Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa, 62 FR 61731 (November 19, 1997).

For the U.S. market, Saha Thai reported only one LOT for its EP sales. This single LOT represents large volume sales to unaffiliated distributors in the United States. In the home market, Saha Thai reported that it made sales at one LOT. These sales were made to unaffiliated end-users and distributors. We have examined the selling functions in each market and find that there are no significant differences in the selling functions Saha Thai performs for its customers in the home market from those it performs in the United States. Therefore, we conclude that EP and NV sales are made at the same LOT and no adjustment is warranted.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act, based on exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Preliminary Results of Review

We preliminarily determine that the following weighted-average dumping margin exists:

Manufacturer/Exporter	Period	Margin
Saha Thai Steel Pipe Company, Ltd.	3/1/02–2/28/03	2.00%

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. For Saha Thai the assessment rate will be based on the margin above. The Department will issue appropriate appraisement instructions directly to CBP within 15 days of publication of the final results of review. We will direct CBP to assess the resulting assessment rates against the entered customs values for the subject merchandise on each of the entries during the period of review.

Cash Deposit Requirements

The following deposit rates will be effective with respect to all shipments of certain welded carbon steel pipes and tubes from Thailand entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results as provided for by section 751(a)(2)(C) of the Act: (1) For Saha Thai, the cash deposit rate will be the company-specific rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will be the company-specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be the "all others'' rate established in the LTFV investigation, which is 15.67 percent. *See Order*. These deposit rates, when imposed, shall remain in effect until the publication of the next administrative review.

Public Comment

Pursuant to section 351.224(b) of the Department's regulations, the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of publication of this notice. Pursuant to section 351.309 of the Department's regulations, interested parties may submit written comments in response to these preliminary results. Case briefs are to be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, are to be submitted no later than five days after the time limit for filing case briefs. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) A statement of the issues, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with section 351.303(f) of the Department's regulations.Also, pursuant to section 351.310 of the Department's regulations, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Parties will be notified of the time and location. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief, not later than 120 days after publication of these preliminary results, unless extended.

Notice to Importers

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

These preliminary results of review and notice are issued in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C 1677f(i)(1)).

Dated: March 30, 2004.

Jeffrey May,

Acting Assistant Secretary for Import Administration.

[FR Doc. 04–8011 Filed 4–7–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–825]

Notice of Preliminary Results and Rescission in Part of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip From India

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

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on polyethylene terephthalate film, sheet, and strip (PET film) from India. The review covers one company; the period of review (POR) is October 22, 2001, through December 31, 2002.[1] For

[1] For the purposes of these preliminary results, we have analyzed data for the period January 1, 2001, through December 31, 2001, to determine the

information on the net subsidy rate for the reviewed company, *see* the "Preliminary Results of Administrative Review'' section of this notice. If the final results remain the same as the preliminary results of this review, we will instruct the U.S. Customs and Border Protection (CBP) to assess countervailing duties as detailed in the "Preliminary Results of Administrative Review'' section of this notice. Interested parties are invited to comment on these preliminary results. (*See* the "Public Comment'' section of this notice).

EFFECTIVE DATE: April 8, 2004.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen at (202) 482–2769 or Howard Smith at (202) 482–5193, AD/CVD Enforcement Office IV, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2002, the Department published a CVD order on PET film from India. *See Notice of Countervailing Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India,* 67 FR 44179 (July 1, 2002) (*PET Film Order*). On July 2, 2003, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 68 FR 39511 (July 2, 2003). On July 31, 2003, Dupont Teijin Films, Mitsubishi Polyester Film of America, Toray Plastics (America) and SKC America, Inc. (the petitioners), requested that the Department conduct an administrative review of the CVD order on PET film from India with respect to Polyplex Corporation Ltd. (Polyplex). Also, on July 31, 2003, Polyplex, Garware Polyester Limited and Global Pet Films (Garware), and Jindal Polyester Limited (Jindal), Indian producers and exporters of subject merchandise, requested that the Department conduct an administrative review of the CVD order on PET film from India with respect to their exports to the United States. Finally, on July 31, 2003, Valencia Specialty Films, Inc. (Valencia), a U.S. importer of subject merchandise, requested that the Department conduct an administrative review of the CVD order on PET film from India with respect to Jindal's exports to the United States. On August 22, 2003, the Department initiated an administrative review of the CVD order on PET film from India covering Garware, Jindal and Polyplex, and the period October 22, 2001, through December 31, 2002. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 68 FR 50750 (August 22, 2003).

