

review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China ("PRC"). See *Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 70 FR 61601 (October 25, 2005) ("Initiation Notice"). The period of review ("POR") is September 1, 2004, to August 31, 2005.

This review is now being rescinded for China Kingdom Import & Export Co., Ltd., (aka China Kingdom Import & Export Co., Ltd., aka Zhongda Import & Export Co., Ltd.) (China Kingdom), Jiangsu Hilong International Trading Company, Ltd. (Jiangsu Hilong), Qingdao Zhengri Seafood Co., Ltd. (Qingdao Zhengri), Weishan Zhenyu Foodstuff Co., Ltd. (Weishan Zhenyu), Yancheng Haiteng Aquatic Products & Foods Co., Ltd. (Yancheng Haiteng), Yancheng Yaou Seafood Co., Ltd. (Yancheng Yaou), and Ningbo Nanlian Frozen Foods Co., Ltd. (Ningbo Nanlian), because the requesting parties, the Crawfish Processors Alliance (Petitioners), the Louisiana Department of Agriculture and Forestry, and Bob Odom, Commissioner (collectively, the Domestic Interested Parties) and Ningbo Nanlian withdrew their requests in a timely manner.

EFFECTIVE DATE: February 15, 2006.

FOR FURTHER INFORMATION CONTACT: Scot Fullerton or Erin Begnal, AD/CVD Operations, Office 9, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 4003, Washington, DC 20230; telephone: (202) 482-1386 or (202) 482-1442, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 1997, the Department published in the *Federal Register* a final determination and antidumping duty order on freshwater crawfish tail meat from the PRC. See *Notice of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Freshwater Crawfish Tail Meat from the People's Republic of China*, 62 FR 41347 (August 1, 1997).

On September 1, 2005, the Department published a *Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 70 FR 52072. On September 30, 2005, the Petitioners requested, in accordance with section 751(a) of the Tariff Act of 1930, as amended, ("the Act") and 19 CFR 351.213(b), that the Department conduct an administrative review of the antidumping duty order on freshwater crawfish tail meat from the PRC for

several companies covering the period September 1, 2004, to August 31, 2005, including China Kingdom, Jiangsu Hilong, Qingdao Zhengri, Weishan Zhenyu, Yancheng Haiteng, Yancheng Yaou, and Ningbo Nanlian. In addition, Ningbo Nanlian also requested an administrative review of its entries for the POR.

On October 19, 2005, the Department initiated an administrative review of thirteen Chinese companies. See *Initiation Notice*. However, on January 23, 2006, the Petitioners filed a timely letter withdrawing their request for review of China Kingdom, Jiangsu Hilong, Qingdao Zhengri, Weishan Zhenyu, Yancheng Haiteng, Yancheng Yaou, and Ningbo Nanlian. In addition, Ningbo Nanlian filed its own letter in a timely manner, on January 23, 2006, withdrawing its request for an administrative review.

Rescission of Review

Pursuant to section 351.213(d)(1) of the Department's regulations, if a party that requests a review withdraws the request within ninety days of the date of publication of the notice of initiation of the requested review, the Secretary will rescind the review. The Petitioners and Ningbo Nanlian withdrew their requests for review in a timely manner, in accordance with 19 CFR 351.213(d)(1). Since the Petitioners were the only party to request an administrative review of China Kingdom, Jiangsu Hilong, Qingdao Zhengri, Weishan Zhenyu, Yancheng Haiteng, and Yancheng Yaou, and petitioners and Ningbo Nanlian both withdrew their requests for review of Ningbo Nanlian, we are rescinding this review of the antidumping duty order on freshwater crawfish tail meat from the PRC covering the period September 1, 2004, through August 31, 2005, with respect to China Kingdom, Jiangsu Hilong, Qingdao Zhengri, Weishan Zhenyu, Yancheng Haiteng, Yancheng Yaou, and Ningbo Nanlian.

Cash Deposit Requirements

The Department will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries. For those companies for which this review has been rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(2). The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of this notice.

Notification to Importers

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

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

This notice is issued and published in accordance with sections 751 and 777(i) of the Act and 19 CFR 351.213(d)(4).

Dated: February 8, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-844]

Notice of Preliminary Affirmative Countervailing Duty Determination and Preliminary Negative Critical Circumstances Determination: Certain Lined Paper Products From India

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 certain lined paper products from India. For information on the estimated subsidy rates, see the "Suspension of Liquidation" section of this notice.

DATES: *Effective Date:* February 15, 2006.

FOR FURTHER INFORMATION CONTACT: Robert Copyak, Maura Jeffords, or John

Conniff, Office of AD/CVD Operations Office 3, Import Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-2209, (202) 482-3146, and (202) 482-1009, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The petition in this investigation was filed on September 9, 2005, by the Association of American School Suppliers (Petitioner).¹ This investigation was initiated on September 29, 2005. See *Notice of Initiation of Countervailing Duty Investigations: Certain Lined Paper Products from India (C-533-844) and Indonesia (C-560-819)*, 70 FR 58690 (Oct. 7, 2005).

On October 20, 2005, Petitioner timely requested a 65-day postponement of the preliminary determination for this investigation.

Due to the large number of producers and exporters of lined paper products in India, we determined that it is not possible to investigate each producer or exporter individually and selected three producers/exporters of certain lined paper products: Aero Exports (Aero), Kejriwal Paper Limited (Kejriwal), and Navneet Publications (Navneet). See Memorandum from the Team, through Office Director Melissa Skinner, to Deputy Assistant Secretary Stephen J. Claeys: Lined Paper Products from India Respondent Selection or Aggregation, October 25, 2005. On October 25, 2005, we issued our initial questionnaire to the Government of India (GOI) and requested that the GOI forward the relevant sections of the initial questionnaire to the selected respondents.

