRS Review*”), and accompanying Issues and Decision Memorandum (“*Fifth HRS Review Decision Memorandum*”), at “SGOC Industrial Policy 2004–2009” section; see also *Circular Welded Austenitic Stainless Pressure Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 4936 (January 28, 2009), and accompanying Issues and Decision Memorandum at “Application of Facts Available and Use of Adverse Inferences” section.

It is the Department’s practice in CVD proceedings to select, as AFA, the highest calculated rate in any segment of the proceeding.⁴ In previous CVD

⁴ See, e.g., *Laminated Woven Sacks From the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination, in Part, of Critical Circumstances*, 73 FR 35639 (June 24, 2008), and accompanying Issues and Decision Memorandum at “Selection of the Adverse Facts Available.”

investigations of products from India, we adapted the practice to use the highest rate calculated for the same or similar program in another India CVD proceeding. Thus, under this practice, for investigations involving India, the Department computes the total AFA rate for non-cooperating companies generally using program-specific rates calculated for the cooperating respondents in the instant investigation or calculated in prior India CVD cases. Specifically, for programs other than those involving income tax exemptions and reductions, the Department applies the highest calculated rate for the identical program in the investigation if a responding company used the identical program, and the rate is not zero. If there is no identical program within the investigation, the Department uses the highest non-*de minimis* rate calculated for the same or similar program (based on treatment of the benefit) in another India CVD proceeding. Absent an above-*de minimis* subsidy rate calculated for the same or similar program, the Department applies the highest calculated subsidy rate for any program otherwise listed that could conceivably be used by the non-cooperating companies.⁵

In this case, there is no appropriate information on the record of this investigation from which to select appropriate AFA rates for any of the subject programs. Although Zenith provided some information for some of the programs with respect to itself, it provided no usable information on subsidies received with respect to any of its cross-owned companies, which means we cannot ascertain the total amount of subsidies attributable to Zenith’s sales. As a result, it is not possible for us to calculate an accurate subsidy rate for any of the programs alleged. Furthermore, because this is an investigation, we have no previous segments of this proceeding from which to draw potential AFA rates.

For the alleged income tax programs pertaining to either the reduction of the income tax rates or the payment of no income tax, we have applied an adverse inference that the respondents paid no income tax during the POI. The standard income tax rate for corporations in India is 35 percent. See the petition dated October 26, 2011, at Exhibit III–A–18. Therefore, the highest possible benefit for the income tax rate

⁵ See, e.g., *Lightweight Thermal Paper from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008), and accompanying Issues and Decision Memorandum at “Selection of the Adverse Facts Available Rate.”

programs is 35 percent. We are applying the 35 percent AFA rate on a combined basis (*i.e.*, the income tax programs benefit provided a 35 percent benefit).

For programs other than those involving income tax exemptions and reductions, we applied the highest non-*de minimis* rate calculated for the same or similar program in another India CVD proceeding. Absent an above-*de minimis* subsidy rate calculated for the same or similar program, we applied the highest calculated subsidy rate for any program otherwise listed that could conceivably be used by the mandatory company respondents.⁶

For a discussion of the application of the individual AFA rates for programs preliminarily determined to be countervailable, see the "Analysis of Programs" section, below.

Corroboration of Secondary Information

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

With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs.

⁶ See, e.g., *Certain Kitchen Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 37012, 37013 (July 27, 2009); see also *Sodium Nitrite From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 38981, 38982 (July 8, 2008).

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. The Department will not use information where circumstances indicate that the information is not appropriate as AFA. See, e.g., *Fresh Cut Flowers From Mexico: Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996). In the instant case, no evidence has been presented or obtained that contradicts the relevance of the information relied upon in a prior India CVD proceeding. Therefore, in the instant case, the Department preliminarily finds that the information used has been corroborated to the extent practicable.

Analysis of Programs

A. Export Oriented Unit Schemes

1. Duty-Free Import of All Types of Goods, Including Capital Goods and Raw Materials

The GOI reported that an export oriented unit ("EOU") "may import without payment of duty all types of goods, including capital goods and raw material, as defined in the Policy, required by it for manufacture, services, trading or in connection therewith." See GQR at 26. Accordingly, we preliminarily determine that this program provides a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act. The GOI also reported that "{u}nits undertaking to export their entire production of goods and services, except permissible sales in the Domestic Tariff Area, as per this policy, may be set up under the EOU Scheme for manufacture of goods." See GQR at 26. Accordingly, we preliminarily determine that this program is contingent upon export and, therefore, is specific within the meaning of section 771(5A)(B) of the Act.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents' submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 14.61 percent *ad*

valorem, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. 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 Investigation"), and accompanying Issues and Decision Memorandum ("PET Film Investigation Decision Memorandum") at the "DEPS" section.

2. Reimbursement of Central Sales Tax ("CST") Paid on Goods Manufactured in India

The GOI reported that "Export Oriented Units (EOUs) and units in Export Processing Zones (EPZs), Electronic Hardware Technology Park (EHTP), Software Technology Park (STP) and Special Economic Zones (SEZ) will be entitled to full reimbursement of Central Sales Tax (CST) paid by them on purchases made from the Domestic Tariff Area (DTA), for production of goods and services as per Exim Policy." See GQR at 27. Accordingly, we preliminarily determine that this program provides a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act. The GOI also reported that "{u}nits undertaking to export their entire production of goods and services, except permissible sales in the Domestic Tariff Area, as per this policy, may be set up under the EOU Scheme for manufacture of goods." See GQR at 26. Accordingly, we preliminarily determine that this program is contingent upon export and, therefore, is specific within the meaning of section 771(5A)(B) of the Act.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents' submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. See *Final Results of Countervailing Duty Administrative Review: Certain Hot-Rolled Carbon Steel*

Flat Products from India, 71 FR 28665 (May 17, 2006), and accompanying Issues and Decision Memorandum (“*Second HRS Review Decision Memorandum*”) at the “State Government of Gujarat Tax Incentives” section.