On August 6, 2003, Jindal requested that the Department change the POR to either April 1, 2002, through March 31, 2003 (its fiscal year), or January 1, 2002, through March 31, 2003,[2] in order to facilitate the reporting of the information requested by the Department. Similarly, on August 19, 2003, August 22, 2003, and September 24, 2003, Polyplex argued that the Department should alter the POR to take into account the April through March fiscal year used by the Government of India (GOI) and most Indian companies. On September 26, 2003, the Department denied the companies' request for a change in the POR. *See* letters from the Department to Jindal and Polyplex regarding request for a different period of review, on file in the Central Records Unit (CRU), room B–099 of the main Commerce building.

On August 20, 2003, the Department issued questionnaires to the GOI and Polyplex. We received responses from Polyplex on October 9, 2003, and from the GOI on October 23, 2003. In November and December 2003, and February and March 2004, the Department issued supplemental questionnaires to Polyplex. Polyplex provided timely responses. Also, petitioners submitted comments regarding the questionnaire responses in October and November 2003.

On August 21, 2003, Garware withdrew its request for an administrative review of its exports. Jindal and Valencia, on September 25, 2003, and October 8, 2003, respectively, also withdrew their requests for an administrative review of Jindal. Because no other interested parties requested administrative reviews these companies, as explained in the "Partial Rescission of Review'' section below, we are rescinding the administrative reviews of these companies.

On February 19, 2004, the GOI requested that the Department change the POR to the period April 1, 2002, through March 31, 2003. For the reasons stated in our letters to Jindal and Polyplex, we are denying the GOI's request to change the POR.

In accordance with 19 CFR 351.213(b), this administrative review covers only those producers or exporters for which a review was specifically requested. Polyplex is the only company subject to this review. This review covers 14 programs.

Scope of the Review

For purposes of this review, the products covered are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Partial Rescission of Review

As provided in 19 CFR 351.213(d)(1), "the Secretary will rescind an administrative review under this section, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.'' Jindal and Garware withdrew their requests for an administrative review of their respective companies and Valencia withdrew its request for an administrative review of Jindal within 90 days of the date of publication of the notice of initiation of the instant administrative review. Additionally, no other party requested an administrative review of Jindal or Garware. Therefore, the Department is rescinding the administrative review with respect to Jindal and Garware.

Subsidies Valuation Information

Allocation Period

In the investigative segment of this proceeding, the Department determined that Polyplex's non-recurring subsidies should be allocated over an average useful life (AUL) of 18 years. Because there is no new evidence on the record that would cause the Department to

subsidy rate for exports of subject merchandise made during the POR covering 2001. In addition, we have analyzed data for the period January 1, 2002, through December 31, 2002, to determine the subsidy rate for exports during that period. Further, we are using the subsidy rate calculated for calendar year 2002 to establish the cash deposit rate for exports of subject merchandise subsequent to the issuance of the final results of this administrative review.

[2] In its August 6, 2003, request, Jindal noted that the Department's notice of opportunity to request an administrative review identified the POR as the period January 1, 2002, through December 31, 2002. We acknowledge that the information provided in the notice was incorrect. The opportunity notice should have identified the POR as the period October 22, 2001, through December 31, 2002.

reconsider this decision, in this review the Department will continue to use an AUL of 18 years in allocating Polyplex's non-recurring subsidies.