On November 8, 2005, the Department extended the deadline for the preliminary determination by 65 days to no later than February 6, 2006, in accordance with section 703(c)(1)(A) of the Tariff Act of 1930, as amended (the Act). See *Certain Lined Paper Products from India and Indonesia: Extension of Time Limit for Preliminary Determinations in the Countervailing Duty Investigations*, 70 FR 67668 (Nov. 8, 2005).

On November 28, 2005, the Department initiated a review on new

subsidy allegations.² See Memorandum from the Team, through Program Manager Eric B. Greynolds, to Office Director Melissa G. Skinner: New Subsidy Allegations, November 28, 2005. On November 30, 2005, we issued a questionnaire regarding the newly alleged subsidies to the GOI. On November 28, 2005, Petitioner alleged that U.S. retailers of subject merchandise were in negotiations to import large volumes of subject merchandise prior to the Department's preliminary determination. Petitioner, therefore, requested that pursuant to 19 CFR 351.206, the Department make an expedited finding that critical circumstances exist with respect to imports of lined paper products from India.

On November 30, 2005, the Department issued its New Subsidy Allegations questionnaire to the GOI. On December 15, 2005, the GOI submitted its response to our initial questionnaire. On December 16, 2005, Navneet submitted its response to our initial questionnaire. On December 19, 2005, Aero and Kejriwal submitted their responses to our initial questionnaire. On January 5, 2006, we issued a questionnaire regarding the new subsidy allegations to the three respondent companies. Between January 11 and January 25, 2006, we issued supplemental questionnaires to the three respondent companies. Between January 6 and January 31, 2006, the GOI and the three respondent companies submitted responses to the questionnaires regarding the new subsidy allegations and the subsequent supplemental questionnaires.

Scope of the Investigation

For scope information, see Appendix I.

Injury Test

Because India is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from India materially injure, or threaten material injury to, a U.S. industry. On October 31, 2005, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from India and Indonesia of subject merchandise. See *Certain Lined Paper School Supplies From China, India and Indonesia*, USITC Pub. 3811, Inv. Nos.

701-TA-442-443 and 731-TA-1095-1097, (Oct. 2005) (Prelim.).

Critical Circumstances

As stated above, Petitioner requested that, pursuant to 19 CFR 351.206, the Department make an expedited finding that critical circumstances exist with respect to imports of lined paper products from India. In order to evaluate Petitioner's critical circumstance allegation, we determined to monitor imports of paper from India and to request that U.S. Customs and Border Protection (CBP) compile information on an expedited basis regarding entries of Indian lined paper. We also requested shipment data for the relevant time periods from respondents. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, from Susan H. Kuhbach, Director, Office 1, Melissa G. Skinner, Director, Office 3, and Wendy J. Frankel, Director, Office 8, January 31, 2006. See also Respondents' Supplemental Questionnaire, January 24, 2006.

We have preliminarily determined that critical circumstances do not exist for subject imports of paper from India. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, from: Melissa G. Skinner, Director, Operations, Office 3: Preliminary Negative Critical Circumstances Determination, February 6, 2006 (publicly on file in room B-099 of the Central Records Unit (CRU) in the main building of the Commerce Department). Specifically, the Department found that the Petitioner's allegation does not in itself provide a sufficient factual basis for making an affirmative finding. The Department will continue to seek import data and will place any such relevant data on the record of the investigation for consideration by the Department in its final critical circumstances determination.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is April 1, 2004, through March 31, 2005, which corresponds to the most recently completed fiscal year for all of the respondents. See 19 CFR 351.204(b)(2).

Subsidies Valuation Information

Benchmarks for Loans and Discount Rate

Aero and Kejriwal reported using a rupee-denominated short-term loan program. For those programs requiring the application of a benchmark interest rate, 19 CFR 351.505(a)(1) provides a

¹ The petition and amendments were filed between September 9 and September 26, 2005. On September 21, 2005, the Department issued a memorandum clarifying that the official filing date of the petition was September 9, 2005. See Memorandum from the Team to Acting Deputy Assistant Secretary Barbara Tillman: Decision Memorandum Concerning Filing Date of Petition, Sept. 21, 2005.

² See Petitioner's New Subsidy Allegations Submission, Oct. 27, 2005.

preference for using an interest rate that the company could have obtained on a comparable loan in the commercial market. Aero provided company-specific information on its rupee-denominated short-term commercial loans outstanding during the POI. Thus, in accordance with 19 CFR 351.505(a)(3)(i), we are using these interest rates as company-specific benchmarks for purposes of calculating benefits arising to Aero from the rupee-denominated short-term loan programs we find countervailable. Kejriwal did not report any company-specific commercial loan information that could be evaluated for use as a benchmark. As a result, we used as our benchmark a national average rupee-denominated short-term interest rate for India, as reported in the International Monetary Fund's (IMF) publication *International Financial Statistics*.³ Our reliance on interest rate information from the IMF is consistent with our approach in past Indian proceedings. See *Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 67 FR 34905 (May 16, 2002) (*PET Film*), and the accompanying Issues and Decision Memorandum, at "Octroi Refund Scheme" (*PET Film Decision Memo*).

