DEPARTMENT OF COMMERCE
International Trade Administration
[C–533–862]

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of certain polyethylene terephthalate (PET) resin from India as provided in section 705 of the Tariff Act of 1930, as amended (the Act). For information on the estimated subsidy rates, see the “Final Determination” section of this notice. The period of investigation is January 1, 2014, through December 31, 2014.

DATES: Effective Date: March 14, 2016.

FOR FURTHER INFORMATION CONTACT: Yasmin Bordas or John Corrigan, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–3813 or (202) 482–7438, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the Preliminary Determination on August 14, 2015,1 and placed the Post-Preliminary Memorandum on the record of this investigation on November 13, 2015.2 A summary of the events that occurred since the post-preliminary determination, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.3 The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at http://access.trade.gov, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at http://trade.gov/enforcement. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the final determination is now March 4, 2016.4

Scope of the Investigation

The merchandise covered by this investigation is PET resin. The merchandise subject to this investigation is properly classified under subheading 3907.60.00.30 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Appendix I—Scope of the Investigation
The merchandise covered by this investigation is polyethylene terephthalate (PET) resin having an intrinsic viscosity of at least 0.70, but not more than 0.88, deciliters per gram. The scope includes blends of virgin PET resin and recycled PET resin containing 50 percent or more virgin PET resin content by weight, provided such blends meet the intrinsic viscosity requirements above. The scope includes all PET resin meeting the above specifications regardless of additives introduced in the manufacturing process. The merchandise subject to this investigation is firmly classified under subheading 3907.60.00.30 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Appendix II—Issues and Decision Memorandum

I. Summary

II. Background

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IV. Changes Since the Preliminary Determination

V. Use of Adverse Facts Available

VI. Description of the Issues

Comment 1: PTA Value

Comment 2: Brokerage and Handling Expense Source of Valuation

Comment 3: Brokerage and Handling Expense Denominator’s Cargo Load Volume

Comment 4: Brokerage and Handling Expense Letter of Credit Cost

Comment 5: Addition of Brokerage and Handling Expenses to FOP Surrogate Values

Comment 6: Inland Freight Expense Source of Valuation

Comment 7: Inland Freight Expense Denominator’s Cargo Load Volume

Comment 8: Inland Freight Expense Denominator’s Distance

Comment 9: Thai Labor Values

Comment 10: Irrecoverable VAT

Comment 11: FEIS Verification Minor Corrections

Comment 12: FEIS Chilled Water

Comment 13: FEIS Freight Distance for Factors of Production

Comment 14: FEIS International Freight Expense

Comment 15: FEIS U.S. Inland Freight Expense

Comment 16: Xingyu Indirect Labor

Comment 17: Xingyu IPA Consumption Recommendation

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gives rise to a benefit to the recipient, and that the subsidy is specific. For a full description of the methodology underlying our conclusions, see the Issues and Decision Memorandum.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix I.

Use of Adverse Facts Available

In making this final determination, the Department relied, in part, on facts available and, because JBF Industries Limited and the Government of India did not act to the best of their ability to respond to the Department’s requests for information, we drew an adverse inference where appropriate in selecting from among the facts otherwise available. For further information, see the section “Use of Facts Otherwise Available and Adverse Inferences” in the accompanying Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties and minor corrections presented at verification, we made certain changes to the respondents’ subsidy rate calculations since the Preliminary Determination and post-preliminary determination. For a discussion of these changes, see the Issues and Decision Memorandum.

Final Affirmative Determination of Critical Circumstances, in Part

On July 16, 2015, Petitioners filed a timely critical circumstances allegation, pursuant to section 773(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of PET resin from India. We preliminarily determined that critical circumstances did not exist for Dhunseri Petrochem Ltd., but did exist for JBF Industries Limited and the all-others companies. That determination remains unchanged and a discussion of our final critical circumstances determination can be found in the Issues and Decision Memorandum at the section, “Final Determination of Critical Circumstances, In Part.”

Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for Dhunseri, the only individually investigated exporter/producer of the subject merchandise that participated in this investigation. In accordance with sections 705(c)(1)(B)(i) and 705(c)(5)(A) of the Act, for companies not individually investigated, we apply an “all-others” rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as respondents with those companies’ export sales of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the all-others rate should exclude zero and de minimis rates calculated for the exporters and producers individually investigated, and any rates determined entirely under section 776 of the Act. In this investigation, the only rate that is not zero or de minimis, or based entirely on facts available, is the rate calculated for Dhunseri. Consequently, the rate calculated for Dhunseri is also assigned as the “all-others” rate.