Benchmarks for Loans and Discount Rate

Benchmark for Short-Term Loans

In accordance with 19 CFR 351.505(a)(3)(i), and consistent with the underlying investigation, for those programs requiring the application of a short-term benchmark interest rate, we used as the benchmark the company-specific, short-term interest rates on commercial loans as reported by Polyplex. In calculating the benefit for pre-shipment export financing, we used as the rupee-denominated, short-term benchmark the weighted-average rate of the company's cash credit loans. The Department has found that cash credit loans are the most comparable type of short-term loans and the rate of these loans is appropriate for use as a benchmark because, like pre-shipment export financing, cash credit loans are denominated in rupees and take the form of a line of credit which can be drawn down by the recipient. *See* PET Film Final Determination Decision Memorandum, at section titled "Benchmark for Loans and Discount Rates'' and also, *Notice of Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from India,* 66 FR 49635 (September 28, 2001) (*Hot-Rolled Steel Final Determination*) and accompanying Decision Memorandum (Hot-Rolled Steel Final Determination Decision Memorandum), at section titled "Benchmark for Loans and Discount Rates.'' In calculating the benefit for post-shipment export financing, where available, we used as the rupee-denominated, short-term benchmark the weighted-average rate for the company's "inland'' or "local'' bill discounting loans. The Department found, in the investigative segment of this proceeding that "inland'' or "local'' bill discounting loans, like the post-shipment export financing loans, are rupee-denominated working capital loans used to finance receivables. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Determination with Final Antidumping Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India,* 66 FR 53389, 53390, (October 22, 2001) (*PET Film Preliminary Determination*) at section titled "Benchmarks for Loans and Discount Rate,'' unchanged in *PET Film Final Determination.*

Certain Polyplex pre-shipment loans are denominated in U.S. dollars. When loans are denominated in a foreign currency, our practice, in accordance with 19 CFR 351.505, is to use a foreign currency benchmark. *See, e.g., Certain Pasta From Turkey: Final Results of Countervailing Duty Administrative Review,* 66 FR 64398 (December 13, 2001) and accompanying Issues and Decision Memorandum in the section entitled "Benchmark Interest Rates for Short-term Loans.'' Polyplex reported that its working capital demand loans (WCDL) are its only short-term U.S. dollar-denominated loans. Thus, we used the interest rate on these loans as the benchmark for Polyplex's pre-shipment financing denominated in U.S. dollars. Polyplex reports that the WCDL are for financing both inventories and receivables and are provided as part of an overall package by the consortia of banks providing Polyplex with financing. The interest rates are a mark-up over London Interbank Offering Rates (LIBOR) and are fixed for the duration of the loan. These loans have a fixed repayment date.

Benchmarks for Long-Term Loans

For those programs requiring a rupee-denominated discount rate or the application of a rupee-denominated, long-term benchmark interest rate, we used, where available, company-specific, weighted-average interest rates on commercial long-term, rupee-denominated loans. We note, however, that Polyplex did not have rupee-denominated, long-term loans from commercial banks for all required years. Therefore, for those years for which we did not have company-specific information, we relied on a rupee-denominated, long-term benchmark interest rate from the immediately preceding year as directed by 19 CFR 351.505(a)(2)(iii).

Basis for Reporting Consignment Sales

Polyplex considered consigned merchandise that was consumed by U.S. customers during the POR, but shipped to the United States outside of the POR, to be reportable sales for purposes of calculating *ad valorem* subsidy rates. However, the Department has preliminarily required Polyplex to report its consignment sales on the same basis that it reported its non-consignment sales (date of shipment from Polyplex's factory) in order for the reported sales to correspond more closely to the basis on which CBP assesses countervailing duties.

Programs Preliminarily Determined To Confer Subsidies

1. Pre-Shipment and Post-Shipment Export Financing

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

Post-shipment export financing consists of loans in the form of discounted trade bills or advances by commercial banks. Exporters qualify for this program by presenting their export documents to the lending bank. The credit covers the period from the date of shipment of the goods to the date of realization of the proceeds from the sale to the overseas customer. Under the Foreign Exchange Management Act of 1999, exporters are required to realize proceeds from their export sales within 180 days after the date of shipment, which is monitored by the RBI. Post-shipment financing is, therefore, a working capital program used to finance export receivables. In general, post-shipment loans are granted for a period of no more than 180 days. If the loans are not repaid within the due date, the exporters lose the concessional interest rate on this financing.