Navneet reported using a dollar-denominated short-term loan program. Our practice when loans are denominated in a foreign currency, in accordance with 19 CFR 351.505(a)(2)(i), is to use a foreign currency benchmark. See, e.g., *Certain Pasta From Turkey: Final Results of Countervailing Duty Administrative Review*, 66 FR 64398 (Dec. 13, 2001), and accompanying Issues and Decision Memorandum, at "Benchmark Interest Rates for Short-term Loans." Pursuant to 19 CFR 351.505(a)(3)(i), in constructing our benchmark, we first examined whether Navneet received comparable commercial financing that was outstanding during the POI. Navneet reported several commercial U.S. dollar-denominated loans in the benchmark section of its initial questionnaire response. See Navneet's December 16, 2005, Questionnaire Response, at Exh. 7. However, 19 CFR 351.505(a)(2)(ii) states that the Department will not consider a loan provided by a government-owned special purpose bank to be a commercial loan for purposes of selecting a loan to compare with a government-provided loan. Based

on the evidence regarding the loans in question reported by Navneet, we find that they constitute loans from a government-owned special purpose bank within the meaning of 19 CFR 351.505(a)(2)(ii) and, therefore, are not suitable for use as benchmarks. As a result, for Navneet, we used the dollar-denominated short-term interest rate for the United States reported in *International Financial Statistics* as our benchmark. For the final determination, we will continue to seek dollar-denominated benchmark loan information for short-term lending in India.

For those programs requiring a rupee-denominated discount rate or the application of a rupee-denominated, long-term benchmark interest rate, it is our practice to use as benchmarks company-specific, weighted-average interest rates of comparable commercial long-term, rupee-denominated loans that were actually obtained by the company. *PET Film Decision Memo*, at II.A.2 "Benchmark for Loans and Discount Rate." If company-specific long-term loan data were not provided by the respondent company, we then look to use publicly available, published average long-term interest rates as benchmark interest rates. *Id.* If such long-term interest rate data is not available, we then use, as surrogates, other publicly available published interest rates applicable to the country under investigation.

In this investigation, Aero provided long-term rupee-denominated commercial loan information. Therefore, where possible, we used Aero's company-specific long-term loans for benchmark purposes. We did not use any long-term loans that had unpaid interest or principal payments because we do not consider such loans to be comparable loans under section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a)(2)(i).

For some years, Aero did not provide company-specific long-term loan data. Kejriwal and Navneet did not provide any company-specific long-term loan data. Pursuant to 19 CFR 351.505(a)(3)(ii), we used national average interest rates for those years in which the respondents did not report company-specific interest rates on comparable commercial loans. Because long-term publicly available interest rates were not available, we used national average interest rates for short-to-medium-term, rupee-denominated financing from private creditors in *International Financial Statistics*. This approach is consistent with the Department's practice. See *id.*; and *Final Affirmative Countervailing Duty*

Determination: Certain Hot-Rolled Carbon Steel Flat Products from India, 66 FR 49635 (Sept. 28, 2001) (*HRC Investigation*), and the accompanying Issues and Decision Memorandum at II.C. "Benchmark for Loans and Discount Rate" (*HRC Investigation Decision Memo*). We will continue to seek long-term benchmark interest rates for purposes of the final determination.

Allocation Period

Under 19 CFR 351.524(d)(2)(i), we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System, as updated by the Department of the Treasury. The presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under investigation, and the party can establish that the difference between the company-specific or country-wide AUL for the industry under investigation is significant, pursuant to 19 CFR 351.524(d)(2)(ii). For assets used to manufacture products such as lined paper, the IRS tables prescribe an AUL of 13 years.

In their questionnaire responses, Aero, Kejriwal, and Navneet each stated that it would not attempt to rebut the regulatory presumption by meeting the criteria set forth in 19 CFR 351.524(d)(2)(iii) and calculating company-specific AULs. Thus, for each of the three respondent companies, we will use the IRS AUL of 13 years to allocate any non-recurring subsidies for purposes of this preliminary determination.

I. Programs Preliminarily Determined To Be Countervailable

A. GOI Programs

1. Pre- and Post-Shipment Export Financing

The Reserve Bank of India (RBI), through commercial banks, provides short-term pre-shipment export 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. Exporters may also establish pre-shipment credit lines upon which they may draw as needed. Credit line limits are established by commercial banks based upon a company's creditworthiness and past export performance, and may be denominated

³ We did not use the interest rate information the GOI provided in its December 15, 2005 questionnaire response because the information did not cover the POI.

either in Indian rupees or in foreign currency. Commercial banks extending export credit to Indian companies must, by law, charge interest on this credit at rates capped by the RBI. For post-shipment export financing, exporters are eligible to receive post-shipment short-term credit in the form of discounted trade bills or advances by commercial banks at preferential interest rates to finance the period between the date of shipment of exported merchandise and payment from export customers ("transit period").

The Department has previously determined that this export financing is countervailable to the extent that the interest rates are set by the GOI and are lower than the rates exporters would have paid on comparable commercial loans. *See PET Film Decision Memo*, at II.A.1 "Pre-Shipment and Post-Shipment Export Financing." Specifically, the Department determined that the GOI's issuance of financing at preferential rates constituted a financial contribution pursuant to section 771(5)(D)(i) of the Act. *Id.* The Department further determined that the interest savings under this program conferred a benefit pursuant to section 771(5)(E)(ii) of the Act. In addition, the Department determined this program, which is contingent upon exports, to be specific within the meaning of section 771(5A)(B) of the Act. *Id.* No new information or evidence of changed circumstances have been presented in this investigation to warrant reconsideration of this finding.

