

company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 16.51 percent, the all-others rate made effective by the LTFV investigation. *See OJ Order*, 71 FR at 12184. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: March 31, 2009.

Ronald K. Lorentzen,
Acting Assistant Secretary for Import Administration.

[FR Doc. E9-7691 Filed 4-3-09; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, as amended by Pub. L. 106-36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are

intended to be used, are being manufactured in the United States. Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before April 27, 2009. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. at the U.S. Department of Commerce in Room 3720.

Docket Number: 09-007. Applicant: University of Utah, Consortium for Astro-Particle Research, 215 South State Street, Suite 200, Salt Lake City, UT 84111. Instrument: Electron Light Source (ELS) accelerator. Manufacturer: University of Tokyo, Japan. Intended Use: The instrument will be used as a component of a large ground Telescope Array, which will allow the scientists to calibrate the telescopes by generating a particle beam that accurately simulates a cosmic ray shower. Justification for Duty-Free Entry: No instruments of the same general category as the foreign instrument begin manufactured in the United States. Application accepted by Commissioner of Customs: March 10, 2009.

Dated: March 31, 2009.

Christopher Cassel,
Acting Director, IA Subsidies Enforcement Office.

[FR Doc. E9-7689 Filed 4-3-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-849]

Commodity Matchbooks 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 (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of commodity matchbooks from India. For information on the estimated subsidy rates, see the "Suspension of Liquidation" section of this notice. This notice also serves to align the final countervailing duty (CVD) determination in this investigation with the final determination in the companion antidumping duty investigation of commodity matchbooks from India.

EFFECTIVE DATE: April 6, 2009.

FOR FURTHER INFORMATION CONTACT: Sean Carey or Douglas Kirby, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3964 and (202) 482-3782, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The following events have occurred since the publication of the Department's notice of initiation in the **Federal Register**. *See Commodity Matchbooks from India: Initiation of Countervailing Duty Investigation*, 73 FR 70968 (November 24, 2008) (*Initiation Notice*).

On December 10, 2008, the Department selected as mandatory respondent, Triveni Safety Matches Pvt., Ltd. (Triveni), the only producer/exporter of commodity matchbooks from India identified in the Petition during the period 2005 through 2008. The Department found no information indicating that there were other Indian producers or exporters of commodity matchbooks. *See Memorandum to Barbara E. Tillman, Director, AD/CVD Operations, Office 6, "Countervailing Duty Investigation of Commodity Matchbooks from India: Respondent Identification."* A public version of this memorandum is on file in the Department's Central Records Unit (CRU) in Room 1117 of the main Department building. On December 16, 2008, we issued the CVD questionnaire to the Government of India (GOI), requesting that the GOI forward the company sections of the questionnaire to the mandatory respondent company.

On December 19, 2008, the International Trade Commission (ITC) issued 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 commodity matchbooks from India. *See Commodity Matchbooks from India: Determinations*, 73 FR 77840 (December 19, 2008); and *Commodity Matchbooks from India (Preliminary)*, USITC Pub. 4054, Inv. Nos. 701-TA-459 and 731-TA-1155 (December 2008).

On January 7, 2009, we postponed the preliminary determination of this investigation until March 30, 2009. *See Commodity Matchbooks from India: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 74 FR 683 (January 7, 2009). We received a response from

the GOI on February 12, 2009. Triveni, the mandatory respondent, submitted a response on February 11, 2009, that the Department was unable to accept for the record because it did not conform to the Department's filing requirements. See February 12 and February 20, 2009 letters from the Department to Triveni identifying areas of the submission and explaining filing procedures that needed to be corrected in order for the Department to accept the information on the record. On February 20, 2009, Triveni submitted a letter informing the Department that all the information submitted in its February 11, 2009 response may be treated as public information. On February 25, 2009, the Department accepted Triveni's response and placed it on the record. See Memorandum to The File from Dana S. Mermelstein, Program Manager, AD/CVD Operations, Office 6, "Placing Response by Triveni Safety Matches Pvt. Ltd. (Triveni) to the Countervailing Duty Questionnaire on the Record of the Investigation of Commodity Matchbooks from India" (*Memorandum and Questionnaire Response*). Attached to this memorandum, on file in the Department's CRU, is Triveni's February 11, 2009 response which includes a notation on its cover page indicating that this document contains only public information.