In the *PET Film Final Determination,* the Department determined that the pre- and post-shipment export financing programs conferred countervailable subsidies on the subject merchandise because (1) provision of the export financing constitutes a financial contribution pursuant to section 771(5)(D)(i) of the Act; (2) provision of the export financing conferred benefits on the respondents under section 771(5)(E)(ii) of the Act because the interest rates under these programs were lower than commercially available

interest rates; and (3) these programs are contingent upon export performance, and therefore constitute countervailable export subsidies under section 771(5A)(B) of the Act. *See* PET Film Final Determination Decision Memorandum at section entitled "Pre-shipment and Post-shipment Export Financing.'' No new information or evidence of changed circumstances have been presented to warrant reconsideration of this finding. Therefore, for the purpose of these preliminary results, we continue to find this program countervailable.

To calculate the benefit conferred by the pre-shipment and post-shipment loans taken out by Polyplex, we compared the actual interest paid on the loans with the amount of interest that would have been paid at the benchmark interest rate. Where the benchmark interest exceeds the actual interest paid, the difference constitutes the benefit. For pre-shipment loans, we divided the total benefit by Polyplex's total exports. For post-shipment loans, we divided the total benefit by Polyplex's exports of subject merchandise to the United States. On this basis, we preliminarily determine the net countervailable subsidy rate under the pre-shipment export financing program for Polyplex is 0.45 percent *ad valorem* in 2001 and 0.67 percent *ad valorem* in 2002; the net subsidy rate under the post-shipment export financing program is 0.37 percent ad valorem in 2001 and 0.05 percent *ad valorem* in 2002.

2. Duty Entitlement Passbook Scheme (DEPS)

The DEPS enables exporting companies to earn import duty exemptions in the form of passbook credits, rather than cash. These DEPS passbook credits can be used for the future payment of import duties on any subsequent imports, regardless of whether they are consumed in the production of an exported product. DEPS credits are valid for twelve months and are transferable after the foreign exchange is realized from the export sales on which the DEPS credits are earned. All exporters are eligible to earn DEPS credits on a post-export basis, provided that the GOI has established a standard input-output norm (SION) for the exported product.

In the *PET Film Final Determination,* the Department determined that DEPS conferred countervailable subsidies on the respondents because: (1) A financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided under the program, as the GOI provides the respondents with credits for the future payment of import duties; (2) the GOI does not have in place and does not apply a system that is reasonable and effective for the purposes intended under 19 CFR 351.519(a)(4) and section 771(5)(E) of the Act, to confirm which inputs, and in what amounts, are consumed in the production of the exported products, and thus the entire amount of import duty exemption earned by the respondent constitutes a benefit; and (3) this program can only be used by exporters and, therefore, is specific under section 771(5A)(B) of the Act. *See* PET Film Final Determination Decision Memorandum at section titled "DEPS.'' No new information or evidence of changed circumstances have been presented in this review to warrant reconsideration of these findings. Therefore, we continue to find that the DEPS program is countervailable.

Under 19 CFR 351.524(c), this program provides a recurring benefit. As the subsidies can be tied to a particular product (subject merchandise) in a particular market (the United States), we calculated the subsidy for each calendar year by dividing the total value of the DEPS licenses for subject merchandise sold in the United States, net of application fees paid, by the value of Polyplex's total exports of subject merchandise to the United States during the same year. Accordingly, we preliminarily determine that the net subsidy rates for Polyplex under the DEPS are 14.03 percent *ad valorem* for 2001 and 12.07 percent *ad valorem* for 2002.

3. Export Promotion Capital Goods Scheme (EPCGS)

The EPCGS provides for a reduction or exemption of customs duties and an exemption from excise taxes on imports of capital goods. Under this program, producers may import capital equipment at reduced rates of duty by attempting to earn convertible foreign currency equal to four to five times the value of the capital goods within a period of eight years. If the company fails to meet the export obligation, the company is subject to payment of all or part of the duty reduction, depending on the extent of the export shortfall, plus penalty interest.

Polyplex reported that it imported machinery under the EPCGS in the years prior to and during the POR. For some of its imported machinery, Polyplex met its export requirements. As a result, the GOI completely waived import duties. However, Polyplex has not completed its export requirements for other imports of capital machinery. Therefore, although Polyplex received a reduction in import duties when the capital machinery was imported, the final waiver on the obligation to repay the duties has not yet been granted by the GOI.

