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此呈：

中华人民共和国商务部

7-苯乙酰氨基-3-氯甲基-4-头孢烷酸对甲氧基苄酯（GCLE）国内产业
申请对原产于印度的GCLE进口产品进行反补贴调查

反补贴调查申请人：

宁波人健化学制药有限公司

申请人全权代理人：

上海市锦天城（北京）律师事务所

二〇一八年十月十日

反补贴调查申请人：

公司名称： 宁波人健化学制药有限公司
公司地址： 浙江省宁波化工区北海路255号
邮政编码： 315300
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案件联系人： 向勇
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申请人全权代理人：

名 称： 上海市锦天城（北京）律师事务所
地 址： 北京市东城区东长安街1号东方广场C1办公楼
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确认书

上海市锦天城（北京）律师事务所作为宁波人健化学制药有限公司的全权代理人，根据《中华人民共和国对外贸易法》和《中华人民共和国反补贴条例》的规定,在此向中华人民共和国商务部递交对原产于印度的GCLE进口产品反补贴调查的申请书。我们已阅读了申请书的正文部分和附件。根据目前掌握的信息和资料，我们确认申请书的内容以及所附的证据和材料是真实和完整的。

全权代理人：上海市锦天城（北京）律师事务所

代理律师：李 烨

代理律师执照号码：11101201110760593

代理律师签字：



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一、 利害关系方的相关情况

(一) 申请人、国内同类产品的其它生产企业及行业组织

1、 申请人的相关信息

公司名称：宁波人健化学制药有限公司

公司地址：浙江省宁波化工区北海路255号

邮政编码：315300

法定代表人：翁维杰

案件联系人：向勇

联系电话：0574-63976058

电子邮箱：xiangyong@rjpharm.com

传 真：0574-63976066

(请见附件一：申请人营业执照)

2、 申请人委托的代理人

申请人为了向商务部申请对印度产的7-苯乙酰氨基-3-氯甲基-4-头孢烷酸对甲氧基苄酯产品（以下简称“GCLE”）发起反补贴调查，申请人授权上海市锦天城（北京）律师事务所作为其全权代理人，代理本次反补贴案件的立案申请及调查工作，关于代理权限请见附件二：授权委托书。

根据申请人的委托，上海市锦天城（北京）律师事务所指派李烨律师处理申请人所委托的与本案有关的全部事宜，请见附件三：律师指派书和律师执业证明。

本案申请人的全权代理人：

上海市锦天城（北京）律师事务所

地 址：北京市东城区东长安街1号东方广场C1办公楼6层

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3、国内同类产品的其它生产企业

在2015年至2018年第一季度期间内，申请人是国内同类产品的唯一生产企业¹。

4、国内同类产品的生产企业所组成的行业组织

协会名称：中国医药保健品进出口商会

地 址：北京市东城区朝阳门内大街南竹杆胡同6号(北京INN大厦3号楼)11-12层

邮政编码：100020

联系电话：86-10-58036282；86-10-5803628

网 址：<http://www.cccmhpie.org.cn/>

5、申请提出之日前申请人同类产品的产量占国内同类产品总产量的比例

表格 1：申请提出之日前申请人同类产品产量占国内同类产品总产量比例

数量单位：千克

期间	2015年	2016年	2017年	2017年一季 度	2018年一季 度
申请人产量	【100】	【64】	【66】	【100】	【75】
中国总产量	【100】	【64】	【66】	【100】	【75】
申请人产量 占中国总产量比例	100%	100%	100%	100%	100%

说明：申请人产量数据是基于申请人提供的财务数据，请见附件八：申请人财务数据和报表。

¹ 此外，据申请人所知，四川科伦药业股份有限公司正在研制和开发国内同类产品，但因工艺的原因，并没有实现商业化的生产和销售。

【上述括号内的信息为申请人同类产品产量和中国同类产品总产量。申请人同类产品的产量数据属于申请人商业秘密，且本案申请人是国内同类产品的唯一生产企业，对外披露上述数据将对申请人造成严重不利影响。据此，申请人以指数的形式表示申请人同类产品的产量和中国同类产品总产量的变化情况。】

（二）国内产业介绍

作为保障人民生命和健康的医疗物资和保障国家安全的战略物资，抗生素能否实现国家内部的自给自足，具有非常重要的意义。GCLE是继7-ADCA、7-ACA之后合成头孢菌素类药物又一新的重要中间体，可以用于合成几十种头孢产品，特别是第三、第四代头孢产品，如头孢克肟、头孢哌酮、头孢布烯等。在以7-ACA为母核制备的头孢菌素品种中，大部分品种都可以用GCLE来生产，而且以GCLE为母核生产头孢菌素时，产品收率，工艺条件等均具有明显的优势。另外，GCLE还可以用于合成多种内酰胺类抗生素如头孢唑啉，头孢尼西等。正因如此，2006年12月18日中国商务部和国家税务总局联合发布了《中国鼓励引进技术目录》（商务部、国家税务总局公告2006年第13号），GCLE与6-APA、7-ACA、7-ADCA、对羟基苯甘氨酸等一起被列入急需支持发展的医药中间体之一（医药制造业，编号：052701G），从而成为医药工业的投资重点和结构调整的关键产品。因此，无论从国情还是国家战略的角度，GCLE都是非常重要的产品。

GCLE最先由日本大冢化学制药公司于90年代初试制成功，到90年代末开始小批量的出口中国。在国家政策的指引和市场需求推动下，中国国内企业先后成功研制和开发出GCLE产品，在2004年到2012年期间，中国国内曾经先后有多家企业参与该产品的生产与销售。申请人是国内最早开始研制GCLE产品的企业之一，自2003年开始研制，2004年开始商业化生产和销售。2006年，天津信汇制药开始国内市场销售。2007年，天津津康制药的产品面市，但主要是用于自身下游产品的生产。期间，还有多家国内企业进行了GCLE的生产尝试，但最终迫于销售价格的压力，都未能实现有效的商业化销售。

2008年下半年，日本大冢在印度设立工厂Otsuka Chemical (India) Pvt. Ltd（简称“印度大冢”），并将GCLE生产搬迁至印度，年产能达500吨。2009年，印度大冢开始向中国供货，受其影响国内企业纷纷被迫退出市场，仅剩申请人和天津信汇制药维持生产和国内市场的销售。2012年，印度的Virchow Laboratories Limited（简称“Virchow”）开