Aero reported its rupee-denominated, pre- and post-shipment export loans outstanding during the POI. Navneet reported its dollar-denominated, pre-shipment export loans outstanding during the POI. Kejriwal reported its rupee-denominated, pre-shipment export loans outstanding during the POI and provided information indicating the amount of rupee-denominated post-shipment financing the company had outstanding during the POI.

To calculate the benefit conferred by these pre-shipment and post-shipment loans, we compared the actual interest paid on the loans with the amount of interest that would have been paid at the benchmark interest rates. We used a rupee- or dollar-denominated benchmark, as appropriate (*see* "Subsidies Valuation Information" section above). Where the benchmark interest exceeds the actual interest paid, the difference constitutes the benefit. For pre-shipment loans, we calculated the company-specific program rates by dividing the benefit received by the company during the POI by the company's total exports during the POI.

Because post-shipment loans are granted for particular shipments, our practice is to treat them as tied to particular markets, in accordance with 19 CFR 351.525(b)(2). *See Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin from India*, 69 FR 52866, 52871 (Aug. 30, 2004). To calculate a company's subsidy rate for this program, we divide the benefit received by the company during the POI by the company's exports of subject merchandise to the United States during the POI.

For Kejriwal, we were able to conduct this calculation accordingly. Aero, however, appears to have reported its post-shipment loans for all shipments to all destinations. Therefore, for purposes of this preliminary determination, we did not apply our standard methodology. Rather, we divided the total benefit Aero received during the POI by Aero's total exports of all products to all destinations during the POI. At verification, we will examine the post-shipment loan data provided by Aero.

We preliminarily determine the countervailable subsidy rate under the pre-shipment export financing program for Aero to be 0.85 percent *ad valorem* during the POI, 0.66 percent *ad valorem* during the POI for Navneet, and 0.03 percent *ad valorem* during the POI for Kejriwal. We preliminarily determine the countervailable subsidy rate under the post-shipment export financing program for Aero to be 0.04 percent *ad valorem* during the POI and 0.77 percent *ad valorem* during the POI for Kejriwal.

2. 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 five percent customs duty, subject to an export obligation equal to eight times the duty saved to be fulfilled over a period of eight years (12 years where the CIF value is Rs. 100 Crore⁴) from the date the license was issued. For failure to meet the export obligation, a company is subject to payment of all or part of the duty reduction, depending on the extent of the export shortfall, plus penalty interest.

In prior proceedings, we determined that import duty reductions provided under the EPCGS constituted a

countervailable export subsidy. *See, e.g., PET Film Decision Memo*, at section II.A.4 "EPCGS." Specifically, the Department found that under the EPCGS program, the GOI provides a financial contribution under section 771(5)(D)(ii) of Act, in the form of revenue foregone that otherwise would be due. The tax savings confer a benefit, as defined by section 771(5)(E) of the Act. Also, this program is specific under section 771(5A)(B) of the Act because it is contingent upon export performance. No new information or evidence of changed circumstances has been provided with respect to this program. Therefore, we continue to find that import duty reductions provided under the EPCGS are countervailable export subsidies.

Aero, Navneet, and Kejriwal reported that they received import duty deductions under the EPCGS program. We have determined the benefit under this program in accordance with our findings and treatment in other Indian CVD proceedings. *Id.* at cmt. 5; and *HRC Investigation Decision Memo*, at section I.E "Export Promotion of Capital Goods Scheme (EPCGS)." Under the Department's approach, there are two types of benefits under the EPCGS program. The first benefit is the amount of unpaid duties that would have to be paid to the GOI if the export requirements are not met. The repayment of this liability is contingent on subsequent events, and in such instances, it is the Department's practice to treat any balance on an unpaid liability as an interest-free loan. *See* 19 CFR 351.505(d)(1).

Because Aero, Navneet, and Kejriwal had not yet met their export obligations specified in their EPCGS licenses by the end of the POI, we preliminarily determine that the companies had outstanding contingent liabilities during the POI. We further determine that the amount of the contingent liability to be treated as an interest-free loan is the amount of the import duty reduction or exemption for those EPCGS licenses for which Aero, Navneet, and Kejriwal applied but, as of the end of the POI, had not received a waiver of their obligations to repay the duties from the GOI.

Accordingly, for those unpaid duties for which Aero, Navneet, and Kejriwal have yet to fulfill their export obligations, we determine the benefit to be the interest that they would have paid during the POI had they borrowed the full amount of the duty reduction at the time of import. Pursuant to 19 CFR 351.505(d)(1), we used a long-term interest rate as our benchmark to calculate the benefit of a contingent

⁴ A crore is equal to 10,000,000 rupees.

liability interest-free loan because the event upon which repayment of the duties depends (*i.e.*, the date of expiration of the time period for Aero, Navneet, and Kejriwal to fulfill their export commitments) occurs at a point in time more than one year after the date the capital goods were imported. Specifically, we used the long-term benchmark interest rate for Aero, Navneet, and Kejriwal, as described in the "Subsidies Valuation" section, *supra*. The rate used corresponded to the year in which the companies imported the item under the program. Consistent with our policy, absent acknowledgment in the form of an official letter from the GOI that the liability has been eliminated, we continue to treat benefits of these licenses as contingent liabilities. See, *e.g.*, See *Final Results of Countervailing Duty Administrative Review: Certain Hot-Rolled Carbon Steel Flat Products from India*, 69 FR 26549 (May 13, 2004) (*HRC First Review Final*), and accompanying Issues and Decision Memorandum, at II.A.2 "Export Promotion of Capital Goods Scheme (EPCGS)" (*HRC First Review Decision Memo*).