In the underlying investigation, we referenced and applied the determination reached in *Hot-Rolled Steel Final Determination* that the import duty reduction provided under the EPCGS is a countervailable export subsidy. *See PET Film Preliminary Determination* at section titled "EPCGS'' (unchanged in the final determination). *See also* Hot-Rolled Steel Final Determination Decision Memorandum at section titled "Analysis of Programs.'' No new information or evidence of changed circumstances has been provided in this review to warrant a reconsideration of this determination. Therefore, in accordance with section 771(5A)(B) of the Act, we continue to find that the receipt of benefits under this program is contingent upon export performance and therefore countervailable.

In cases where the GOI has formally waived the unpaid duties on imports, we have treated the full amount of the waived duty exemptions as a grant received in the year in which the GOI officially granted the waiver. The criteria used by the Department in determining whether to allocate or expense the benefits from a countervailable subsidy program are described under 19 CFR 351.524. Specifically, recurring benefits are to be expensed in the year of receipt, while non-recurring benefits are to be allocated over time unless they amount to less than 0.5 percent of the relevant sales.

Normally, tax benefits are considered to be recurring benefits and are expensed in the year of receipt. Because import duties are a type of tax, the benefit provided under this program is a tax benefit, and, thus, normally would be considered a recurring benefit. However, the Department's regulations recognize that, under certain circumstances, it may be more appropriate to allocate over time the benefits of a program normally considered a recurring subsidy, rather than to expense the benefits in the year of receipt. 19 CFR 351.524(c)(2) provides the criteria to apply to determine whether a benefit is recurring or non-recurring. One of these criteria refers to "whether the subsidy was provided for or tied to the capital structure or capital assets of the firm.'' We also stated in the preamble to our regulations (*see Countervailing Duties; Final Rule,* 63 FR 65348, 65393 (November 25, 1998) (*CVD Preamble*)) that, if a government provides an import duty exemption tied to major capital

equipment purchases, it may be reasonable to conclude that, because these duty exemptions are tied to capital assets, the benefits from such duty exemptions should be considered non-recurring, even though import duty exemptions are on the illustrative list of recurring subsidies. *See* 19 CFR 351.524(c). Because the benefit received from the waiver of import duties under the EPCGS is tied to the capital assets of the respondent company, we determine that it is appropriate to treat the waiver of duties as a non-recurring benefit. We note that our approach on this issue is consistent with that taken in *PET Film Preliminary Determination* at section entitled "EPCGS'' (unchanged in the final determination). *See also Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Determination With Final Antidumping Duty Determinations: Certain Hot-Rolled Carbon Steel Flat Products From India,* 66 FR 20240, 20246, 20247 (April 20, 2001) (*Hot-Rolled Preliminary Determination*) (unchanged in the final determination).

In its questionnaire responses, Polyplex reported all of its imports of capital equipment made using EPCGS licenses and the application fees it paid to obtain its EPCGS licenses. We preliminarily determine that the application fees paid by the respondent qualifies as an "* * * application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the countervailable subsidy,'' which may be subtracted from the numerator when calculating the amount of the countervailable subsidy. *See* section 771(6)(A) of the Act.

In order to calculate the benefit received from the waiver of Polyplex's import duties on their capital equipment imports, we determined the total amount of duties waived (net of application fees). Consistent with the approach followed in the investigative segment of this proceeding, we determine the year of receipt of the benefit to be the year in which the GOI formally waived the respondent company's outstanding import duties. *See PET Film Preliminary Determination* at section titled "EPCGS'' (unchanged in final determination). *See also Hot-rolled Preliminary Determination* at section entitled "EPCGS'' (unchanged in the final determination). Next, we performed the "0.5 percent test,'' as prescribed under 19 CFR 351.524(b)(2) for each year in which the GOI granted the respondent an import duty waiver. Those waivers with face values in excess of 0.5 percent of Polyplex's total export sales in the year in which the waivers were granted were allocated over 18 years, the company-specific AUL, using the Department's standard allocation methodology for non-recurring subsidies under 19 CFR 351.524(b).

A second type of financial contribution and benefit conferred under this program involves the import duty reductions that Polyplex received on the imports of capital equipment for which it has not yet met its export requirements. For those capital equipment imports, Polyplex has unpaid duties that will become due to the GOI if the export requirements are not met. Therefore, we determine that Polyplex had outstanding contingent liabilities during the POR. When a company has an outstanding liability and the repayment of that liability is contingent upon subsequent events, our practice is to treat any balance on that unpaid liability as an interest-free loan. *See* 19 CFR 351.505(d)(1).