3. Duty Drawback on Fuel Procured From Domestic Oil Companies

The GOI reported that “{f}uels procured from the depots of domestic oil companies on payment of excise duty by EOU/EHTP/STP/BTP will be eligible for reimbursement in the form of terminal excise duty in addition to drawback rates notified by DGFT from time to time provided the recipient unit does not avail CENVAT credit/rebate on such goods.” See GQR at 27–28. Accordingly, we preliminarily determine that this program provides a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act. The GOI also reported that “{u}nits undertaking to export their entire production of goods and services, except permissible sales in the Domestic Tariff Area, as per this policy, may be set up under the EOU Scheme for manufacture of goods.” See GQR at 26. Accordingly, we preliminarily determine that this program is contingent upon export and, therefore, is specific within the meaning of section 771(5A)(B) of the Act.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents’ submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 14.61 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. See *PET Film Investigation Decision Memorandum* at the “DEPS” section.

4. Exemption From Income Tax Under Section 10A and 10B of Income Tax Act

The GOI reported that “Section 10A of the Income-tax Act provides for a five-year total tax holiday to industrial undertakings which manufacture or produce any article or thing and are set up in notified Free Trade Zones (FTZs)”

and that “section 10B of the Income-tax Act allows a five-year tax holiday to approved 100% export-oriented undertakings (EOUs) which manufacture or produce any article or thing.” See GQR at 28. Accordingly, we preliminarily determine that this program provides a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act. The GOI also reported that “{u}nits undertaking to export their entire production of goods and services, except permissible sales in the Domestic Tariff Area, as per this policy, may be set up under the EOU Scheme for manufacture of goods.” See GQR at 26. Accordingly, we preliminarily determine that this program is contingent upon export and, therefore, is specific within the meaning of section 771(5A)(B) of the Act.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents’ submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

As explained above, for the alleged income tax programs pertaining to either the reduction of the income tax rates or the payment of no income tax, we are applying the 35 percent AFA rate on a combined basis (*i.e.*, the income tax programs combined provided a 35 percent benefit).

5. Exemption From Payment of Central Excise Duty on Goods Manufactured in India and Procured From a Domestic Tariff Area

The GOI reported that “{t}he EOUs can procure goods from DTA without payment of Central Excise duty subject to following of the Chapter X procedure of erstwhile Central Excise Rules.” See GQR at 29. Most of the products manufactured in India are assessed excise duties at the rate of 16 percent. However, manufactured goods purchased domestically qualify for exemption from this excise duty under this program. Accordingly, we preliminarily determine that this program provides a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act. The GOI also reported that “{u}nits undertaking to export their entire production of goods

and services, except permissible sales in the Domestic Tariff Area, as per this policy, may be set up under the EOU Scheme for manufacture of goods.” See GQR at 26. Accordingly, we preliminarily determine that this program is contingent upon export and, therefore, is specific within the meaning of section 771(5A)(B) of the Act.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents’ submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 14.61 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. See *PET Film Investigation Decision Memorandum* at the “DEPS” section.

6. Reimbursement of CST on Goods Manufactured in India and Procured From a Domestic Tariff Area

The GOI reported that “{t}he EOUs can procure goods from DTA without payment of Central Excise duty subject to following of the Chapter X procedure of erstwhile Central Excise Rules.” See GQR at 29. Accordingly, we preliminarily determine that this program provides a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act. The GOI also reported that “{u}nits undertaking to export their entire production of goods and services, except permissible sales in the Domestic Tariff Area, as per this policy, may be set up under the EOU Scheme for manufacture of goods.” See GQR at 26. Accordingly, we preliminarily determine that this program is contingent upon export and, therefore, is specific within the meaning of section 771(5A)(B) of the Act.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents’ submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this

program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. See *Second HRS Review Decision Memorandum* at the “State Government of Gujarat Tax Incentives” section.

B. Export Promotion Capital Goods Scheme

The GOI reported that “{t}he scheme allows import of capital goods for pre production, production and post production at 5% Customs duty subject to an export obligation equivalent to 8 times of duty saved on capital goods imported under EPCG scheme to be fulfilled over a period of 8 years reckoned from the date of issuance of license.” See GQR at 41. Thus, under this program, Indian companies may import capital equipment at reduced rates by fulfilling certain export obligations. Accordingly, we preliminarily determine that this program provides a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act. Moreover, because this duty reduction is subject to an export obligation, we preliminarily determine that this program is specific within the meaning of section 771(5A)(B) of the Act.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents’ submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 16.63 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in any segment of any proceeding involving India. See *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From India*, 66 FR 49635 (September 28, 2001), and accompanying Issues and Decision Memorandum (“*HRS Investigation*

Decision Memorandum”) at the “Export Promotion for Capital Goods (EPCGS) Scheme” section.

C. Duty Exemption/Remission Schemes

1. Advance License Program

The GOI reported that “{a}n Advance Authorization is issued to allow duty free import of inputs, which are physically incorporated in export product (making normal allowance for wastage). In addition, fuel, oil, energy, catalysts which are consumed/utilized to obtain export product, may also be allowed.” See GQR at 45. Accordingly, we preliminarily determine that this program provides a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act. The GOI also reported that “{d}uty free import of mandatory spares up to 10% of CIF value of Authorization which are required to be exported/supplied with resultant product are allowed under Advance Authorization.” See GQR at 26. Accordingly, we preliminarily determine that this program is contingent upon export and, therefore, is specific within the meaning of section 771(5A)(B) of the Act.