始进入中国市场，其年产能达600吨。此后，印度大冢和Virchow凭借印度政府提供的大量补贴支持，在中国市场开始恶性竞争，其受补贴的GCLE产品以低价策略不断开拓中国市场，最终致使天津信汇制药在2014年停止GCLE的生产和销售，此后申请人成为国内唯一的生产企业。

2015年以后，凭借印度政府的大量补贴，印度GCLE产品继续长期以低于国内同类产品的价格在国内市场销售，致使申请人的销售价格受到削减和抑制，市场份额不断缩减，产能无法得到有效利用，盈利状况不断恶化直至严重亏损。在此期间，印度大冢和Virchow的产能在印度政府大量补贴的背景下不断扩大，至今已分别扩大到年产量1200吨和2000吨。为了消化产能，从2017年开始印度大冢和Virchow采取了更为激进的定价策略，致使申请人遭受的实质损害越来越严重【文字保密信息】。

本案是补贴进口产品导致国内产业实质损害的经典案例。在国家政策的指引和市场推动下，中国建立了GCLE产业，有多家中国企业生产和销售GCLE产品，实现了GCLE这一重要产品的自给自足。然而，受到印度补贴产品大量低价进口的负面影响，国内GCLE生产企业一个接一个被迫退出市场，迫于印度补贴进口更为激进的低价销售，现在申请人作为仅存的唯一国内生产企业【文字保密信息】。

【文字保密信息】如果是这样的话，国内GCLE市场将完全依赖印度进口，即印度大冢和Virchow两家公司的供应。

【上述括号内的信息为申请人的具体经营状况，披露上述信息会对申请人的利益造成不利影响，故对上述信息申请保密处理。】

（三）寻求的其它进口救济措施

在申请本次反补贴调查的同时，申请人还根据《中华人民共和国对外贸易法》和《中华人民共和国反倾销条例》，对印度向中国出口的GCLE产品提出了贸易救济申请。

（四）申请调查产品的已知的生产商、出口商和进口商的情况

申请人在合理可获得的信息和资料的基础上，提供如下已知的申请调查产品的生产

商、出口商和进口商名单:

1、生产商

(1) 公司名称: Virchow Laboratories Limited

地 址: lot No.4, S.V. Co-op. Industrial Estate, I.D.A.
Jeedimetla, Hyderabad - 500 055, A.P, INDIA

联系电话: +91-40-23096688

传 真: +91-40-23096677

电子邮箱: info@virchows.com, hyd1_virchow@sancharnet.in

网 址: www.virchows.com

(2) 公司名称: Otsuka Chemical (India) Pvt. Ltd.

地 址: 402, JMD Pacific Square, Sector 15, Part II, Near 32nd
Mile Stone, Gurgaon (Haryana) INDIA

联系电话: + 91-124-4597979

传 真: + 91-124-4597980

电子邮箱: info@otsukaindia.com

网 址: www.otsukaindia.com

2、出口商

根据申请人所掌握的情况, 被调查产品由生产商直接对中国出口。

3、进口商

根据申请人所掌握的情况, 尽最大程度的调查和搜集, 现提供以下所知的中国进口商的名称和信息:

(1) 公司名称: 浙江横店普洛进出口有限公司

公司地址: 浙江省杭州市西湖区曙光路122号浙江世界贸易中心写字楼
A座4层

联系电话：0571-87635701

(2) **公司名称：**湖北凌晟药业有限公司

公司地址：湖北省武汉市团结路东原时光广场B座12楼

联系电话：027-88234270、88234295

(3) **公司名称：**国药（广州）国际医药卫生有限公司

公司地址：广州市天河区黄埔大道西100号之二507-510

联系电话：020-38033300

(4) **公司名称：**吉林北沙制药有限公司

公司地址：吉林省吉林市吉林经济技术开发区政达街138号

联系电话：0432-65116923

(5) **公司名称：**上海亿科精细化学品有限公司

公司地址：上海浦东新区向城路58号23E座

联系电话：021-68406133

(6) **公司名称：**中化河北有限公司

公司地址：河北省石家庄市联盟路707号中化大厦

联系电话：0311-85028888

(7) **公司名称：**中化河北进出口有限公司

公司地址：河北省石家庄市联盟路707号中化大厦

联系电话：0311-7724445

二、 申请调查产品的具体描述和申请人申请的产品调查范围

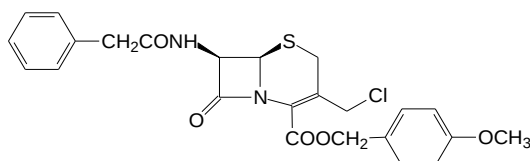
(一) 申请调查产品的具体描述

中文名称：7-苯乙酰氨基-3-氯甲基-4-头孢烷酸对甲氧基苄酯（简称“GCLE”）

英文名称：7-phenylacetamido-3-chloromethyl-3-cephem-4-carboxylic acid p-methoxybenzyl ester (“GCLE”)

化学分子式： $C_{24}H_{23}ClN_2O_5S$

化学结构式：



物理化学特征：GCLE是一种合成头孢菌素类药物的重要有机化工产品，外观通常为白色或类白色结晶性粉末固体，可溶于N,N-二甲基甲酰胺和二氯甲烷。熔点大约在153-160° C。CAS编号: 104146-10-3。

主要用途：

GCLE是继7-ADCA、7-ACA之后合成头孢菌素类药物又一新的重要中间体，可以用于合成几十种头孢产品，特别是第三、第四代头孢产品，如头孢克肟、头孢哌酮、头孢布烯等。在以7-ACA为母核制备的头孢菌素品种中，大部分品种都可以用GCLE来生产，而且以GCLE为母核生产头孢菌素时，产品收率，工艺条件等均具有明显的优势。另外，GCLE还可以用于合成多种内酰胺类抗生素如头孢唑啉，头孢尼西等。

(二) 申请调查产品的原产地、出口国（地区）

申请调查产品原产地为印度，出口国为印度。

(三) 申请调查产品在中华人民共和国关税税则中的序号（税则号）

申请调查产品在中华人民共和国海关进口税则中的税则号为：29349960。产品税则只起到辅助的指示作用，申请调查产品的范围以具体描述为准。

根据《中华人民共和国海关进出口税则》（2017年版），上述税则项下除了申请调查产品7-苯乙酰氨基-3-氯甲基-4-头孢烷酸对甲氧基苄酯（GCLE）之外，还包括7-氨基头孢烷酸、7-氨基脱乙酰氧基头孢烷酸。本次申请调查的产品范围不包括税则号29349960项下除GCLE产品之外的其他产品。请见附件四：中华人民共和国海关进出口税则，2015年版、2016年版和2017年版。