The second benefit is the waiver of duty on imports of capital equipment covered by those EPCGS licenses for which export requirements have been met. Navneet reported that it imported machinery under the EPCGS in the years prior to the POI and during the POI. Upon importation under these licenses, Navneet received reduced import duty liabilities and agreed to the export obligations prescribed under the program, as noted above. For certain licenses, Navneet reported that it had completed its export obligation under the EPCGS program, thereby eliminating the outstanding contingent liabilities on the corresponding duty exemptions. However, as explained above, in keeping with our practice, we have only accepted those claims that are accompanied by official letters from the GOI indicating that the companies have met their export obligations. Thus, for purposes of calculating the benefit, we treated licenses without accompanying letters from the GOI as contingent liabilities.

For those licenses for which Navneet demonstrated that it had completed its export obligations, we followed our methodology set forth in the *HRC First Review Final* and treated the import duty savings as grants received in the year in which the GOI waived the contingent liability on the import duty exemptions. In accordance with 19 CFR 351.524(b)(2), for each of the grant amounts, we performed the 0.5 percent

test to determine whether the benefit should be fully expensed in the year of receipt or allocated over the AUL used in this proceeding pursuant to the grant allocation methodology set forth in 19 CFR 351.524(d)(1).

Aero, Navneet and Kejriwal reported that they paid application fees in order to obtain their EPCGS licenses. We preliminarily determine that the application fees paid qualify as an "application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the countervailable subsidy." See Section 771(6)(A) of the Act. As a result, we have offset the benefit in an amount equal to the fees paid.

To calculate the subsidy rate, we summed the benefits from the waived licenses, which we determined conferred a benefit in the form of a grant and those licenses that have yet to be waived, which we determine conferred a benefit in the form of contingent liability loans. With respect to licenses related to imports of capital goods during the POI, we prorated the contingent liability by the actual number of days the contingent liability was in effect during the POI. See *HRC First Review Decision Memo*, at II.A.2, "Export Promotion of Capital Goods Scheme (EPCGS)," and cmt. 4. We divided the total benefits to Aero, Navneet, and Kejriwal under the program by the companies' respective total export sales during the POI. On this basis, we preliminarily determine the net countervailable subsidy from this program to be 0.05 percent *ad valorem* for Aero, 1.00 percent *ad valorem* for Navneet, and 0.05 percent *ad valorem* for Kejriwal.

3. Duty Entitlement Passbook Scheme (DEPS)

India's DEPS was enacted on April 1, 1997, as a successor to the Passbook Scheme (PBS). As with PBS, the DEPS enables exporting companies to earn import duty exemptions in the form of passbook credits rather than cash. All exporters are eligible to earn DEPS credits on a post-export basis, provided that the GOI has established a standard input/output norm (SION) for the exported product. DEPS credits can be used for any subsequent imports, regardless of whether they are consumed in the production of an export 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. With respect to subject merchandise, the GOI has established a SION for the paper industry.

Companies reported earning credits up to 9 percent of the free on board (FOB) value of their export shipments during the POI. The Department has previously determined that the DEPS is countervailable. For example in *PET Film*, the Department determined that under the DEPS, a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided because (1) the GOI provides credits for the future payment of import duties; and, (2) 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. *PET Film Decision Memo*, at II.A.2 "DEPS." Therefore, under 19 CFR 351.519(a)(4) and section 771(5)(E) of the Act, the entire amount of import duty exemption earned during the POI constitutes a benefit. Finally, this program can only be used by exporters and, therefore, is specific under section 771(5A)(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.

Aero and Navneet reported earning DEPS credits on shipments of paper made during the POI. Aero also reported that it sold a DEPS credit during the POI that it earned prior to the period and that subsequent to the POI it sold a DEPS credit earned during the period. Navneet indicated that during the POI it sold all of the DEPS credits it earned during the period. Kejriwal indicated that it did not earn or sell any DEPS credits during the POI.

We have previously determined that this program provides a recurring benefit under 19 CFR 351.519(c). See *HRC Investigation*. In accordance with past practice and pursuant to 351.519(b)(2), we find that benefits from the DEPS program are conferred as of the date of exportation of the shipment for which the pertinent DEPS credits are earned. See, *e.g.*, *Final Affirmative Determination: Certain Cut-to-Length Carbon-Quality Steel Plate from India*, 64 FR 73131 (Dec. 29, 1999) (*CTL Plate from India*), and accompanying Issues and Decision Memorandum, at cmt. 4 (*CTL Decision Memo*) (explaining that for programs such as the DEPS, "we calculate the benefit on an "earned" basis (that is upon export) where it is provided as a percentage of the value of the exported merchandise on a shipment-by-shipment basis and the exact amount of the exemption is known.").

For those DEPS credits that Aero and Navneet earned during the POI, we followed our past practice and calculated the benefit under the DEPS program by multiplying the FOB value of each export shipment to the United States during the POI by the relevant percentage of DEPS credit allowed under the program. We then subtracted as an allowable offset the actual amount of application fees paid for each license in accordance with section 771(6) of the Act. See *CTL Plate from India*, 64 FR at 73134.