The Department issued supplemental questionnaires to Triveni on February 26, 2009, and to the GOI on February 27, 2009. Complete responses to these supplemental questionnaires were received from the GOI on March 12, 2009 (GOI Supplemental) and Triveni on March 16, 2009 (Triveni Supplemental).

Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination

On November 24, 2008, the Department initiated the countervailing duty and antidumping duty investigations of commodity matchbooks from India. See *Initiation Notice and Commodity Matchbooks from India: Initiation of Antidumping Duty Investigation*, 73 FR 70965 (November 24, 2008). The countervailing duty investigation and the antidumping duty investigation have the same scope with regard to the merchandise covered.

On March 12, 2009, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), Petitioner requested alignment of the final countervailing duty determination with the final antidumping duty determination of commodity matchbooks from India. Therefore, in

accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final countervailing duty determination with the final antidumping duty determination. Consequently, the final countervailing duty determination will be issued on the same date as the final antidumping duty determination, which is currently scheduled to be issued no later than August 10, 2009, unless postponed.

Scope Comments

As explained in the preamble to the Department's regulations, we set aside a period of time in the *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; Final Rule*, 62 FR 27296, 27323 (May 19, 1997); and *Initiation Notice*, 73 FR at 70968. No such comments were filed on the record of either this investigation or the companion antidumping duty investigation.

Scope of the Investigation

The scope of this investigation covers commodity matchbooks, also known as commodity book matches, paper matches or booklet matches.¹ Commodity matchbooks typically, but do not necessarily, consist of twenty match stems which are usually made from paperboard or similar material tipped with a match head composed of any chemical formula. The match stems may be stitched, stapled or otherwise fastened into a matchbook cover of any material, on which a striking strip composed of any chemical formula has been applied to assist in the ignition process.

Commodity matchbooks included in the scope of this investigation may or may not contain printing. For example, they may have no printing other than the identification of the manufacturer or importer. Commodity matchbooks may also be printed with a generic message such as "Thank You" or a generic image such as the American Flag, with store brands (e.g., Kroger, 7-Eleven, Shurfine or Giant); product brands for national or regional advertisers such as cigarettes or alcoholic beverages; or with corporate brands for national or regional distributors (e.g., Penley Corp. or Diamond Brands). They all enter retail distribution channels. Regardless of the

materials used for the stems of the matches and regardless of the way the match stems are fastened to the matchbook cover, all commodity matchbooks are included in the scope of this investigation. All matchbooks, including commodity matchbooks, typically comply with the United States Consumer Product Safety Commission (CPSC) Safety Standard for Matchbooks, codified at 16 CFR § 1202.1 et seq.

The scope of this investigation excludes promotional matchbooks, often referred to as "not for resale," or "specialty advertising" matchbooks, as they do not enter into retail channels and are sold to businesses that provide hospitality, dining, drinking or entertainment services to their customers, and are given away by these businesses as promotional items. Such promotional matchbooks are distinguished by the physical characteristic of having the name and/or logo of a bar, restaurant, resort, hotel, club, café/coffee shop, grill, pub, eatery, lounge, casino, barbecue or individual establishment printed prominently on the matchbook cover. Promotional matchbook cover printing also typically includes the address and the phone number of the business or establishment being promoted.² Also excluded are all other matches that are not fastened into a matchbook cover such as wooden matches, stick matches, box matches, kitchen matches, pocket matches, penny matches, household matches, strike-anywhere matches (aka "SAW" matches), strike-on-box matches (aka "SOB" matches), fireplace matches, barbeque/grill matches, fire starters, and wax matches.

The commodity matchbooks that are the subject of this investigation are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting number 3605.00.0060. Subject merchandise may also enter under subheading 3605.00.0030 of the HTSUS. These HTSUS provisions are given for reference and customs purposes only, and the description of merchandise is dispositive for determining the scope of the product.