根据申请人所掌握的情况，印度在29349960项下只对中国出口GCLE产品。

（四）申请调查产品的进口关税税率、增值税和监管条件

进口税率：在2015年至2018年期间，从印度进口GCLE产品适用《亚太贸易协定》²所规定的优惠关税税率，即5%，请见附件四：中华人民共和国海关进出口税则，2015年版、2016年版和2017年版。

增值税税率：17%。

三、国内同类产品的具体描述以及与申请调查产品的比较

（一）国内同类产品的具体描述

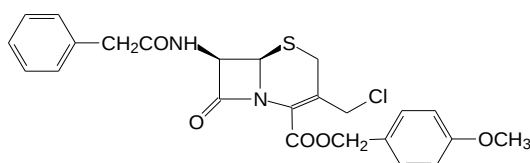
中文名称：7-苯乙酰氨基-3-氯甲基-4-头孢烷酸对甲氧基苄酯（简称“GCLE”）

英文名称：7-phenylacetamido-3-chloromethyl-3-cephem-4-carboxylic acid p-methoxybenzyl ester（“GCLE”）

化学分子式： $C_{24}H_{23}ClN_2O_5S$

化学结构式：

² 根据《亚太经贸协定》的规定，我国对原产于韩国、印度、斯里兰卡、孟加拉和老挝的1891个税目商品实施优惠税率。



物理化学特征：GCLE是一种合成头孢菌素类药物的重要有机化工产品，外观通常为白色或类白色结晶性粉末固体，可溶于N,N-二甲基甲酰胺和二氯甲烷。熔点大约在153-160° C。CAS编号: 104146-10-3。

主要用途:

GCLE是继7-ADCA、7-ACA之后合成头孢菌素类药物又一新的重要中间体，可以用于合成几十种头孢产品，特别是第三、第四代头孢产品，如头孢克肟、头孢哌酮、头孢布烯等。在以7-ACA为母核制备的头孢菌素品种中，大部分品种都可以用GCLE来生产，而且以GCLE为母核生产头孢菌素时，产品收率，工艺条件等均具有明显的优势。另外，GCLE还可以用于合成多种内酰胺类抗生素如头孢唑啉，头孢尼西等。

（二）申请调查产品与国内产业同类产品之比较

1、申请调查产品基本的物理化学特性与国内同类产品的相同或相似性

申请调查产品和申请人生产的同类产品具有相同的化学分子式和结构式，这决定了二者基本的物理特征和化学特性是相同的。通过对申请人产品和印度大冢产品的基本参数和主要指标进行比较，可以看出两者有相同的理化特性，完全能够相互替代。请见**附件五**：印度大冢GCLE产品技术指标，以及**附件六**：申请人国内同类产品技术指标。

表格 2：申请人同类产品与申请调查产品技术指标对比

参数和指标	申请人（宁波人健）	印度大冢（Otsuka Chemical (India)）
含水量	≤0.5%	≤0.4%
杂质总含量	≤2.5%	≤2.45%
含量	≥96.5%	≥95.5%

申请人无法获得Virchow产品的相关技术指标证据。但是，据申请人了解，Virchow公司的产品技术指标和印度大冢以及申请人的产品技术指标基本相同。

2、 申请调查产品与国内同类产品的外观和包装的相同或相似性

申请调查的GCLE产品和申请人生产的同类产品具有基本相同的外观和包装，外观在常温下通常为白色或类白色结晶性粉末，申请人包装通常采用容量为25千克的纸板桶，根据申请人所掌握的情况，印度大冢和Virchow采用容量为30千克的纸板桶。

3、 申请调查产品与国内同类产品使用的原材料的相同或相似性

申请调查的GCLE产品和申请人生产的同类产品使用相同的原材料进行生产，原材料主要都是青霉素钾盐，还有对甲氧基苯甲醇、苯亚磺酸等辅料。

4、 申请调查产品与国内同类产品生产工艺流程和生产设备的相同或相似性

据申请人所掌握的情况，印度企业生产的GCLE产品与申请人的国内同类产品的生产工艺基本相同，均以青霉素钾盐为原料，经过酯化、氧化、开环、取代、氯化、环合等工艺制得GCLE。印度企业和申请人生产GCLE产品的生产设备均主要包括反应釜、接受槽、冷凝器、压滤机、离心机、干燥机等设备。

因此，申请调查产品和申请人生产的GCLE产品的工艺流程和生产设备基本相同，不存在实质性差别。

5、 申请调查产品与国内同类产品用途的相同或相似性

申请调查产品和国内同类产品有相同的用途，可以合成几十种头孢产品，特别是第三、第四代头孢产品，如头孢克肟、头孢地尼、头孢丙烯、头孢妥仑匹酯等。

6、 申请调查产品与国内同类产品的可替代性、销售渠道和客户群体的相同或相似性

申请调查产品与国内同类产品具有可替代性，两者的销售渠道和客户群体的重合度非常

高。申请人在国内市场直接销售给下游用户，印度产品也主要直接销售给中国的下游用户或其关联贸易商。两者的客户群体均是国内的药品生产企业，主要下游用户如【文字保密信息】等既购买、使用申请调查产品，也同时购买、使用申请人生产的同类产品。

【上述括号内的信息为申请人同类产品下游用户的名称，涉及到申请人的商业秘密，披露上述信息会对申请人的利益造成不利影响，也有可能损害以上下游用户的利益，故对上述信息申请保密处理，不予列出。】

7、 结论

综上分析，申请调查产品和申请人生产的GCLE产品在基本的物化特性、外观及包装、主要原材料、生产工艺流程和生产设备、产品用途、销售渠道和客户群体等方面均是基本相同或相似的，二者之间不存在实质性差异，相互之间存在竞争和替代性，属于同类产品。