The GOI initially claimed that the respondents had not availed themselves of any benefits under this program. See GQR at 47. Zenith reported that it used this program. See ZQR at 12–14.⁷ However, for Zenith, we cannot determine the level of benefit within the meaning of section 771(5)(E) of the Act because Zenith did not report necessary information for its cross-owned companies.

Absent the cooperation of Lloyds and Zenith with respect to its cross-owned companies, we preliminarily determine that the respondents’ submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, we find that Zenith and Lloyds used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 0.50 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in any segment of any proceeding involving India. See *Certain Hot-Rolled Carbon Steel Flat Products From India: Final*

⁷The GOI subsequently acknowledged that Zenith used Advanced Authorization licenses during the POI that were issued before the POI. See G1SR at response to Question 18.

Results of Countervailing Duty Administrative Review, 73 FR 40295 (July 14, 2008) (“*Fourth HRS Review*”) and accompanying Issues and Decision Memorandum (“*Fourth HRS Review Decision Memorandum*”) at the “Advance License Program (ALP)” section.

2. Duty Free Import Authorization Scheme

The GOI reported that “DFIA is issued to allow duty free import of inputs, fuel, oil, energy sources, catalyst which are required for production of export product.” See GQR at 46. Accordingly, we preliminarily determine that this program provides a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act. Moreover, because this program is limited to exports, we preliminarily determine that this program is contingent upon export and, therefore, is specific within the meaning of section 771(5A)(B) of the Act.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents’ submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 0.50 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. See *Fourth HRS Review Decision Memorandum* at the “Advance License Program (ALP)” section.

3. Duty Entitlement Passbook (“DEP”) Scheme

The GOI reported that the “{o}bjective of DEPB is to neutralize incidence of customs duty on import content of export product.” See GQR at 46. Under this program, exporting companies earn import duty exemptions in the form of passbook credits rather than cash. All exporters are eligible to earn DEP credits on a post-export basis. DEP credits can be applied to subsequent imports of any materials, regardless of whether they are consumed in the production of an exported product. Accordingly, we preliminarily determine that this

program provides a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act. Moreover, because this program is limited to export product, we determine that this program is contingent upon export and, therefore, is specific within the meaning of section 771(5A)(B) of the Act.

Zenith reported that it used this program. See ZQR at 15–17. However, for Zenith, we cannot determine the level of benefit within the meaning of section 771(5)(E) of the Act because Zenith did not report necessary information for its cross-owned companies.

Absent the cooperation of Lloyds and Zenith with respect to its cross-owned companies, we preliminarily determine that the respondents' submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, we find that Zenith and Lloyds used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 14.61 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in any segment of any proceeding involving India. See *PET Film Investigation Decision Memorandum* at the “DEPS” section.

D. Pre-Shipment and Post-Shipment Export Financing

The GOI reported that the Reserve Bank of India “sets the ceiling interest rate that banks may charge under the Pre-shipment Export Financing Scheme through circulars that are issued periodically.” See GQR at 55. Accordingly, we preliminarily determine that the GOI's issuance of financing at preferential rates constituted a financial contribution pursuant to section 771(5)(D)(i) of the Act. The GOI also reported that “{e}ligibility for export finance is contingent upon export performance.” See GQR at 56. Accordingly, we preliminarily determine that this program is contingent upon export and, therefore, is specific within the meaning of section 771(5A)(B) of the Act.

Zenith reported that it used this program. See ZQR at 17–19. However, for Zenith, we cannot determine the level of benefit within the meaning of section 771(5)(E) of the Act because Zenith did not report necessary

information for its cross-owned companies.

Absent the cooperation of Lloyds and Zenith with respect to its cross-owned companies, we preliminarily determine that the respondents' submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, we find that Zenith and Lloyds used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 2.90 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in any segment of any proceeding involving India. See *PET Film Investigation Decision Memorandum* at the “Pre-Shipment and Post-Shipment Export Financing” section.

E. Market Development Assistance

The GOI reported that “{r}ecognised Export Promotion Councils (EPCs) on product grouping basis, Commodity Boards and Export Development Authorities are eligible for MDA assistance for development and promotional activities to promote exports of their products and commodities from India. All exporters are eligible for assistance under MDA scheme for bonafide overseas marketing promotion activities to explore new markets for export of their specific product(s) and commodities from India in the initial phase through activities like participation in trade fairs/exhibitions/BSMs/Trade Delegations and publicity through printed material abroad.” See GQR at 63. Accordingly, we preliminarily determine that this program provides a direct financial contribution within the meaning of section 771(5)(D)(i) of the Act. Moreover, because this program is limited to exporters, we determine that this program is contingent upon export and, therefore, is specific within the meaning of section 771(5A)(B) of the Act.

Zenith reported that it used this program. See Z2SR at 10. However, for Zenith, we cannot determine the level of benefit within the meaning of section 771(5)(E) of the Act because Zenith did not report necessary information for its cross-owned companies.

Absent the cooperation of Lloyds and Zenith with respect to its cross-owned companies, we preliminarily determine that the respondents' submissions do not constitute complete and verifiable

evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, we find that Zenith and Lloyds used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. See *HRS Investigation Decision Memorandum* at the “The GOI's Forgiveness of SDF Loans Issued to SAIL” section.