² The gross distinctions between commodity matchbooks and promotional matchbooks may be summarized as follows: (1) if it has no printing, or is printed with a generic message such as "Thank You" or a generic image such as the American Flag, or printed with national or regional store brands or corporate brands, it is commodity; (2) if it has printing, and the printing includes the name of a bar, restaurant, resort, hotel, club, café/coffee shop, grill, pub, eatery, lounge, casino, barbecue, or individual establishment prominently displayed on the matchbook cover, it is promotional.

¹ Such commodity matchbooks are also referred to as "for resale" because they always enter into retail channels, meaning businesses that sell a general variety of tangible merchandise, e.g., convenience stores, supermarkets, dollar stores, drug stores and mass merchandisers.

Period of Investigation

The period for which we are measuring subsidies, *i.e.*, the period of investigation (POI), is January 1, 2007 through December 31, 2007.

Subsidies Valuation Information

Allocation Period

The average useful life (AUL) period in this proceeding as described in 19 CFR 351.524(d)(2) is 10 years according to the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System for assets used to manufacture commodity matches. No party in this proceeding has disputed this allocation period.

Denominator and Attribution of Subsidies

When selecting an appropriate denominator for use in calculating the *ad valorem* countervailable subsidy rate, the Department considered the bases for Triveni's approval of benefits under each program at issue. For export-related subsidies, the Department attributed the subsidies only to products exported by the respondents and used export sales as the denominator. See 19 CFR 351.525(b)(2). The Department preliminarily determines that Triveni received only export subsidies during the POI.

Benchmark Interest Rates and Discount Rates

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

In addition, 19 CFR 351.505(a)(2)(ii) states that the Department will not consider a loan provided by a government-owned special purpose bank for purposes of calculating benchmark rates. See, *e.g.*, *Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 71 FR 7534 (February 13, 2006), and accompanying Issues and Decision Memorandum, at Comment 3; also *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of*

Countervailing Duty Administrative Review, 73 FR 7708 (February 11, 2008) (*PET Film from India*), and accompanying Issues and Decision Memorandum, at "Benchmark Interest Rates and Discount Rates."

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

We requested from Triveni information on rupee-denominated and U.S. dollar-denominated short-term commercial loans outstanding during the POI separate from those obtained under the Pre-Shipment Export Financing and Post-Shipment Export Financing programs. Triveni reported that all of its short-term financing was obtained from one bank, and that all of this financing consisted of loans made under the Pre-Shipment and Post-Shipment Export Financing programs. Therefore, the Department is using national average rupee-denominated and dollar-denominated short-term interest rates, as reported in the International Monetary Fund's publication "International Financial Statistics" (IMF Statistics), in accordance with 19 CFR 351.505(a)(3)(ii), to determine benefits received under the Pre-Shipment and Post-Shipment Export Financing programs.

With respect to long-term loans and grants allocated over time, the Department required benchmarks and discount rates to determine benefits received under the Export Promotion Capital Goods Scheme (EPCGS) program. Normally, for those years for which we do not have company-specific information, the Department relies on comparable long-term rupee-denominated benchmark interest rates from the immediately preceding year, as directed by 19 CFR 351.505(a)(2)(iii). When the respondent has no comparable long-term, rupee-denominated loans from commercial banks during either the year under consideration or the preceding year, the

Department uses national average interest rates from the IMF Statistics, pursuant to 19 CFR 351.505(a)(3)(ii). Triveni did not receive comparable commercial long-term rupee-denominated loans in the required years or the relevant preceding years that can be used as long-term rupee-denominated benchmark interest rates. Therefore, we relied on the IMF statistics for national average long-term interest rates as benchmarks for the required years.

Analysis of Programs

Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

I. Programs Preliminarily Determined to Be Countervailable

A. Export Promotion Capital Goods Scheme (EPCGS)

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

The Department has previously determined that import duty reductions provided under the EPCGS are a countervailable export subsidy because the scheme: (1) provides a financial contribution pursuant to section 771(5)(D)(ii) in the form of revenue forgone for not collecting import duties; (2) as explained below, respondents benefit under section 771(5)(E) of the Act in two ways by participating in this program; and (3) the program is contingent upon export performance, and is specific under sections 771(5A)(A) and (B) of the Act. See *PET Film from India*, and accompanying Issues and Decision Memorandum at section entitled "Export Promotion Capital Goods Scheme (EPCGS)." There is no new information or evidence of changed circumstances that would warrant reconsidering our determination that this program is countervailable. Therefore, for this

preliminary determination, we continue to find this program countervailable.