<table>
<thead>
<tr>
<th>Exporter/producer</th>
<th>Subsidy rate (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dhunseri Petrochem Ltd (formerly Dhunseri Petrochem and Tea Ltd) (collectively, Dhunseri)</td>
<td>5.12</td>
</tr>
<tr>
<td>JBF Industries Limited</td>
<td>153.80</td>
</tr>
<tr>
<td>All-Others</td>
<td>5.12</td>
</tr>
</tbody>
</table>

Continuation of Suspension of Liquidation

As a result of our Preliminary Determination, and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of merchandise under consideration from India that were entered or withdrawn from warehouse, for consumption, or on or after May 16, 2015 (for those entities for which we found critical circumstances exist) or on or after August 14, 2015, the date of publication of the Preliminary Determination in the Federal Register (for all entities for which we did not find critical circumstances exist). In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn, from warehouse, on or after December 12, 2015, but to continue the suspension of liquidation of all entries from May 16, 2015, or August 14, 2015, as the case may be, through December 11, 2015.

If the U.S. International Trade Commission (the ITC) issues a final affirmative injury determination, we will issue a CVD order and will reinstate the suspension of liquidation under section 706(a) of the Act and will require a cash deposit of estimated CVDs for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

International Trade Commission Notification

In accordance with section 705(d) 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 Enforcement and Compliance.

Notification Regarding Administrative Protective Orders

In the event the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or 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 subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: March 4, 2016.

Paul Piquado,
Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
A. Case History
B. Period of Investigation
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Denominated Loans Discount Rates
VII. Use of Facts Otherwise Available and Adverse Inferences
BF Industries Limited (BF)
Government of India (GOI)
Selection of the Adverse Facts Available Rate
Corroboration of Secondary Information
VIII. Analysis of Programs
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1. Export Promotion of Capital Goods Scheme (EPCG)
2. Duty drawback (DBB)
3. Focus Product Scheme (FPS)
4. Incentive Under The West Bengal State Support for Industries Scheme
B. Programs Preliminarily Determined Not To Be Used or Not To Confere a Benefit During the POI by Dhunseri
1. Pre- and Post-Shipment Export Financing
2. Duty Free Import Authorization Scheme
4. Financial Assistance to Industrial Parks
5. Income Tax Exemption Scheme (ITES)

Government of India Programs
a. Status Holder Incentive Scrip
b. Advance Licenses Program
c. Focus Market Scheme
d. Special Economic Zones (SEZ) (6 Programs)
e. Export Oriented Units (EOUs Program: Duty drawback on furnace oil procured from domestic oil companies
f. GOI Loan Guarantees
g. Market Development Assistance Program

State Government Programs
a. State and Union Territory Sales Tax Incentive Programs
b. Maharashtra Market Development Assistance Programs
c. Maharashtra Industrial Promotion Subsidy
d. Maharashtra Electricity Duty Exemption
e. Maharashtra Waiver of Stamp Duty
f. State Government of Maharashtra—Incentives to Strengthening Micro-, Small-, and Medium-Sized and Large Scale Industries
g. State Government of Gujarat—Industrial Policy 2009 Scheme
C. Final AFA Rates for Programs Determined Used by BF
IX. Calculation of the All-Others Rate
X. Analysis of Comments
XI. Recommendation

Appendix II
The merchandise covered by this investigation is polyethylene terephthalate (PET) resin having an intrinsic viscosity of at least 0.70, but not more than 0.88, deciliters per gram. The scope includes blends of virgin PET resin and recycled PET resin containing 50 percent or more virgin PET resin content by weight, provided such blends meet the intrinsic viscosity requirements above. The scope includes all PET resin meeting the above specifications regardless of additives introduced in the manufacturing process.

The merchandise subject to this investigation is properly classified under subheading 3907.60.00.30 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

For a description of the events that have occurred since the Preliminary Determination, see the Issue and Decision Memorandum.2 The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at http://access.trade.gov and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at http://enforcement.trade.gov. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

As explained in the memorandum from the Acting Assistant Secretary for Enforcement & Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government because of snowstorm “Jonas”. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the final determination of this investigation is now March 4, 2016.3

Period of Investigation
The period of investigation (“POI”) is January 1, 2014, through December 31, 2014.

Scope of the Investigation
The product covered by this investigation is certain PET resin from Oman. For a full description of the scope of the investigation, see Appendix I to this notice.

Analysis of Comments Received
All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum accompanying this notice, and which is hereby adopted by this notice. A list of the issues addressed in the Issues and