F. Market Access Initiative

The GOI reported that “Market Access Initiatives (MAI) Scheme is an Export Promotion Scheme envisaged to act as a catalyst to promote India's export on a sustained basis. The scheme is formulated on focus product-focus country approach to evolve specific market and specific product through market studies/survey. Assistance would be provided to Export Promotion Organizations/Trade Promotion Organizations/National Level Institutions/Research Institutions/Universities/Laboratories, Exporters, etc., for enhancement of export through accessing new markets or through increasing the share in the existing markets.” See GQR at 70. Accordingly, we preliminarily determine that this program provides a direct financial contribution within the meaning of section 771(5)(D)(i) of the Act. Moreover, because this program is limited to exporters, we preliminarily determine that this program is contingent upon export and, therefore, is specific within the meaning of section 771(5A)(B) of the Act.

Absent the cooperation of Lloyds and Zenith, including its cross-owned companies, we preliminarily determine that the respondents' submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any

segment of any proceeding involving India. See *HRS Investigation Decision Memorandum* at the “The GOI’s Forgiveness of SDF Loans Issued to SAIL” section.

G. Government of India Loan Guarantees

The GOI did not respond to our requests for information with respect to this program. The Department has previously determined that this program is countervailable. See, e.g., *Certain Hot-Rolled Carbon Steel Flat Products From India: Final Results of Countervailing Duty Administrative Review*, 75 FR 43488 (July 26, 2010) (“Sixth HRS Review”), and accompanying Issues and Decision Memorandum (“Sixth HRS Review Decision Memorandum”). Specifically, the Department determined that the GOI’s loan guarantees under this program provide a financial contribution in the form of a potential direct transfer of funds or liabilities and are specific to a limited number of industries within the meaning of sections 771(5)(D)(i) and 771(5A)(D)(iii)(I) of the Act, respectively. *Id.* No new information or evidence of changed circumstances has been provided with respect to this program. Therefore, as AFA, we find this program to be countervailable.

Absent the cooperation of Lloyds and Zenith, including its cross-owned companies, we preliminarily determine that the respondents’ submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 2.90 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. See *PET Film Investigation Decision Memorandum* at the “Pre-Shipment and Post-Shipment Export Financing” section.

H. Status Certificate Program

The GOI reported that “{t}he objective of the scheme is to recognize established exporters as Export House, Trading House, Star Trading House and Super Star Trading House with a view to building marketing infrastructure and expertise required for export promotion,” and that “{t}he amount of

the assistance provided is determined solely by established criteria found in the law, regulation or other official document.” See GQR at 81 and 85, respectively. Accordingly, we preliminarily determine that this program provides a direct financial contribution within the meaning of section 771(5)(D)(i) of the Act. The GOI also reported that “{t}he eligibility criterion for such recognition shall be on the basis of the FOB/NFE value of export of goods and services.” See GQR at 81. Accordingly, we preliminarily determine that this program is contingent upon export and, therefore, is specific within the meaning of section 771(5A)(B) of the Act.

Zenith reported that it used this program. See Z2SR at 11. However, for Zenith, we cannot determine the level of benefit within the meaning of section 771(5)(E) of the Act because Zenith did not report necessary information for its cross-owned companies.

Absent the cooperation of Lloyds and Zenith with respect to its cross-owned companies, we preliminarily determine that the respondents’ submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, we find that Zenith and Lloyds used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 2.90 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. See *PET Film Investigation Decision Memorandum* at the “Pre-Shipment and Post-Shipment Export Financing” section.

I. Steel Development Fund Loans

The GOI reported that “Steel Development Fund (SDF) was created in 1978 to add an element to the ex-works prices of the main producers” and that “{t}his fund thus provides financial assistance to the industry from the interest of SDF corpus for taking up projects like, technology upgradation, measures connected with pollution control, activities related to Research & Development.” See GQR at 81 and 85, respectively. Accordingly, we preliminarily determine that the GOI’s provision of Steel Development Fund loans under this program provide a financial contribution in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the

Act. Moreover, because this program is limited to a single industry, we preliminarily find it to be specific within the meaning of section 771(5A)(D)(iii)(I) of the Act.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents’ submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 0.99 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in any segment of any proceeding involving India. See *HRS Investigation Decision Memorandum* at “Loan from the Steel Development Fund (SDF) Fund” section.

J. Research and Technology Scheme Under Empowered Committee Mechanism With Steel Development Fund Support

The GOI did not respond to our requests for information with respect to this program. According to Petitioners’ allegation, the GOI has set aside certain funds, from the interest proceeds of the Steel Development Fund loans to be used for the financing of research and development proposals received from the iron and steel industry and that the assistance is likely in the form of grants or loans. Based on the description alleged in the petition, as AFA, we determine that this program provides a financial contribution in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act. In addition, as AFA, we determine that this program is specific to an industry within the meaning of section 771(5A)(D)(iii)(I) of the Act.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents’ submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this

program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 0.99 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. See *HRS Investigation Decision Memorandum* at “Loan from the Steel Development Fund (SDF) Fund” section.

K. Special Economic Zones (“SEZ”) Programs

1. Duty-Free Importation of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material

The GOI did not respond to our requests for information with respect to this program. The Department has previously determined that this program is countervailable. See *Polyethylene Terephthalate Film, Sheet, and Strip From India: Final Results of Countervailing Duty New Shipper Review*, 76 FR 30910 (May 27, 2011) (“*PET Film NSR*”) and accompanying Issues and Decision Memorandum (“*PET Film NSR Decision Memorandum*”). Specifically, the Department determined that this program provides a financial contribution pursuant to section 771(5)(D)(ii) of the Act through the foregoing of duty payments. *Id.* The Department also determined that program is specific within the meaning of sections 771(5A)(A) and (B) of the Act. *Id.* No new information or evidence of changed circumstances has been provided with respect to this program. Therefore, as AFA, we find this program to be countervailable.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents’ submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 14.61 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. See *PET Film Investigation*

Decision Memorandum at the “DEPS” section.