The first benefit results from the provisional waiver of import duties that the exporter will have to pay if the accompanying export obligations are not met. The repayment of these duties is contingent on subsequent events, and in such instances, it is the Department's practice to treat the balance of provisionally waived duties as an interest-free loan. *See PET Film from India* and accompanying Issues and Decision Memorandum, at Comment 4. The second benefit results from the final waiver of duty on imports of capital equipment which the GOI grants when the exporter fulfills the export requirements of the EPCGS license. *Id.* For those licenses for which companies demonstrate that they have completed their export obligations and have been granted the final exemption of duties, we treat the import duty savings as grants received in the year in which the GOI waived the contingent liability on the import duty exemption. *Id.*

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

Triveni reported that it imported capital goods under the EPCGS in years prior to the POI. According to the information provided in its responses, Triveni received various EPCGS licenses to import equipment involved in the production of subject merchandise. Further, we note that Triveni did not demonstrate that its EPCGS licenses and the imported equipment are tied, within the meaning of 19 CFR 351.525(b)(5), to the production of a particular product. As such, we preliminarily find that Triveni's EPCGS licenses benefit all of the company's exports.

Triveni met the export requirements for certain EPCGS licenses prior to the POI, and the GOI formally waived the relevant import duties prior to the POI. For other licenses, Triveni reported that it had met the export requirements; however, the final GOI waivers of the obligation to pay the duties for these licenses were received either after the POI or had yet to be issued by the GOI.

Therefore, although Triveni received a deferral from paying import duties when the capital goods were imported, the final waivers for these licenses were granted after the POI.

For Triveni's imports for which the GOI has formally waived the duties prior to or during the POI, we treat the full amount of the waived duty as a grant received in the year in which the GOI officially granted the waiver. To calculate the benefit received from the GOI's formal waiver of import duties on Triveni's capital equipment imports prior to the POI, we considered the total amount of duties waived (net of any required application fees paid) to be the benefit. *See* section 771(6) of the Act. Further, consistent with the approach followed in *PET Film from India*, we determine the year of receipt of the benefit to be the year in which the GOI formally waived Triveni's outstanding import duties. *See* *PET Film from India* and accompanying Issues and Decision Memorandum at the section entitled "Export Promotion Capital Goods Scheme (EPCGS)." 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 Triveni an import duty waiver. In each year in which the GOI granted Triveni an import duty waiver, the total waivers Triveni received exceeded 0.5 percent of Triveni's total export sales; therefore we allocated the total waivers over the AUL period. *See* "Allocation Period" section, above.

As noted above, Triveni received import duty reductions on its imports of capital equipment for which it had not yet met its export obligations by the end of the POI. Consistent with our practice and prior determinations, we will treat the outstanding unpaid import duty liability in the POI as an interest-free loan. *See* 19 CFR 351.505(d)(1); and, e.g., *Final Affirmative Countervailing Duty Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin From India*, 70 FR 13460 (March 21, 2005), and accompanying Issues and Decision Memorandum (*Final Determination Indian PET Resin*), at "EPCGS."

The amount of the unpaid duty liabilities to be treated as an interest-free loan is the amount of the import duty reduction or exemption for which the respondent applied, but, as of the end of the POI, had not been formally waived by the GOI. Accordingly, we find the benefit to be the interest that Triveni would have paid during the POI had it borrowed the full amount of the duty reduction or exemption at the time of importation. *See, e.g., Preliminary Results and Rescission in Part of*

Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India, 70 FR 46483, 46485 (August 10, 2005) (unchanged in the final results, 71 FR 7534 (February 13, 2006)).