As indicated above, both Aero and Navneet sold DEPS credits during the POI. It is the Department's practice to treat DEPS credits as financial contributions that, for purposes of measuring the benefit, are received on the date on which they are earned because it is at this point that recipients of value-based DEPS credits know the amount of the duty exemption or benefit they have received. See *CTL Decision Memorandum*, at cmt. 4. Furthermore, 19 CFR 351.503(c) states that in determining whether a benefit is conferred, the Department " * * * is not required to consider the effect of the government action on the firm's performance, including its prices or output, or how the firm's behavior otherwise is altered" (emphasis added). The Preamble to the Department's regulations explains that:

In analyzing whether a benefit exists, we are concerned with what goes into a company, such as enhanced revenues and reduced-cost inputs in the broad sense that we have used the term, not with what the company does with the subsidy. *Countervailing Duties; Final Rule*, 63 FR 65348, 65361 (Nov. 25, 2998) (providing the rationale for 19 CFR 351.503(c)).

Given that the Department treats benefits under the DEPS program as recurring subsidies that are received on the date of export (e.g., when they are earned) and that 19 CFR 351.503(c) directs the Department not to track what companies do with their subsidies after they have received them, we preliminarily determine that the benefit under the DEPS program is equal to the amount of DEPS credit at the time of receipt, regardless of whether the license is subsequently sold after the date of receipt.⁵ Thus, for DEPS credits that were earned and subsequently sold during or after the POI, we calculated the benefit based on the amount of credits earned, as described above, and not the amount for which the credits

were sold. In keeping with this approach, we did not countervail sales of DEPS credits that were earned prior to the POI and sold during the POI. Accordingly, we calculated Aero and Navneet's benefit under the DEPS program based on the amount of DEPS credit earned during the POI, and not on the amount sold.

Because DEPS credits are earned on a shipment-by-shipment basis, in calculating the benefit from the DEPS program, we normally calculate the net subsidy rate by dividing the benefit earned on subject merchandise export shipments to the United States by total sales of subject merchandise to the United States during the POI. See *CTL Plate from India*, 64 FR at 73134. In the case of Aero, we have followed this calculation methodology. However, Navneet has claimed that it is unable to separately report its subject and non-subject sales of paper to the United States and, thus, has reported the DEPS credits it earned on sales of all paper made to the United States during the POI. As a result, we have divided the benefit Navneet earned during the POI on subject and non-subject paper shipments to the United States by Navneet's total export sales to the United States during the POI. For the final determination we will further examine this calculation and the appropriateness of dividing by total export sales to the United States.

On this basis, we preliminarily determine the net countervailable subsidy from the DEPS program to be 0.34 percent *ad valorem* for Aero and 5.39 percent *ad valorem* for Navneet.

4. Duty Free Replenishment Certificate (DFRC)

The DFRC scheme was introduced by the GOI in 2001 and is administered by the Director-General for Foreign Trade (DGFT). The DFRC is a duty replenishment scheme that is available to exporters for the subsequent import of inputs used in the manufacture of goods without payment of basic customs duty. In order to receive a license, which entitles the recipient subsequently to import duty free certain inputs used in the production of the exported product, as identified in a SION, within the following 24 months, a company must: (1) Export manufactured products listed in the GOI's export policy book and against which there is a SION for inputs required in the manufacture of the export product based on quantity; and (2) have realized the payment of export proceeds in the form of convertible foreign currency. See The Ministry of Commerce and Industry Directorate

General of Foreign Trade Policy 2004–2009, sect. 4.2. The application must be filed within six months of the realization of the profits. DFRC licenses are transferrable, yet the transferee is limited to importing only those products and in the quantities specified on the license. *Id.*

Although 19 CFR 351.519(b)(2) provides that the Secretary will normally consider any benefit from a duty drawback or exemption program as having been received as of the date of exportation, we preliminarily find that an exception to this normal practice is warranted here in view of the unique manner in which this program operates. Specifically, a company may not submit an application for a DFRC license until the proceeds of the sale are realized. The license, once granted, specifies the quantity of the particular inputs that the bearer may subsequently import duty free. In *HRC First Review Final*, we noted that the benefits from another duty exemption program, the DEPS, were conferred as of the date of exportation of the shipment because it is at that point that "the amount of the benefit is known by the exporter." See *HRC First Review Decision Memo*, at II.A.4 "Duty Entitlement Passbook Scheme." However, in the case of the DFRC, the company does not know at the time of export the value of the duty exemption that it will ultimately receive. It only knows the quantity of the inputs it will likely be able to import duty free if its application for a DFRC license is granted. Unlike the DEPS, under the DFRC, the respondent will only know the total value of the duty exemption when it subsequently uses that license to import the specified products duty free or sells it. Therefore, we preliminarily determine that the date of receipt is linked to when the company uses the certificate to import an input duty free or, in the case in which the company sells the certificate, the date of sale.

During the POI, no companies reported importing using a DFRC license or exporting against a DFRC license. However, Aero, Navneet, and Kejriwal reported selling DFRC licenses. The Department has previously determined that the sale of quantity-based import licenses confers a countervailable export subsidy. See, e.g., *CTL Plate from India*, 64 FR 73131, 73134; *Certain Iron-Metal Castings from India: Final Results of Countervailing Duty Administrative Review*, 63 FR 64050 (Nov. 18, 1998); and *Certain Iron-Metal Castings from India: Final Results of Countervailing Duty Administrative Review*, 62 FR 32297, 32298 (June 13, 1997). Therefore, in accordance with

⁵ We note that this approach differs from how we treat sales of quantity-based licenses, such as those that exist under the advance license program. See, e.g., *CTL Plate from India*, 64 FR at 73135.

section 771(5A)(B) of the Act, we determine that the sale of DFRC licenses is an export subsidy and that a financial contribution is provided, under section 771 5(D)(ii) of the Act, in the form of the revenue foregone. We further find that the sales of the licenses conferred a benefit under section 771 (5)(E) of the Act.