四、 申请调查产品的进口基本情况

（一） 申请调查产品的进口数量变化情况

1 申请调查产品绝对进口数量变化情况

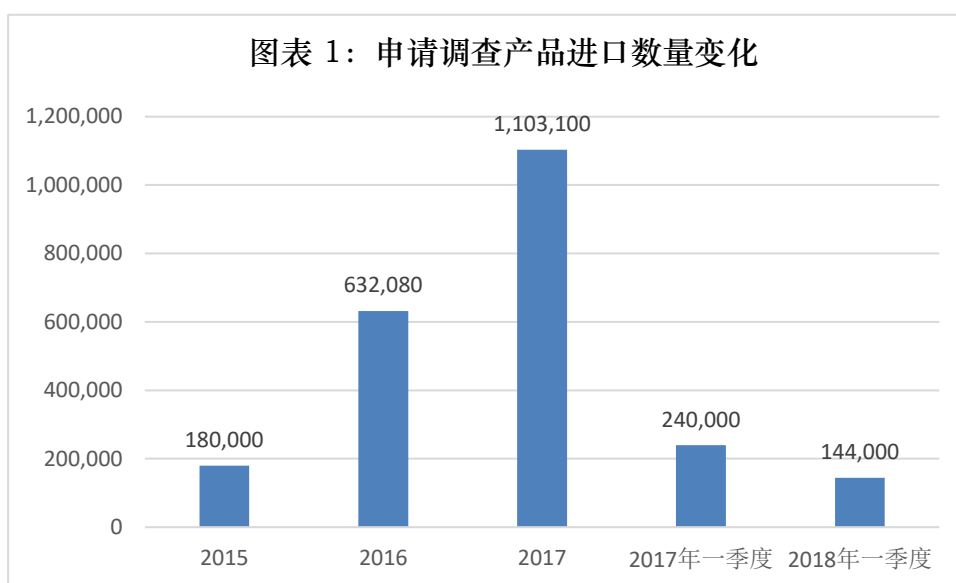
目前世界范围内只有中国和印度生产GCLE产品，因此印度的申请调查产品是中国唯一进口来源。2015年至2018年一季度印度进口GCLE产品情况如下：

表格 3：2015 年至 2018 年一季度申请调查产品进口数量

期间	2015	2016	2017	2017 年 一季度	2018 年 一季度
申请调查产品进口数量 (千克)	180,000	632,080	1,103,100	240,000	144,000
指数变化	100	351	613	133	80

数据来源：附件七：GCLE进口统计数据³。

³ 虽然税则号29349960项下除申请调查产品GCLE，还包括 7-氨基头孢烷酸和 7-氨基脱乙酰氧基头孢烷酸，但根据申请人所掌握的情况，中国不从印度进口该税号项下的其他产品，因此税号29349960项下的进口数据就是申请调查产品的进口数据。附件七“GLCE进口统计数据”，也证明了这一点。



在绝对进口数量方面，2015年以来申请调查产品进口数量呈快速增长的趋势，2015年至2017年，申请调查产品进口数量分别为180,000千克、632,080千克和1,103,100千克，2016年、2017年进口量分别是2015年的3.51倍和6.13倍。2018年一季度进口数量为144,000千克，较2017年一季度有所下降，这是由于主要原材料青霉素钾盐价格在2017年大幅增长，推动了下游用户在2017年下半年增加了库存，致使2018年第一季度为消化库存减少了需求。

2 申请调查产品相对进口数量变化情况

2.1 中国同类产品的需求量变化情况

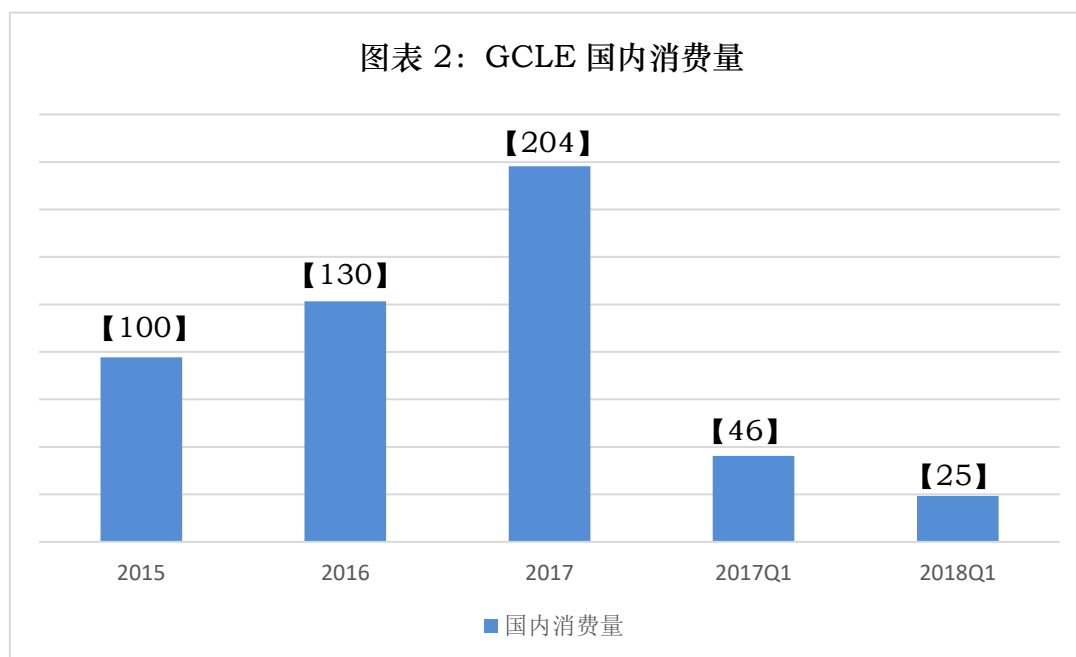
表格 4：2015 年至 2018 年一季度中国 GCLE 市场需求量变化

期间	2015	2016	2017	2017 年一 季度	2018 年一 季度
申请调查产品进口数量 (千克)	180,000	632,080	1,103,100	240,000	144,000
申请人内销数量 (千克)	【490,000- 720,000】	【300,000- 550,000】	【300,000- 640,000】	【60,000- 160,000】	【10,000- 60,000】
国内市场消费量 (千克)	【100】	【130】	【204】	【46】	【25】
国内消费量 (指数)	100	130	204	46	25

说明：（1）国内消费量 = 申请调查产品进口数量 + 国内产业内销数量；

（2）数据来源：附件七：GLCE进口统计数据；附件八：申请人财务数据和报表。

图表 2: GCLE 国内消费量



GCLE可以合成几十种头孢产品，特别是第三、第四代头孢产品，如头孢克肟、头孢哌酮、头孢布烯等。在以7-ACA为母核制备的头孢菌素品种中，大部分品种都可以用GCLE来生产，而且以GCLE为母核生产头孢菌素时，产品收率，工艺条件等均具有明显的优势。另外，由于GCLE的C3位氯甲基活泼的化学反应性给合成新型第三、第四代头孢类抗生素带来优于7-ACA的反应特性，GCLE还可以用于合成多种新型的内酰胺类抗生素，特别是在第四代头孢菌素如头孢地尼，头孢克肟，头孢他啶等的合成上比7-ACA有更大的优势。近年来随着口服药剂的安全优势凸显，GCLE的市场需求继续保持增长的趋势。