As stated above, the time period for fulfilling the export commitment expires eight years after importation of the capital good. Consequently, the date of expiration of the time period to fulfill the export commitment occurs at a point in time more than one year after the date of importation of the capital goods. Pursuant to 19 CFR 351.505(d)(1), the appropriate benchmark for measuring the benefit is a long-term interest rate because the event upon which repayment of the duties depends (*i.e.*, the date of expiration of the time period to fulfill the export commitment) occurs at a point in time that is more than one year after the date of importation of the capital good. As the benchmark interest rate, we used the national average long-term interest rate from the IMF statistics for the year in which the capital good was imported. *See* the "Benchmark Interest Rates and Discount Rates" section above.

The benefit received under the EPCGS is the total amount of: (1) the benefit attributable to the POI from the grant of formally waived duties for imports of capital equipment for which respondents met the export obligation by December 31, 2007, and/or (2) interest that should have been paid on the contingent liability loans for imports of capital equipment for which Triveni has not met its export obligation. To calculate the benefit from the formally waived duties for imports of capital equipment for which Triveni has met its export requirements, we took the total amount of the waived duties in each year and treated each year's waived amount as a non-recurring grant. We applied the grant methodology set forth in 19 CFR 351.524(d), using the discount rates discussed in the "Benchmark Interest Rates and Discount Rates" section above to determine the benefit amounts attributable to the POI.

To calculate the benefit from the contingent liability loans for Triveni, we multiplied the total amount of unpaid duties under each license by the long-term benchmark interest rate for the year in which the license was approved. This amount was then summed with the benefits from the final duty exemptions to determine the total benefit. We then divided the total benefit under the EPCGS by Triveni's total exports to determine a subsidy of 1.48 percent *ad valorem* for Triveni.

B. Duty Entitlement Passbook Scheme (DEPS/DEPB)

India's DEPS was enacted on April 1, 1997, as a successor to the Passbook Scheme (PBS). As with PBS, the DEPS program enables exporting companies to earn import duty exemptions in the form of passbook credits rather than cash. All exporters are eligible to earn DEPS credits on a post-export basis, provided that the GOI has established a Standard Input Output Norm for the exported product. DEPS credits can be used to pay import duties for 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.

The Department has previously determined that the DEPS program is countervailable. *See, e.g., PET Film from India*, and accompanying Issues and Decision Memorandum, at "Duty Entitlement Passbook Scheme (DEPS/DEPB)." The Department determined that under the DEPS, a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided because the GOI provides credits for the future payment of import duties; and, that a benefit is conferred pursuant to section 771(5)(E) of the Act in the amount of the duty exemptions because the GOI does not have in place and does not apply a system that is reasonable and effective for the purposes intended to confirm which inputs, and in what amounts, are consumed in the production of the exported products. *See* 19 CFR 351.519(a)(4). Finally, because this program is contingent upon export, it is specific under sections 771(5A)(A) and (B) of the Act. *Id.* No new information or evidence of changed circumstances has been presented in this investigation to warrant reconsideration of this finding. Therefore, we continue to find that the DEPS is countervailable.

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

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

Triveni reported that it received post-export credits on shipments of subject merchandise under the DEPS program during the POI. Triveni also reported that it paid required application fees for each DEPS license associated with its export shipments made during the POI. We recognize that these fees provide an allowable offset to DEPS benefits in accordance with section 771(6)(A) of the Act. Because DEPS credits are earned on a shipment-by-shipment basis, we consider that the benefits are tied to particular products and markets, in accordance with 19 CFR 351.525(b)(5). As such, we measure the benefit by identifying all DEPS credits granted on exports of subject merchandise to the United States during the POI. We calculate the subsidy rate by dividing these benefits (net of application fees) by total exports of subject merchandise to the United States during the POI. *Id.* On this basis, we preliminarily determine Triveni's countervailable subsidy from the DEPS program to be 7.25 percent *ad valorem*.

C. Pre-Shipment and Post-Shipment Export Financing

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

Post-shipment export financing consists of loans in the form of discounted trade bills or advances by commercial banks. Exporters qualify for this program by presenting their export documents to the lending bank. The credit covers the period from the date of shipment of the goods to the date of realization of the proceeds from the sale

to the overseas customer. Under the Foreign Exchange Management Act of 1999, exporters are required to realize proceeds from their export sales within 180 days of shipment. Post-shipment financing is, therefore, a working capital program used to finance export receivables. In general, post-shipment loans are granted for a period of not more than 180 days.