2. Exemption From Payment of CST on Purchases of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material

The GOI did not respond to our requests for information with respect to this program. The Department has previously determined that this program is countervailable. See, e.g., *Sixth HRS Review and Sixth HRS Review Memorandum*. Specifically, the Department determined that this program provides a financial contribution that is specific within the meaning of sections 771(5)(D) and 771(5A)(B) of the Act, respectively. *Id.* No new information or evidence of changed circumstances has been provided with respect to this program. Therefore, as AFA, we find this program to be countervailable.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents’ submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 0.53 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in any segment of any proceeding involving India. See *Pet Film NSR Decision Memorandum* at “Exemption from Payment of Central Sales Tax (CST) on Purchases of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material” section.

3. Exemption From Electricity Duty and Cess Thereon on the Sale or Supply to the SEZ Unit

The GOI did not respond to our requests for information with respect to this program. The Department has previously determined that this program is countervailable. See *PET Film NSR and PET Film NSR Decision Memorandum*. Specifically, the Department determined that the electricity duty and cess exemptions provide a financial contribution in the form of revenue foregone by the State Government of Madhya Pradesh

pursuant to section 771(5)(D)(ii) of the Act. *Id.* The Department also determined that program is specific within the meaning of sections 771(5A)(A) and (B) of the Act. *Id.* No new information or evidence of changed circumstances has been provided with respect to this program. Therefore, as AFA, we find this program to be countervailable.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents’ submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. See *Second HRS Review Decision Memorandum* at the “State Government of Gujarat (SGOG) Tax Incentives” section.

4. SEZ Income Tax Exemption Scheme (Section 10A)

The GOI did not respond to our requests for information with respect to this program. The Department has previously determined that this program is countervailable. See *PET Film NSR and PET Film NSR Decision Memorandum*. Specifically, the Department determined that the GOI provides a financial contribution in the form of revenue forgone pursuant to section 771(5)(D)(ii) of the Act. *Id.* The Department also determined that program is specific within the meaning of sections 771(5A)(A) and (B) of the Act. *Id.* No new information or evidence of changed circumstances has been provided with respect to this program. Therefore, as AFA, we preliminarily find this program to be countervailable.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents’ submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and

Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

As explained above, for the alleged income tax programs pertaining to either the reduction of the income tax rates or the payment of no income tax, we are applying the 35 percent AFA rate on a combined basis (*i.e.*, the income tax programs combined provided a 35 percent benefit).

5A. Discounted Land and Related Fees in an SEZ

The GOI did not respond to our requests for information with respect to this program. The Department has previously countervailed discounted land fees in the state of Madhya Pradesh. See *PET Film NSR* and *PET Film NSR Decision Memorandum*. Specifically, the Department determined that the State Government of the State of Madhya Pradesh provides a financial contribution in the form of revenue forgone pursuant to section 771(5)(D)(ii) of the Act. *Id.* The Department also determined that program is specific within the meaning of sections 771(5A)(A) and (B) of the Act. *Id.* No new information or evidence of changed circumstances has been provided with respect to this program. Therefore, as AFA, we find this program to be countervailable.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents' submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. See *Second HRS Review Decision Memorandum* at the "State Government of Gujarat (SGOG) Tax Incentives" section

5B. Land Provided at LTAR in an SEZ

The GOI did not respond to our requests for information with respect to this program. According to Petitioners' allegation, under the authority of the GOI's Land Act, land is provided at LTAR to investors who locate in the SEZs. Based on the description alleged

in the petition, as AFA, we determine that this program provides a financial contribution in the form of land sold for LTAR within the meaning of section 771(5)(D)(iii) of the Act. In addition, as AFA, we determine that this program is specific within the meaning of sections 771(5A)(A) and (B) of the Act consistent with the other SEZ programs.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents' submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 18.08 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. See *Fourth HRS Review Decision Memorandum* at the "Captive Mining Rights of Iron Ore" section.

L. Input Programs

1. Provision of Hot-Rolled Steel by the Steel Authority of India for LTAR

The GOI did not respond to our requests for information with respect to this program. According to Petitioners' allegation, the SAIL is a government authority and is likely to supply hot-rolled steel, the primary input in the production of subject merchandise, for LTAR. Based on the description alleged in the petition, as AFA, we determine that this program provides a financial contribution in the form of a provision of a good as defined under section 771(5)(D)(iii) of the Act. In addition, as AFA, we determine that this program is specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because the actual recipients are limited to industries that use hot-rolled steel.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents' submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this

program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 16.14 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. See *Fifth HRS Review Decision Memorandum* at "Sale of High-Grade Iron Ore for LTAR" section.

2. Provision of Captive Mining Rights

The GOI did not respond to our requests for information with respect to this program. The Department has previously determined that this program is countervailable. See, *e.g.*, *Sixth HRS Review* and *Sixth HRS Review Memorandum*. Specifically, the Department determined that this program provides a financial contribution in the form of a provision of a good and is specific to a limited number of industries within the meaning of sections 771(5)(D)(iii) and 771(5A)(D)(iii)(I) of the Act, respectively. *Id.* No new information or evidence of changed circumstances has been provided with respect to this program. Therefore, as AFA, we find this program to be countervailable.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents' submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 18.08 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. See *Fourth HRS Review Decision Memorandum* at the "Captive Mining of Iron Ore" section.