如上述图表所示，2015年至2017年，中国GCLE需求量上升明显，从2015年的【100】千克上升到2016年的【130】千克和2017年的【204】千克，增长幅度高达104%。2018年一季度需求量较2017年一季度有较大下降，这是由于主要原材料青霉素钾盐价格在2017年大幅增长，推动了下游用户在2017年下半年增加了库存，致使2018年第一季度下游用户为消化库存减少了需求。这只是短期市场变化，从长期来看GLCE的市场需求依然是持续稳定增长的。

【上述括号内的信息为申请人内销数量和国内市场消费量，其中申请人内销数量属于申请人商业秘密。由于申请人为国内同类产品的唯一生产企业，披露国内市场消费量会导致利害关系方推算出申请人内销数量，从而得知申请人商业秘密。因此，申请人申请对申请人内销数

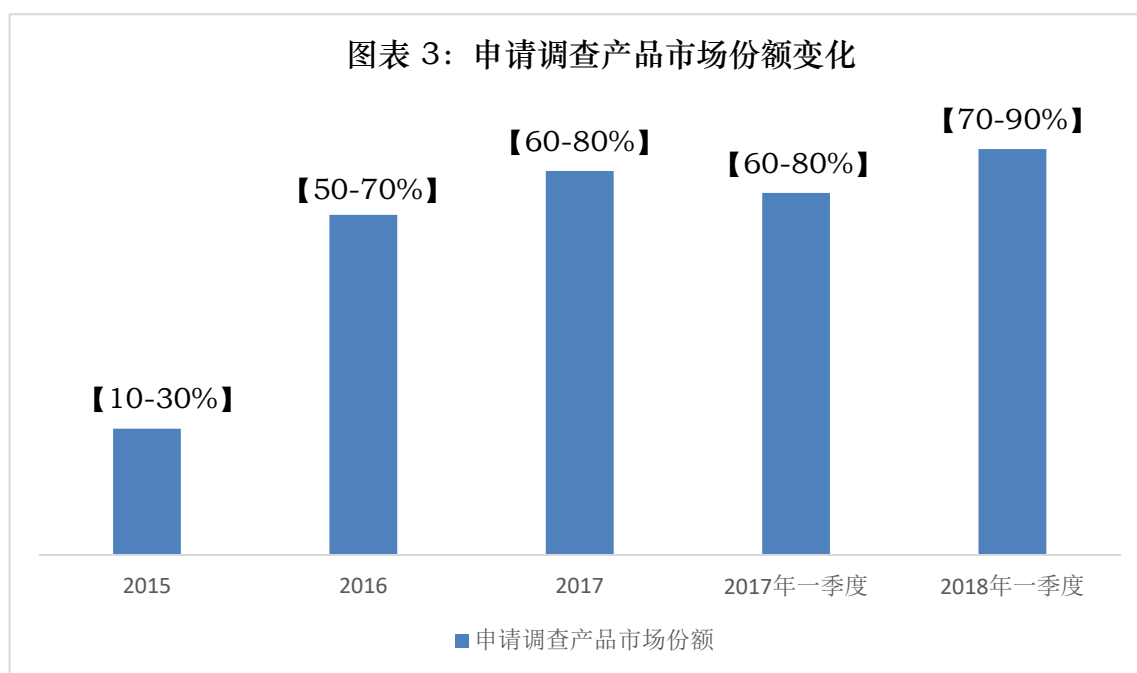
量和国内市场消费量作保密处理，不予公开。为说明中国同类产品的需求量变化情况，申请人对申请人内销数量和国内市场消费量均已分别作区间表示和指数处理。】

2.2 申请调查产品的进口量相对于中国需求量的变化情况

表格 5：2015 年至 2018 年一季度申请调查产品市场份额变化

期间	2015	2016	2017	2017 年一 季度	2018 年一季 度
申请调查产品进口数量（千克）	180,000	632,080	1,103,100	240,000	144,000
国内市场消费量（千克）	【100】	【130】	【204】	【46】	【25】
申请调查产品市场份额	【10-30%】	【50-70%】	【60-80%】	【60-80%】	【70-90%】

说明：申请调查产品市场份额 = 申请调查产品进口数量 / 国内消费量



如上述图表所示，2015年以来，申请产品所占中国市场份额持续大幅度上升，2015、2016和2017年，申请调查产品的市场份额分别为【10-30%】、【50-70%】和【60-80%】，2015年至2017年上升了【30-70】个百分点，完全取代了国内产业同类产品的国内市场份额。2018年一季度，申请调查产品的市场份额相比2017年一季度仍然是上升趋势，从2017年一季度的【60-80%】上升到【70-90%】。

【上述括号内的信息为国内市场消费量和申请调查产品市场份额。由于申请人为国内同类产

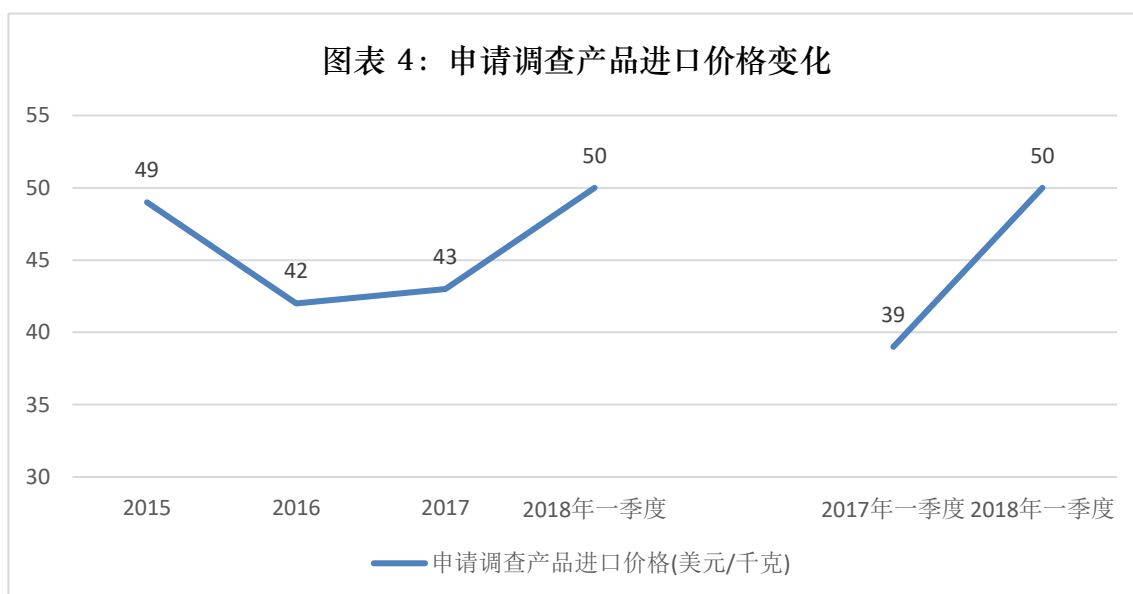
品的唯一生产企业，披露国内市场消费量和申请调查产品市场份额会导致利害关系方推算出申请人内销数量，从而得知申请人商业秘密。因此，申请人申请对国内市场消费量作保密处理和申请调查产品市场份额，不予公开。为说明申请调查产品的进口量相对于中国需求量的变化情况，申请人对国内市场消费量已作指数处理，并以区间表示申请调查产品市场份额的范围。】