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

Triveni reported that under this program, it obtained packing credits for pre-shipment financing and discounted trade bills for post-shipment export financing, denominated in both Indian rupees and U.S. dollars. As noted above in the "Benchmark Interest Rates and Discount Rates" section, Triveni reported that all of its short-term financing was obtained from one bank under the Pre-Shipment and Post-Shipment Export Financing programs. As a result, the Department is using the short-term rupee-denominated and dollar-denominated interest rates published in the IMF Statistics as the benchmark interest rates for calculating the benefit received under this program. *See* "Benchmark Interest Rates and Discount Rates" section, above.

The benefit conferred by the pre-shipment and post-shipment export loans is the difference between the amount of interest the company paid on the government loan and the amount of interest it would have paid on a comparable commercial loan during the

POI. Because pre-shipment loans are not tied to exports of a particular product, or to particular markets, we calculated the subsidy rate for these loans by dividing the total benefit by the value of Triveni's total exports during the POI, in accordance with 19 CFR 351.525(b)(2). On this basis, we determine the countervailable subsidy from pre-shipment export financing to be 1.36 percent *ad valorem* for Triveni.

Because post-shipment loans are normally tied to specific shipments of a particular product to a particular market, we normally divide the benefit from post-shipment loans tied to exports of subject merchandise to the United States by the value of total exports of subject merchandise to the United States during the POI. *See* 19 CFR 351.525(b)(4). Since the information on the record demonstrates that Triveni's post-shipment loans were tied to a particular market, we have calculated the subsidy rate for these loans by dividing the benefit from the post-shipment loans by the value of Triveni's total exports to the United States during the POI. On this basis, we determine the countervailable subsidy provided to Triveni from post-shipment export financing to be 1.14 percent *ad valorem*.

II. Programs Preliminarily Determined To Be Not Used

We preliminarily determine that Triveni did not apply for or receive benefits during the POI under the programs listed below.

A. Export Oriented Unit Scheme

1. Duty-Free Import of Capital Goods and Raw Materials
2. Reimbursement of Central Sales Tax Paid on Goods Manufactured in India
3. Duty Drawback on Fuel Procured from Domestic Oil Companies
4. Exemption from Income Tax under Sections 10A and 10B of Income Tax Act

B. Advance License Program

C. Duty Free Import Authorisation Scheme

Verification

In accordance with section 782(i)(1) of the Act, we intend to verify the information submitted by the GOI and Triveni prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual rate for Triveni, the only known producer/exporter of the subject

merchandise during the POI. We preliminarily determine the total estimated net countervailable subsidy rate to be 11.23 percent *ad valorem* for Triveni.

Sections 703(d) and 705(c)(5)(A) of the Act state that, for companies not investigated, we will determine an all-others rate by weighting the individual company subsidy rate of each of the companies investigated by each company's exports of subject merchandise to the United States. In this investigation, Triveni is the sole respondent and meets the criteria for the all-others rate. Therefore, we have assigned Triveni's rate to all other producers and exporters.

In accordance with sections 703(d)(1)(B) and (2) of the Act, we will direct U.S. Customs and Border Protection to suspend liquidation of all entries of commodity matchbooks 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 at the rates indicated above.

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 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)(B) 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 its announcement. Unless otherwise notified by the Department, case briefs for this investigation must be submitted no later than 50 days after the date of publication of the preliminary determination. *See* 19 CFR 351.309(c) for a further discussion of case briefs. Rebuttal briefs, which must be limited to issues raised in the case 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.

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 tentatively be held two days after the deadline for submission of the rebuttal briefs, pursuant to 19 CFR 351.310(d), at the 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 submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 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 number; (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.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.221(b)(4).

Dated: March 30, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9-7694 Filed 4-3-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-894]

Certain Tissue Paper Products From the People's Republic of China: Preliminary Results and Partial Rescission of the 2007-2008 Administrative Review and Intent Not To Revoke Order in Part

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