We determine that the amount of contingent liability to be treated as an interest-free loan is the amount of the import duty reduction or exemption for which the respondent applied but, as of the end of the POR, had not been finally waived by the GOI. Accordingly, we determine the benefit to be the interest that Polyplex would have paid during the POR had it borrowed the full amount of the duty reduction at the time of importation. We note that this methodology is consistent with our approach in the underlying investigation. *See PET Film Preliminary Determination* at section entitled "EPCGS'' (unchanged in final determination). *See also Hot-rolled Preliminary Determination* at section entitled "EPCGS'' (unchanged in the final determination). Pursuant to 19 CFR 351.505(d)(1), the benchmark for measuring the benefit is a long-term interest rate because the event upon which repayment of the duties depends (*i.e.*, the date of expiration of the time period for the respondent to fulfill its export commitments) occurs at a point in time more than one year after the date of importation of the capital goods.

To calculate the benefit for this program, for each year we combined the total amount of benefits received on waived duties and the total amount of benefits conferred on Polyplex in the form of contingent liability loans. We then divided the total benefits under the program during 2001 and 2002 by the respective total export sales. We preliminarily determine the net countervailable subsidy to Polyplex from this program to be 5.37 percent *ad valorem* for 2001 and 5.93 percent *ad valorem* for 2002.

4. Income Tax Exemption Scheme 80 HHC

Under section 80HHC of the Income Tax Act, the GOI allows exporters to deduct from taxable income profits derived from export sales. In prior proceedings, the Department has found this program to be an export subsidy, and thus countervailable, because receipt of the benefit is contingent upon export performance. *See Certain Iron-Metal Castings from India: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review,* FR 61592 (November 12, 1999) (unchanged in the final results). *See Certain Iron-Metal Castings from India: Final Results of Countervailing Duty Administrative Review,* 65 FR 31515 (May 18, 2000). As stated by the GOI in this proceeding, receipt of the 80HHC tax waiver remains contingent upon export performance. *See* October 23, 2003, GOI questionnaire response at 34, 35. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. *See id* at 34–39 and exhibit 11. Therefore, in accordance with sections 771(5)(D) and (E) of the Act, we continue to find this program countervailable because it provides a financial contribution by the government in the form of tax revenue not collected which also constitutes the benefit. Moreover, because the tax deduction is contingent upon export performance, we continue to find the program to be an export subsidy under section 771(5A)(B) of the Act and therefore countervailable.

The benefits provided under this program are not tied to the production or sale of a particular product or products. It is the Department's long-standing practice to attribute a benefit from an export subsidy that is not tied to a particular product or market to all products exported by the company. *See, e.g., Final Affirmative Countervailing Duty Determination: Certain Pasta from Turkey,* 61 FR 30366, 30370 (June 14, 1996). Therefore, to calculate the benefit that Polyplex received under section 80HHC for each year, we subtracted the total amount of income tax the company actually paid during the review period from the amount of income tax the company otherwise would have paid had it not claimed a deduction under section 80HHC. We then divided the difference by the fob value of the company's total exports. Thus, we preliminarily determine the net countervailable subsidy from this program to be 1.25 percent *ad valorem* for 2001 and 4.31 percent *ad valorem* for 2002.

5. Capital Subsidy

Polyplex received a capital infusion of Rs. 2,500,000 in 1989. This subsidy was only discovered during verification of the underlying investigation. Based on the information obtained at verification, the Department determined that a financial contribution was provided by the GOI, pursuant to section 771(5)(D)(i) of the Act, and a benefit was received by Polyplex, under section 771(E) of the Act, in the amount of the capital subsidy. The Department found that there was insufficient time to determine whether this program is specific under section 771(5A)(D) of the Act and stated its intention to reexamine this program in a future administrative review pursuant to 19 CFR 351.311(c)(2). *See* PET Film Final Determination Decision Memorandum at 14 and 15. *See also* October 9, 2003, questionnaire response at annex 5, containing Memorandum from Mark Manning to the File, Re: Verification Report for Polyplex Corporation Ltd. (February 11, 2002) at 2, 24 and 25.