(二) 申请调查产品的进口价格变化情况

表格 6：申请调查产品进口价格变化情况

期间	2015	2016	2017	2017 年 一季度	2018 年 一季度
申请调查产品进口数量 (千克)	180,000	632,080	1,103,100	240,000	144,000
申请调查产品进口金额 (美元)	8,749,483	26,386,889	46,899,187	9,382,630	7,188,360
申请调查产品进口价格 (美元/千克)	49	42	43	39	50
申请调查产品进口价格 (指数)	100	86	87	80	103

数据来源：附件七：GLCE进口统计数据；



如上述图表所示，2015年以来，申请调查产品的价格先下降后上升。2015年至2017年，申请调查产品的进口价格分别为49美元/千克、42美元/千克和43美元/千克，相比2015年，

被调查进口产品价格分别在2016年和2017年分别下降了14%和13%。如下文解释，因为GCLE主要原材料青霉素钾盐的价格在2017年开始连续上涨，申请调查产品的进口价格在2018年一季度出现大幅上涨。

五、 补贴

申请调查产品之所以能够多年持续大量低价进入中国市场，与其接受了印度政府的大量补贴密切相关。申请人恳请调查机关对申请调查产品接受补贴的情况进行调查。申请人初步掌握的证据证明，印度中央政府公开执行多项与出口业绩直接挂钩的补贴政策。此外，在安得拉邦（Andhra Pradesh），地方政府也向各企业提供名目繁多的补贴。

（一） 印度中央政府的补贴项目

1 “EPCG” 资本货物出口促进项目（Export Promotion Capital Goods）

此项目法律依据是印度商务部《2015-2020外贸政策》第5章，其政策目的明确表述“为促进印度的出口竞争力，为生产用资本货物的进口提供便利”⁴。根据此项目，企业用于出口产品生产的“资本货物”进口可享受关税免除⁵。要获得此项补贴，企业在6年内的出口额必须不低于免税额的6倍⁶。

中国商务部及其他国家的调查机关曾对此项目采取反补贴措施⁷。

财政资助

印度中央政府对出口企业的进口“资本货物”免征关税，构成了《反补贴条例》第三条下的财政资助，即“出口国（地区）政府放弃或者不收缴应收收入”。

⁴ **附件十**：印度商务部《2015-2020外贸政策》，见第五章。

⁵ **附件十**：印度商务部《2015-2020外贸政策》，见第五章，第5.01条（a）款。

⁶ **附件十**：印度商务部《2015-2020外贸政策》，见第五章，第5.01条（c）款。

⁷ 见**附件十一**：美国商务部——2017年9月《原产于印度的冷拔机械管（Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel）反补贴初裁备忘录》，第20-23页；**附件十二**：美国商务部——2017年10月《原产于印度的细旦涤纶短纤（Fine Denier Polyester Staple Fiber）反补贴初裁备忘录》，第20-22页；**附件十三**：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第17-20页。

中国商务部在对原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定中认定：

“调查机关初步认定，印度政府在该项目下的税收减免，符合上述规定，应认定为财政资助。”⁸

专向性

印度《2015-2020外贸政策》明确规定企业获得此项补贴的资格与出口业绩直接挂钩，即必须在6年内实现免税额6倍的出口。此项目符合《反补贴条例》第四条“以出口实绩为条件获得的补贴”。

中国商务部在对原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定中认定：

“调查机关初步认定，印度政府在该项目下提供的补贴符合上述规定，属于出口补贴，具有专向性。”⁹

利益

印度中央政府放弃本应收取的税收，使获得上述税收减免的企业节省了同样金额的税金支出，构成了《反补贴条例》第三条下的“为接受者带来利益”，利益数额等于企业获得的税金抵免数额。

由于申请人无法通过公开合理渠道获得印度企业实际获得的补贴金额，故恳请调查机关在调查过程中对企业在该补贴项目下的获益情况做进一步的调查。中国商务部在2017年对原产于印度的进口邻氯对硝基苯胺反补贴调查中认定该项目的补贴率为2.71%¹⁰：

⁸ **附件十三**：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第18页。

⁹ **附件十三**：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第18页。

¹⁰ **附件十三**：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第17-20页。

“调查机关将公司报告的调查期及其前 9 年的税收减免金额分摊至本案调查期，并除以同期被调查产品出口额计算了该项目从价补贴率为 2.71%。”

2 “MEIS” 印度出口商品项目 (Merchandise Exports from India Scheme)

此项目法律依据是印度商务部《2015-2020外贸政策》第3.03-3.06节。该项目的政策目的也是：降低在印度本土生产的出口产品的成本，以提升印度出口产品的竞争力。¹¹根据此政策，出口企业可以获得依据FOB出口价计算得出的“关税免税凭证”（duty credit scrip），用于抵免关税、消费税和服务税；出口企业可自由转让其“关税免税凭证”¹²。