3. Captive Mining Rights of Coal

The GOI did not respond to our requests for information with respect to this program. The Department has previously determined that this program is countervailable. See, *e.g.*, *Sixth HRS Review* and *Sixth HRS Review Memorandum*. Specifically, the Department determined that this program provides a financial contribution in the form of a provision of a good and is specific to a limited

number of industries within the meaning of sections 771(5)(D)(iii) and 771(5A)(D)(iii)(I) of the Act, respectively. *Id.* No new information or evidence of changed circumstances has been provided with respect to this program. Therefore, we continue to find this program to be countervailable.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents' submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in any segment of any proceeding involving India. *See Fourth HRS Decision Memorandum* at "Captive Mining Rights of Coal" section.

4. Provision of High-Grade Ore for LTAR

The GOI did not respond to our requests for information with respect to this program. The Department has previously determined that this program is countervailable. *See, e.g., Sixth HRS Review* and *Sixth HRS Review Memorandum*. Specifically, the Department determined that the GOI continues to provide a direct financial contribution in the form of a provision of a good as defined under section 771(5)(D)(iii) of the Act, which is specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because the actual recipients are limited to industries that use iron ore, including the steel industry. *Id.* No new information or evidence of changed circumstances has been provided with respect to this program. Therefore, as AFA, we find this program to be countervailable.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents' submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and

Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 16.14 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in any segment of any proceeding involving India. *See Fifth HRS Decision Memorandum* at "Sale of High-Grade Iron Ore for Less Than Adequate Remuneration" section.

M. State Government of Maharashtra ("SGOM") Programs

1. Sales Tax Program

The GOI did not respond to our requests for information with respect to this program. The Department has previously determined that this program is countervailable. *See, e.g., Sixth HRS Review* and *Sixth HRS Review Memorandum*. Specifically, the Department determined that this program provides a financial contribution in the form of revenue forgone and is specific because it is limited to only those companies investing in a specified developing area within the meaning of sections 771(5)(D)(ii) and 771(5A)(D)(iv) of the Act, respectively. *Id.* No new information or evidence of changed circumstances has been provided with respect to this program. Therefore, as AFA, we find this program to be countervailable.

Zenith reported that it "availed sales tax deferred payment loan facility from State Government of Maharashtra before the POI." *See ZQR* at 32. However, for Zenith, we cannot determine the level of benefit within the meaning of section 771(5)(E) of the Act because Zenith did not report necessary information for its cross-owned companies.

Absent the cooperation of Lloyds and Zenith with respect to its cross-owned companies, we preliminarily determine that the respondents' submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 0.59 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in any segment of any proceeding involving

India. *See Fourth HRS Review Decision Memorandum* at "State Government of Maharashtra (SGOM) Programs Sales Tax Program" section.

2. VAT Refunds Under SGOM Package Scheme

The GOI reported that "Any industry new or expansion fulfilling the eligibility criteria (Para 3.5, 3.6 & 3.10 of the Scheme) are granted incentives in accordance with the classification of the block/taluka in which it is located." *See GQR* at 113. Under the Maharashtra Package Scheme of Incentives and the Maharashtra New Package Scheme of Incentives, the SGOM offered tax incentives including VAT tax refunds to companies that are located or invested in certain developing areas in the State of Maharashtra. Accordingly, we preliminarily determine that this program provides a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act. The GOI also reported that "the main objective of the Scheme is to encourage dispersal of industries to the industrially less developed areas of the State so as to achieve higher and sustainable economic development with balance regional development. The talukas/blocks in the State are classified in to {sic} six (06) zones depending up on their industrial backwardness. The graded scale of incentives are offered to the industrial units being set up in such backward areas with a view to compensate their difficulties faced by them on account of gap in infrastructure facilities vis-a-vis the developed areas of the State." *See GQR* at 111.

Accordingly, we preliminarily determine that this program is limited to only those companies investing in a specified developing area and, therefore, is specific within the meaning of section 771(5A)(D)(iv) of the Act.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents' submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any

segment of any proceeding involving India. See *Second HRS Review Decision Memorandum* at the “State Government of Gujarat (SGOG) Tax Incentives” section.

3. Electricity Duty Scheme Under Package Scheme Incentives 1993

The GOI did not respond to our requests for information with respect to this program. The Department has previously determined that this program is countervailable. See, e.g., *Sixth HRS Review* and *Sixth HRS Review Memorandum*. Specifically, the Department determined that this program provides a financial contribution in the form of revenue forgone and are regionally specific within the meaning of sections 771(5)(D)(iii) and 771(5A)(D)(iv) of the Act, respectively. *Id.* No new information or evidence of changed circumstances has been provided with respect to this program. Therefore, as AFA, we find this program to be countervailable.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents’ submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. See *Second HRS Review Decision Memorandum* at the “State Government of Gujarat (SGOG) Tax Incentives” section.

4. Octroi Refunds

The GOI did not respond to our requests for information with respect to this program. The Department has previously determined that this program is countervailable. See, e.g., *Sixth HRS Review* and *Sixth HRS Review Memorandum*. Specifically, the Department determined that the indirect tax savings under this program provide a financial contribution in the form of revenue forgone and are regionally specific within the meaning of sections 771(5)(D)(i) and 771(5A)(D)(iv) of the Act, respectively. *Id.* No new information or evidence of changed

circumstances has been provided with respect to this program. Therefore, as AFA, we find this program to be countervailable.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents’ submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. See *Second HRS Review Decision Memorandum* at the “State Government of Gujarat (SGOG) Tax Incentives” section.