In the instant review, the Department sent questionnaires to both the GOI and Polyplex and a further supplemental questionnaire to Polyplex, seeking information to determine whether this program is specific under section 771(5A) of the Act. However, due to the considerable time elapsed since the provision of the subsidy and also due to a fire at the former offices of Polyplex where numerous records of the company were destroyed, Polyplex stated that it was unable to provide any information regarding specificity. The GOI stated that neither it, nor the local government, had any details regarding the subsidy. *See* the GOI's October 23, 2003, questionnaire response and Polyplex's October 9, 2003, questionnaire response and Polyplex's November 18, 2003, supplemental questionnaire response.

Section 776(a)(2) of the Act provides that if an interested party or any other person—(A) withholds information that has been requested by the administering authority, (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, the administering authority shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title. Neither Polyplex nor the GOI have provided the information requested by the Department. However, in light of the circumstances described by the respondent, the Department finds no basis for determining that Polyplex has not cooperated to the best of its ability. Therefore, the Department, has preliminarily determined that the subsidy is specific under section 771(5A)(A) of the Act and, as neutral facts available determination, is allocating the amount over the firm's total sales.

To calculate the subsidy rate for this program, we performed the "0.5 percent test,'' as prescribed under 19 CFR 351.524(b)(2). Because the grant exceeded 0.5 percent of Polyplex's total sales in 1989, the year in which the capital infusion was received, the benefits were allocated over 18 years, the company-specific AUL, using the Department's standard allocation methodology for non-recurring subsidies under section 19 CFR 351.524(b). We preliminarily determine the net countervailable subsidy from this program to be 0.02 percent *ad valorem* for 2001 and 0.02 percent *ad valorem* for 2002.

Program Preliminarily Determined Not to Confer a Benefit

6. Sales Tax Incentives

The State of Maharashtra and the State of Uttaranchel grant a package scheme of incentives for privately-owned (*i.e.*, not 100 percent owned by the GOI) manufacturers to invest in certain areas of their respective states. One of these incentives consists of either an exemption or deferral of state sales taxes. Through this incentive, companies are exempted from paying state sales taxes on purchases, and collecting sales taxes on sales; or, as an alternative, are allowed to defer submitting sales taxes collected on sales to the SOM for 10 to 12 years. After the deferral period expires, the companies are required to submit the deferred sales taxes to the State of Maharashtra and the State of Uttaranchel in equal installments over five to six years. The total amount of the sales tax incentive either exempted or deferred is based on the size of the capital investment, and the area in which the capital is invested.

In the underlying investigation we found that this program is specific within the meaning of sections 771(5A)(D)(i) and (iv) of the Act because the benefits of this program are limited to privately-owned (*i.e.*, not 100 percent owned by the GOI) industries located within designated geographical regions within the SOM. We also found that the State of Maharashtra and the State of Uttaranchel provided a financial contribution under section 771(5)(D)(i) of the Act, and that the respondents may have benefitted under section 771(5)(E) of the Act through this program. For the sales tax exemption, we found that a benefit exists only to the extent that the taxes paid by the respondent as a result of this program are less than the taxes the respondent would have paid in the absence of the program. *See* 19 CFR 351.510(a)(1).

During the POR, Polyplex utilized only the feature of this program that exempts a company from the collection of the sales tax on its own sales. This exemption did not have the effect of Polyplex paying any less taxes from its own funds. Therefore, consistent with our determination in the investigation, we preliminarily determine that the there was no benefit to Polyplex from this program.

Programs Preliminarily Determined Not To Be Used

1. The Sale and Use of Special Import Licenses (SILs) for Quality and SILs for Export Houses, Trading Houses, Star Trading Houses, or Superstar Trading Houses (GOI Program).
2. Exemption of Export Credit from Interest Taxes.
3. Loan Guarantees from the GOI.
4. Benefits for Export Processing Zones /Export Oriented Units (EPZs/EOUs).
5. Electricity Duty Exemption Scheme (SOM).
6. Capital Incentive Schemes (SOM and SUP Program).
7. Waiving of Interest on Loan by SICOM Limited (SOM Program).
8. Infrastructure Assistance Schemes (State of Gujarat Program).