中国商务部及其他国家的调查机关曾对此项目采取反补贴措施¹³。

财政资助

印度中央政府以税收抵免额度奖励出口，构成了《反补贴条例》第三条下的财政资助，即“出口国（地区）政府放弃或者不收缴应收收入”。

中国商务部在对原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定中认定：

“调查机关初步认定，印度政府在该项目下的税收减免，符合上述规定，应认定为财政资助。”¹⁴

专向性

企业获得此项补贴的资格与其出口业绩直接挂钩，即补贴额度依据企业FOB出口价得出。此项目符合《反补贴条例》第四条“以出口实绩为条件获得的补贴”的规定。

¹¹ 附件十：印度商务部《2015-2020外贸政策》，第五章，第3.03节。

¹² 附件十五：印度商务部《2015-2016年度报告》，第4章；附件十：印度商务部《2015-2020外贸政策》，第三章，第3.02节。

¹³ 见附件十三：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第29-33页；附件十一：美国商务部——2017年9月《原产于印度的冷拔机械管（Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel）反补贴初裁备忘录》，第16-17页。

¹⁴ 附件十三：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第30页。

中国商务部在对原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定中认定：

*“调查机关初步认定，印度政府在该项目下提供的补贴符合上述规定，属于出口补贴，具有专向性。”*¹⁵

利益

印度中央政府放弃本应收取的税收，使获得上述税收减免的企业节省了同样金额的税金支出，构成了《反补贴条例》第三条下的“为接受者带来利益”，利益数额等于企业获得的税金抵免数额。

由于申请人无法通过公开合理渠道获得印度企业实际获得的补贴金额，故恳请调查机关在调查过程中对企业在该补贴项目下的获益情况做进一步的调查。中国商务部在2017年对原产于印度的进口邻氯对硝基苯胺反补贴调查中认定该项目的补贴率为4.70%¹⁶：

“现有证据表明，印度法律规定出口企业最高可以获得相当于其 FOB 出口额 5% 的“关税免税凭证”。在初裁中，调查机关据此计算了被调查产品该项目从价补贴率为 4.70%。……

据此，调查机关决定，在终裁中维持初裁认定。”

3 经济特区（SEZ）内企业免除进口货物关税

现行经济特区政策的法律依据的是《2005经济特区法案》（Special Economic Zones Act 2005）和《2006年经济特区条例》（Special Economic Zones Rules）。设立经济特区是为了促进出口¹⁷。任何法人、中央政府和邦政府均可单独或共同设立从事商品制造或提供服务（或两者兼具）的经济特区。¹⁸经济特区有众多补贴项目，特区企业可以享受多种形式的直接税和间接税补贴。《2006年经济特区条例》明确规定特区企业获得各种补贴的前提

¹⁵ **附件十三**：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第31页。

¹⁶ 见**附件十三**：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第32页。

¹⁷ 见**附件十六**：印度《2005经济特区法案》，前言

¹⁸ 见**附件十六**：印度《2005经济特区法案》，第二章，第3.（1）条。

条件是，必须在投产后的5年内实现累计“净创汇”（net foreign exchange earnings）¹⁹。

特区企业进口的所有货物均免征关税²⁰。免税范围既包括原材料也包括“资本货物”（capital goods）。根据印度《2006年经济特区条例》的规定，“资本货物”的范围无所不包，涵盖了经济特区内直接或间接用于生产、服务、开发、建设、测试、研发、环保等诸多方面的厂房、机械设备等等物资²¹。

WTO《补贴与反补贴措施协定》允许对出口产品生产过程中的“投入物”（inputs）免征进口关税。根据《补贴与反补贴措施协定》脚注61，生产过程中消耗的“投入物”仅限于“生产过程中使用的物理结合的投入物、能源、燃料和油以及在用以获得出口产品过程中所消耗的催化剂”。印度对经济开发区内企业的所有进口物资均免征关税的政策明显违反了WTO规则。

中国商务部和其他国家调查机关曾对此项目采取反补贴措施²²。

财政资助

印度政府免征特区企业所有进口货物的关税，构成了《反补贴条例》第三条下的财政资助，即“出口国（地区）政府放弃或者不收缴应收收入”。

中国商务部在对原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定中认定：

“现有证据表明，该项目是印度《2005 经济特区法案》中所规定的经济特区内企业众多税收优惠政策之一，特区内企业采购货物免征关税。根据《反补贴条例》第三条的规定，出口国（地区）政府放弃或者不收缴应收收入是财政资助的一种方式。调查机关初步认定，印度政府在该项目下的税收减免，符合上述规定，应认定为财政资助。”

¹⁹ **附件十七**：《2006年经济特区条例》，第四章及第六章。

²⁰ **附件十六**：印度《2005经济特区法案》，第六章。

²¹ **附件十七**：《2006年经济特区条例》，第一章。

²² 见**附件十三**：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第39页；**附件十二**：美国商务部——2017年10月《原产于印度的细旦涤纶短纤（Fine Denier Polyester Staple Fiber）反补贴初裁备忘录》，第9-10页。

专向性

印度《2006年经济特区条例》明确规定特区企业获得补贴的资格与出口业绩直接挂钩，即必须在投产后的5年内实现累计“净创汇”。此项目符合《反补贴条例》第四条“以出口实绩为条件获得的补贴”的规定。

中国商务部在对原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定中认定：

“调查机关初步认定，印度政府在该项目下提供的补贴符合上述规定，属于出口补贴，具有专向性。”²⁴

利益

印度政府放弃本应收取的税收，使获得上述税收减免的企业节省了同样金额的税金支出，构成了《反补贴条例》第三条下的“为接受者带来利益”，利益数额等于企业获得的税金减免数额。

由于申请人无法通过公开合理渠道获得印度企业实际获得的补贴金额，故恳请调查机关在调查过程中对企业在该补贴项目下的获益情况做进一步的调查。中国商务部在2017年对原产于印度的进口邻氯对硝基苯胺反补贴调查中认定该项目的补贴率为0.14%²⁵：

“在初裁中，调查机关以公司报告调查期出口销售收入和公司申报的税收减免金额为基础，计算该项目被调查产品从价补贴率为0.14%。初裁后，没有利害关系方对此提出评论意见。经进一步调查，调查机关决定在终裁中维持初裁认定。”

4 经济特区（SEZ）内企业境内采购货物免除消费税

²³ 附件十三：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第36页。

²⁴ 附件十三：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第37页。

²⁵ 附件十三：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第39页。

此项目法律依据是印度《2005经济特区法案》，目的是为了促进出口。经济特区内的企业从印度境内的非经济特区地区采购的所有货物均免征消费税（excise duty）²⁶。