To calculate the countervailable benefits conferred to Aero, Navneet and Kejriwal, respectively on their sales of DFRC licenses, we identified the proceeds Aero, Navneet and Kejriwal each realized from sales of DFRC licenses during the POI (net of application fees). We then calculated the net subsidy rate by dividing the total benefit by each company's total value of exports to the United States during the POI. On this basis, we determine the net countervailable subsidy rate for this program to be 3.09 percent for Aero, 0.12 percent *ad valorem* for Navneet, and 1.35 percent *ad valorem* for Kejriwal. For the Final Determination, we will continue to examine whether calculating the net subsidy rate by dividing the total benefit using the companies' total exports to the U.S. as the denominator is appropriate. Further, given the way this program operates, we also invite parties to comment on whether application of 19 CFR 351.519 or 19 CFR 351.514 is most appropriate.

5. Advance License Program (ALP)

Under the ALP, exporters may import, duty free, specified quantities of materials required to produce products that are subsequently exported. Companies, however, remain contingently liable for the unpaid duties until they have exported the finished products. The quantities of imported materials and exported finished products are linked through SIONs established by the GOI. See Ministry of Commerce and Industry Directorate General of Foreign Trade Policy 2004–2009, at sect. 4.1.

The Department previously found the 1997–2002 Export/Import Guidelines underlying the ALP not to be countervailable. See *PET Film Decision Memo*, at II.B.1 “Advance Licenses;” see also *HRC Investigation*, 66 FR 49635 (Sept. 28, 2001) and *HRC Investigation Decision Memo* at “Advance Licenses.” However, in the recent *PET Film Prelim*, the Department examined the 2002–2007 Export/Import Policy Guidelines underlying the ALP and found the program to be countervailable because the GOI does not have in place and does not apply a system that is reasonable and effective for the purposes intended, in accordance with 19 CFR 351.519(a)(4). See *Preliminary Results*

and *Rescission in Part of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet and Strip from India*, 70 FR 46483, 46486–87 (Aug. 10, 2005) (*PET Film Prelim*). In the *PET Film Prelim*, the Department found that the GOI could not demonstrate that the ALP was implemented and monitored effectively. The Department also determined that the ALP was countervailable because the program permits companies to meet their export requirements through “deemed exports” (*i.e.*, sales within India that are categorized as exports even though there appears to be no tangential link to exports). See *PET Film Prelim*, 70 FR at 46487. The Department also found that the ALP was countervailable because the GOI could not demonstrate how the PET Film SIONs used to determine the duty exemptions were calculated or that there was a requirement that the SIONs be updated.

Only Aero reported using the ALP during the POI. Upon examination of the ALP in this investigation, we find that the systemic deficiencies found in *PET Film Prelim* remain in place. While the GOI reported that the SIONs for the lined paper industry have been updated, we note that the changes occurred after the POI. Further, Chapter 4 of the Ex-Im Handbook permits deemed exports to be used to meet a manufacturer's export commitment under the DFRC. The GOI also reported that it has not verified the export fulfillment of any of the respondents in this case.

Therefore, we preliminarily determine that the ALP confers countervailable subsidies 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 an exemption 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), 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 under section 771(5)(E) of the Act; and (3) this program is contingent upon export and, therefore, is specific under section 771(5A)(B) of the Act. However, as the Department stated in *PET Film Prelim*, we will continue to examine this program and if a party in this proceeding is able to provide information with respect to the systemic deficiencies identified above, the Department will reconsider our determination that the ALP is

countervailable. See *PET Film Prelim*, 70 FR at 46487. Pursuant to 19 CFR 351.519(c), exemptions of import duties on imports consumed in production provide a recurring benefit. Thus, we treated the benefit provided under the ALP as a recurring benefit. To calculate the subsidy rate, we subtracted from the total amount of exempted duties under the ALP during the POI the actual amount of application fees paid for each license in accordance with section 771(6) of the Act (in order to receive the benefits of the ALP, companies must pay application fees). We then divided the resulting net benefit by Aero's total value of exports of lined paper products. We preliminarily determine the net countervailable subsidy provided to Aero under the ALP to be 2.55 percent *ad valorem*.

II. Programs Preliminarily Determined To Be Not Used

We preliminarily determine that the producers/exporters of certain lined paper products did not apply for or receive benefits during the POI under the programs listed below.

GOI Programs

- A. Export Processing Zones (EPZ) and Export Oriented Units (EOU)
- B. Income Tax Exemption Scheme (Sections 10A, 10B, and 80HHC)
- C. Market Development Assistance (MDA)
- D. Status Certificate Program
- E. Market Access Initiative

State Government Programs

- A. State of Gujarat Sales Tax Incentives
- B. State of Maharashtra Sales Tax Incentives

For purposes of this preliminary determination, we have relied on the GOI and respondent companies' responses to preliminarily determine non-use of the programs listed above. During the course of verification, the Department will examine whether these programs were used by respondent companies during the POI.

Verification

In accordance with section 782(i) of the Act, we will verify the information submitted prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have determined individual rates for Aero, Kejriwal, and Navneet. To calculate the “all others” rate, we weight-averaged the individual rates of Aero, Kejriwal, and Navneet by each company's respective exports of subject

merchandise to the United States during the POI. *See e.g., PET Film*, 67 FR 34905 and *HRC Investigation*, 66 FR at 49636. These rates are summarized in the table below:

Producer/exporter	Subsidy rate <i>ad valorem</i>
Aero Exports	6.92
Kejriwal Paper Limited	2.20
Navneet Publications	7.17
All Others	5.99

In accordance with section 703(d)(1)(B) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of the subject merchandise from India, which 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 the posting of a bond for such entries of the merchandise in the amounts indicated above. This suspension will remain in effect until further notice.