Preliminary Results of Administrative Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for Polyplex for 2001 and 2002. We preliminarily determine the total net countervailable subsidy rate is 21.49 percent *ad valorem* for 2001 and 23.05 percent *ad valorem* for 2002.

If the final results of this review remain the same as these preliminary results, the Department intends to instruct the CBP, within 15 days of publication of the final results, to liquidate shipments from Polyplex of PET film from India entered, or withdrawn from warehouse, for consumption from October 22, 2001, through December 31, 2001, at 21.49 percent *ad valorem* and from January 1, 2002, through February 19, 2002, as well as from June 27, 2002, through December 31, 2002, at 23.05 percent *ad valorem* of the f.o.b. invoice price. Also, the rate of cash deposits of estimated countervailing duties will be set at 23.05 percent *ad valorem* for all shipments of

PET film made by Polyplex from India entered or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review.

Because the Uruguay Round Agreements Act (URAA) replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. A requested review will normally cover only those companies specifically named. *See* 19 CFR 351.213(b). Pursuant to 19 CFR 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal-Mogul Corporation and The Torrington Company* v. *United States*, 822 F. Supp. 782 (CIT 1993) and *Floral Trade Council* v. *United States*, 822 F. Supp. 766 (CIT 1993) (interpreting 19 CFR 353.22(e), the pre-URAA antidumping regulation on automatic assessment, which was identical to 19 CFR 355.22(g)). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged in the results of this review.

We will instruct the CBP to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order are those established in the most recently completed administrative proceeding conducted under the URAA. *See PET Film Order*. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of the public announcement of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless otherwise indicated by the Department, case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs, unless otherwise specified by the Department. Parties who submit argument in this proceeding are requested to submit with the argument: (1) a statement of the issue, and (2) a brief summary of the argument. Parties submitting case and/or rebuttal briefs are requested to provide the Department with copies of the public version of those comments on disk. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing regarding arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs, that is, 37 days after the date of publication of these preliminary results.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs are due under 19 CFR 351.309(c)(ii). The Department will publish the final results of this administrative review, including the results of its analysis of arguments made in any case or rebuttal briefs.

This administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 1, 2004.

Jeffrey A. May,

Acting Assistant Secretary for Import Administration.

[FR Doc. 04–8016 Filed 4–7–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Environmental Technologies Trade Advisory Committee (ETTAC)

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of open meeting.

Date: May 14, 2004.

Time: 9 a.m. to 2 p.m.

Place: American Water Works Association, 6666 W. Quincy Avenue, Denver, CO 80235.

SUMMARY: The Environmental Technologies Trade Advisory Committee (ETTAC) will hold a plenary meeting on May 14, 2004 at the American Water Works Association (AWWA) at 6666 West Quincy Avenue, Denver, CO 80235. For directions, please call AWWA at (303) 794–7711.

The ETTAC will discuss environmental technologies trade policies and programs. Time will be permitted for public comment. The meeting is open to the public.

Written comments concerning ETTAC affairs are welcome anytime before or after the meeting. Minutes will be available within 30 days of this meeting.

The ETTAC is mandated by Public Law 103–392. It was created to advise the U.S. government on environmental trade policies and programs, and to help it to focus its resources on increasing the exports of the U.S. environmental industry. ETTAC operates as an advisory committee to the Secretary of Commerce and the Trade Promotion Coordinating Committee (TPCC). ETTAC was originally chartered in May of 1994. It was recently rechartered until May 30, 2006.

For further information phone Corey Wright, Office of Environmental Technologies Industries (ETI), International Trade Administration, U.S. Department of Commerce at (202) 482–5225. This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to ETI at (202) 482–5225.

Dated: March 30, 2004.

Carlos F. Montoulieu,

Director, Office of Environmental Technologies Industries.

[FR Doc. 04–7705 Filed 4–7–04; 8:45 am]

BILLING CODE 3510–DR–M

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement, Article 1904, NAFTA Panel Reviews; Notice of Panel Decision

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of panel decision.

SUMMARY: On March 5, 2004, the binational panel issued its decision in