5. Octroi Loan Guarantees

The GOI did not respond to our requests for information with respect to this program. The Department has previously determined that this program is countervailable. See, e.g., *Sixth HRS Review* and *Sixth HRS Review Memorandum*. Specifically, the Department determined the SGOM’s loan guarantees under this program provide a financial contribution within the meaning of section 771(5)(D)(i) of the Act through a potential direct transfer of the Octroi refund to pay off loans. *Id.* The Department also found that these loan guarantees are specific within the meaning of 771(5A)(D)(iii)(I) of the Act because only companies eligible for the Octroi scheme can receive these loan guarantees. *Id.* No new information or evidence of changed circumstances has been provided with respect to this program. Therefore, as AFA, we find this program to be countervailable.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents’ submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this

program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 2.90 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. See *PET Film Investigation Decision Memorandum* at the “Pre-shipment and Post-shipment Export Financing” section.

6. Infrastructure Assistance for Mega Projects

The GOI did not respond to our requests for information with respect to this program. The Department has previously determined that this program is countervailable. See, e.g., *Sixth HRS Review* and *Sixth HRS Review Memorandum*. Specifically, the Department determined that the program constituted a financial contribution in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act. *Id.* The Department also found that the program is limited to firms investing in Mega-Projects and, therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act. *Id.* No new information or evidence of changed circumstances has been provided with respect to this program. Therefore, as AFA, we find this program to be countervailable.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents’ submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning net subsidy rates of 3.09 percent *ad valorem* for indirect tax and 6.06 for grants percent *ad valorem*, which correspond to the highest above *de minimis* subsidy rates calculated for similar programs in another segment of this proceeding. See *Second HRS Review Decision Memorandum* at the “State Government of Gujarat (SGOG) Tax Incentives” section and HRS Investigation Decision Memorandum at the “The GOI’s Forgiveness of SDF Loans to SAIL” section.

7. Provision of Land for LTAR

The GOI did not respond to our requests for information with respect to this program. The Department has previously determined that this program is countervailable. *See, e.g., Sixth HRS Review and Sixth HRS Review Memorandum.* Specifically, the Department determined that this program constitutes a financial contribution in the form of land sold for LTAR within the meaning of section 771(5)(D)(iii) of the Act. *Id.* The Department also found that the program is limited to enterprises purchasing land outside of the Bombay and Pune area, and therefore, is specific within the meaning of section 771(5A)(D)(iv) of the Act. *Id.* No new information or evidence of changed circumstances has been provided with respect to this program. Therefore, as AFA, we find this program to be countervailable.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents' submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 18.08 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. *See Fourth HRS Review Decision Memorandum* at "Captive Mining Rights of Iron Ore" section.

8. Investment Subsidies

The GOI did not respond to our requests for information with respect to this program. The Department has previously determined that this program is countervailable. *See, e.g., Sixth HRS Review and Sixth HRS Review Memorandum.* Specifically, the Department determined that this program constitutes a financial contribution in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act. *Id.* The Department also found that the program

is limited to firms operating outside of the Bombay and Pune metropolitan areas and thus, is specific within the meaning of section 771(5A)(D)(iv) of the Act. *Id.* No new information or evidence of changed circumstances has been provided with respect to this program. Therefore, as AFA, we find this program to be countervailable.

Absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we preliminarily determine that the respondents' submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. *See HRS Investigation Decision Memorandum* at "Forgiveness of SDF Loans to SAIL" section.

N. Waiving of Interest on Loan by the State Industrial and Investment Corporation of Maharashtra Ltd ("SICOM")

In prior investigations, the Department has determined that SICOM is a public body and found that waived interest on "intercorporate deposits" was countervailable. *See PET Film Investigation and PET Film Investigation Decision Memorandum.* Specifically, the Department determined that a financial contribution was provided by SICOM, a public entity, pursuant to section 771(5)(D)(i) of the Act, in the amount of the waived interest. *Id.* The Department also found that the waived interest was specific to the respondent pursuant to section 771(5A)(D)(i) of the Act. *Id.* No new information or evidence of changed circumstances has been provided with respect to this program. Therefore, we find this program to be countervailable.

We initiated an investigation into this program on March 16, 2012. *See Memorandum to Susan Kuhbach, Director, Office 1, "Analysis of New Subsidy Allegation,"* dated March 16,

2012. Although we did not send a questionnaire to Zenith on this program prior to this preliminary determination, Zenith's annual reports on the record indicate that Zenith may have benefited from this program during the POI. *See ZQR at Annexure 3, 2008–2009 Annual Report at 27; and Annexure 4, 2009–2010 Annual Report at 32.* Moreover, because of the deficiencies in Zenith's response as a whole, we would be unable to determine what level of benefit Zenith received even if we had a complete questionnaire response on this program from Zenith. For example, as we stated above under the "Use of Adverse Facts Available" section, Zenith did not provide necessary information on the sales of any of its cross-owned companies. This information is necessary to determine the level of benefits Zenith may have received under this program.

Therefore, absent the cooperation of Lloyds and Zenith (including its cross-owned companies), we determine that the respondents' submissions do not constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that the respondents or any of their cross-owned affiliates did not benefit from this program during the POI. Therefore, as AFA we find that both Lloyds and Zenith used and benefitted from this program within the meaning of section 771(5)(E) of the Act.

For this program, we are assigning a net subsidy rate of 2.90 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of any proceeding involving India. *See PET Film Investigation Decision Memorandum* at the "Pre-Shipment and Post-Shipment Export Financing" section.