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) 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.

Notification of Parties

In accordance with 19 CFR 351.224(b), the Department will disclose to the parties the calculations for this preliminary determination within five days of its announcement. Unless otherwise notified by the Department, interested parties may submit case briefs within 50 days of the date of publication of the preliminary determination in accordance with 19 CFR 351.309(c)(i). As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days

after the case brief is filed. *See* 19 CFR 351.309(d).

In accordance with 19 CFR 351.310(c), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties will be notified of the schedule for the hearing and parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time. Requests for a public hearing should contain: (1) Party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing.

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

Dated: February 6, 2006.

David M. Spooner,
Assistant Secretary for Import Administration.

Appendix I

Scope of the Investigation

The scope of this investigation includes certain lined paper products, typically school supplies,⁶ composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets,⁷ including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8³/₄ inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or "tear-out" size), and are measured as they appear in the product (*i.e.*, stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front

⁶For purposes of this scope definition, the actual use or labeling of these products as school supplies or non-school supplies is not a defining characteristic.

⁷There shall be no minimum page requirement for looseleaf filler paper.

cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this investigation whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto. Specifically excluded from the scope of this investigation are:

- Unlined copy machine paper;
- Writing pads with a backing (including but not limited to products commonly known as "tablets," "note pads," "legal pads," and "quadrille pads"), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;
- Three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- Index cards;
- Printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- Newspapers;
- Pictures and photographs;
- Desk and wall calendars and organizers (including but not limited to such products generally known as "office planners," "time books," and "appointment books");
- Telephone logs;
- Address books;
- Columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- Lined business or office forms, including but not limited to: preprinted business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- Lined continuous computer paper;
- Boxed or packaged writing stationary (including but not limited to products commonly known as "fine business paper," "parchment paper," and "letterhead"), whether or not containing a lined header or decorative lines;
- Stenographic pads ("steno pads"), Gregg ruled,⁸ measuring 6 inches by 9 inches;

Also excluded from the scope of this investigation are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™

⁸"Gregg ruling" consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book.

- Pen-top computer. The product must bear the valid trademark Fly™⁹
- Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™.¹⁰

- FiveStar® Advance™: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is .019 inches (within normal manufacturing tolerances) and rear cover is .028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured at both ends of a 1" wide elastic fabric band. This band is located 2 3/8" from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar® Advance™.¹¹

- FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by a 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is .019 inches (within normal manufacturing tolerances) and rear cover is .028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to

the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™.¹²

Merchandise subject to this investigation is typically imported under headings 4820.10.2050, 4810.22.5044, and 4811.90.9090 of the Harmonized Tariff Schedule of the United States (HTSUS).¹³ The tariff classifications are provided for convenience and U.S. Customs purposes; however, the written description of the scope of the investigation is dispositive.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-427-819]

Notice of Preliminary Results of Countervailing Duty Administrative Review: Low Enriched Uranium From France

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on low enriched uranium (LEU) from France for the period January 1, 2004, through December 31, 2004. For information on the net subsidy for the reviewed company, please see the "Preliminary Results of Review" section, *infra*. If the final results remain the same as the preliminary results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties as detailed in the "Preliminary Results of Administrative Review" section, *infra*. Interested parties are invited to comment on these preliminary results. (See the "Public Comment" section, *infra*).

DATES: Effective February 15, 2006.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4793.

¹² Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

¹³ During the investigation additional HTSUS subheadings may be identified.

SUPPLEMENTARY INFORMATION:

Background

On February 13, 2002, the Department published in the **Federal Register** the CVD order on LEU from France. See *Amended Final Determination and Notice of Countervailing Duty Order: Low Enriched Uranium From France*, 67 FR 6689 (February 13, 2002) (*Amended LEU Final Determination*). On February 1, 2005, the Department published an opportunity to request an administrative review of this CVD order. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 5136 (February 1, 2005). On February 1, 2005, we received a timely request for review from Eurodif S.A. (Eurodif)/Compagnie Generale Des Matieres Nucleaires (COGEMA), the French producer/exporter of subject merchandise covered under this review, and on February 25, 2005, we received a timely request for review from petitioners.¹ On March 23, 2005, the Department published the initiation of the administrative review of the CVD order on LEU from France, covering the January 1, 2004, through December 31, 2004, period of review (POR). See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 14643 (March 23, 2005).

On April 5, 2005, the Department issued a questionnaire to Eurodif/COGEMA and the Government of France (GOF), collectively "the respondents." On May 31, 2005, the Department received questionnaire responses from Eurodif/COGEMA and the GOF. On August 3, 2005, the Department issued a supplemental questionnaire to respondents and received their questionnaire responses on August 19, 2005. A second supplemental questionnaire was issued to respondents on September 14, 2005. On October 17, 2005, the Department published in the **Federal Register** a notice of extension of the deadline for the preliminary results of this administrative review. See *Notice of Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Reviews: Low Enriched Uranium from France, Germany, the Netherlands, and the United Kingdom*, 70 FR 60284 (October 17, 2005). The Department received a response to the September 14, 2005, supplemental questionnaire from Eurodif/COGEMA on December 20, 2005, and from the GOF on December 21, 2005.

¹ Petitioners are USEC Inc. and its wholly owned subsidiary, United States Enrichment Corporation.

⁹ Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

¹⁰ Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

¹¹ Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.