Summary of Programs Preliminarily Determined To Be Countervailable

As AFA, we are making the adverse inference that Lloyds and Zenith, including their cross-owned companies, each received countervailable subsidies under each of the subsidy programs that the Department included in its initiation as well as the additional subsidy program that the Department initiated on March 16, 2012. Listed below are the AFA rates applicable to each program.

Program	Subsidy rate
A. Export Oriented Unit Schemes:	
1. Duty-free import of all types of goods, including capital goods and raw materials	14.61
2. Reimbursement of Central Sales Tax ("CST") paid on goods manufactured in India	3.09

Program	Subsidy rate
3. Duty drawback on fuel procured from domestic oil companies	14.61
4. Exemption from income tax under Section 10A and 10B of Income Tax Act	35.00
5. Exemption from payment of Central Excise Duty on goods manufactured in India and procured from a Domestic Tariff Area	14.61
6. Reimbursement of CST on goods manufactured in India and procured from a Domestic Tariff Area	3.09
B. Export Promotion Capital Goods Scheme	16.63
C. Duty Exemption/Remission Schemes:	
1. Advance License Program	2.55
2. Duty Free Import Authorisation Scheme	2.55
3. Duty Entitlement Passbook Scheme	14.61
D. Pre-shipment and Post-shipment Export Financing	2.90
E. Market Development Assistance	6.06
F. Market Access Initiative	6.06
G. Government of India Loan Guarantees	2.90
H. Status Certificate Program	2.90
I. Steel Development Fund Loans	0.99
J. Research and Technology Scheme Under Empowered Committee Mechanism with Steel Development Fund Support	0.99
K. Special Economic Zones ("SEZ") Programs:	
1. Duty-Free Importation of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts and Packing Material	14.61
2. Exemption from Payment of CST on Purchases of Capital Goods and Raw Materials, Components,	3.09
3. Exemption from Electricity Duty and Cess thereon on the Sale or Supply to the SEZ Unit	3.09
4. SEZ Income Tax Exemption Scheme (Section 10A) ⁸	
5A. Discounted Land and Related Fees in an SEZ	3.09
5B. Land Provided at Less Than Adequate Remuneration in an SEZ	8.08
L. Input Programs:	
1. Provision of Hot-Rolled Steel by the Steel Authority of India For Less Than Adequate Remuneration ("LTAR")	16.14
2. Provision of Captive Mining Rights	18.08
3. Captive Mining Rights of Coal	3.09
4. Provision of High-Grade Ore for LTAR	16.14
M. State Government of Maharashtra ("SGOM") Programs:	
1. Sales Tax Program	0.59
2. Value-Added Tax Refunds under SGOM Package Scheme	3.09
3. Electricity Duty Scheme under Package Scheme Incentives 1993	3.09
4. Octroi Refunds	3.09
5. Octroi Loan Guarantees	2.90
6. Infrastructure Assistance for Mega Projects—indirect tax	3.09
Infrastructure Assistance for Mega Projects—grants	6.06
7. Provision of Land for LTAR	18.08
8. Investment Subsidies	6.06
N. Waiving of Interest on Loan by the State Industrial and Investment Corporation of Maharashtra Ltd ("SICOM")	2.90

Summarizing these rates yields a total CVD subsidy rate of 285.95 percent *ad valorem*.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual rate for each producer/exporter of the subject merchandise individually investigated.

With respect to the all-others rate, section 705(c)(5)(A)(ii) of the Act provides that if the countervailable subsidy rates established for all exporters and producers individually investigated are determined entirely in accordance with section 776 of the Act, the Department may use any reasonable method to establish an all-others rate for exporters and producers not

individually investigated. In this case, the rate calculated for both of the investigated companies is based entirely on facts available under section 776 of the Act. There is no other information on the record upon which to determine an all-others rate. As a result, we have used the AFA rate assigned for Lloyds and Zenith as the all-others rate. This method is consistent with the Department's past practice. *See, e.g., Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Argentina*, 66 FR 37007, 37008 (July 16, 2001); *see also Final Affirmative Countervailing Duty Determination: Prestressed Concrete Steel Wire Strand From India*, 68 FR 68356 (December 8, 2003).

We preliminarily determine the total estimated net countervailable subsidy rates to be:

Exporter/manufacturer	Net subsidy rate
Lloyds Metals and Engineers Ltd	285.95
Zenith Birla Ltd	285.95
All Others	285.95

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing CBP to suspend liquidation of all entries of circular welded pipe from India that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of merchandise in the amounts indicated above.

U.S. International Trade Commission ("ITC") Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this

⁸The rate is not separately listed because the maximum benefit for this program and the Exemption from income tax under Section 10A and 10B of Income Tax Act under Export Oriented Unit Schemes is 35 percent. Accordingly, 35 percent is listed under the latter program.

investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Disclosure and Public Comment

In accordance with 19 CFR 351.224(b), we will disclose to the parties the calculations for this preliminary determination within five days of our announcement. We intend to release a letter to all interested parties that establishes the deadline for submission of case briefs. See 19 CFR 351.309(c)(i) (for a further discussion of case briefs). Rebuttal briefs must be filed within five days after the deadline for submission of case briefs, pursuant to 19 CFR 351.309(d)(1). A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. See 19 CFR 351.309(c)(2) and (d)(2).

Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will be held two days after the deadline for submission of the rebuttal briefs, pursuant to 19 CFR 351.310(d), at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must electronically submit a written request to the Assistant Secretary for Import Administration using IA ACCESS, within 30 days of the publication of this notice, pursuant to 19 CFR 351.310(c). Requests should contain: (1) The party's name, address, and telephone; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. See *id.*

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: March 26, 2012.

Paul Piquado,
*Assistant Secretary for Import
Administration.*

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