《2006年经济特区条例》明确规定特区内企业享受此项补贴的前提条件是在投产后的5年内实现累计“净创汇”。

消费税属于间接税。虽然WTO《补贴与反补贴措施协定》允许“对于出口产品的生产和分销”免除间接税²⁷，但此项补贴适用于从境内非经济特区地区采购的所有货物，与“出口产品的生产和分销”无关，明显违反了WTO规则。

中国商务部曾对此项目采取反补贴措施²⁸。

财政资助

印度政府免征经济特区企业境内采购货物的消费税，构成了《反补贴条例》第三条下的财政资助，即“出口国（地区）政府放弃或者不收缴应收收入”。

中国商务部在对原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定中认定该项目属于财政资助：

*“现有证据表明，该项目是印度《2005 经济特区法案》和《古吉拉特经济特区法案 2004》中所规定的经济特区内企业众多税收优惠政策。为了向经济特区吸引投资，促进特区货物和劳务的出口，特区内的企业享受各种类型的税收减免。根据《反补贴条例》第三条的规定，出口国（地区）政府放弃或者不收缴应收收入是财政资助的一种方式。调查机关初步认定，印度政府在这些项目下的税收减免，符合上述规定，应认定为财政资助。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。”*²⁹

专向性

²⁶ **附件十六**：印度《2005经济特区法案》，第六章。

²⁷ 见WTO《补贴与反补贴措施协定》脚注58。

²⁸ 见**附件十三**：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第39-43页。

²⁹ **附件十三**：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第40页。

印度《2006年经济特区条例》明确规定特区企业获得补贴的资格与出口业绩直接挂钩，即必须在投产后的5年内实现累计“净创汇”。此项目符合《反补贴条例》第四条“以出口实绩为条件获得的补贴”的规定。

中国商务部在对原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定中认定：

“现有证据表明，印度《2005 经济特区法案》和《古吉拉特经济特区法案 2004》目标之一是促进货物和劳务的出口。法案明确规定特区企业获得税收减免前提条件是必须在设立 5 年内实现累计“净创汇”。印度政府通过立法形式将补贴获得明确限于某些企业，并且与出口业绩挂钩，根据《反补贴条例》第四条的规定，由出口国（地区）法律、法规明确规定某些企业获得的补贴具有专向性。调查机关初步认定，印度政府这些税收减免提供的补贴符合上述规定，属于出口补贴，具有专向性。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。”

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利益

印度政府放弃本应收取的税收，使获得上述税收减免的企业节省了同样金额的税金支出，构成了《反补贴条例》第三条下的“为接受者带来利益”，利益数额等于企业获得的税金减免数额。

由于申请人无法通过公开合理渠道获得印度企业实际获得的补贴金额，故恳请调查机关在调查过程中对企业在该补贴项目下的获益情况做进一步的调查。中国商务部在2017年对原产于印度的进口邻氯对硝基苯胺反补贴调查中认定该项目存在补贴³¹：

“根据印度法律规定，位于特区的企业免除增值税、中央销售税、服务税、免除邦销售税及其它邦政府的税赋。上述税的免除是印度政府的税收激励措施之一，给予特区内的企业，并且与出口业绩挂钩。因此，调查机关有理由推定，相对于特区外的企业，特区

³⁰ 附件十三：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第37页。

³¹ 附件十三：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第42-43页。

内的企业获得这些税收减免使之获得了市场竞争优势。

.....

综上，在初裁中，调查机关以公司报告调查期出口销售收入和公司申报的税收减免金额为基础，计算该项目被调查产品从价补贴率为 0.74%。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。”

5 经济特区（SEZ）内企业免除中央销售税（CST）

此项目法律依据是印度《2005经济特区法案》，目的是为了促进出口。印度政府对经济特区内的企业免征中央销售税（Central Sales Tax “CTS”）³²。《2006年经济特区条例》明确规定特区企业享受此项补贴的前提条件是在开始生产后的5年内实现累计“净创汇”。

中国商务部及其他国家的调查机关曾对此项目采取反补贴措施³³。

财政资助

印度政府免征经济特区企业的中央销售税，构成了《反补贴条例》第三条下的财政资助，即“出口国（地区）政府放弃或者不收缴应收收入”。

中国商务部在对原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定中对该项目认定：

“现有证据表明，该项目是印度《2005 经济特区法案》和《古吉拉特经济特区法案 2004》中所规定的经济特区内企业众多税收优惠政策。为了向经济特区吸引投资，促进特区货物和劳务的出口，特区内的企业享受各种类型的税收减免。根据《反补贴条例》第三条的规定，出口国（地区）政府放弃或者不收缴应收收入是财政资助的一种方式。调查机关初步认定，印度政府在这些项目下的税收减免，符合上述规定，应认

³² **附件十六**：印度《2005经济特区法案》，第六章。

³³ **附件十三**：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第39-43页；**附件十二**：美国商务部——2017年10月《原产于印度的细旦涤纶短纤（Fine Denier Polyester Staple Fiber）反补贴初裁备忘录》，第10页。

定为财政资助。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。”³⁴

专向性

印度《2006年经济特区条例》明确规定特区企业获得补贴的资格与出口业绩直接挂钩，即必须在投产后的5年内实现累计“净创汇”。此项目符合《反补贴条例》第四条“以出口实绩为条件获得的补贴”的规定。

中国商务部在对原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定中对该项目认定：

“现有证据表明，印度《2005 经济特区法案》和《古吉拉特经济特区法案 2004》目标之一是促进货物和劳务的出口。法案明确规定特区企业获得税收减免前提条件是必须在设立 5 年内实现累计“净创汇”。印度政府通过立法形式将补贴获得明确限于某些企业，并且与出口业绩挂钩，根据《反补贴条例》第四条的规定，由出口国（地区）法律、法规明确规定某些企业获得的补贴具有专向性。调查机关初步认定，印度政府这些税收减免提供的补贴符合上述规定，属于出口补贴，具有专向性。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。”

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利益

印度政府放弃本应收取的税收，使获得上述税收减免的企业节省了同样金额的税金支出，构成了《反补贴条例》第三条下的“为接受者带来利益”，利益数额等于企业获得的税金抵免数额。

由于申请人无法通过公开合理渠道获得印度企业实际获得的补贴金额，故恳请调查机关在调查过程中对企业在该补贴项目下的获益情况做进一步的调查。中国商务部在2017年对

³⁴ 附件十三：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第40页。

³⁵ 附件十三：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第37页。

原产于印度的进口邻氯对硝基苯胺反补贴调查中认定该项目存在补贴³⁶：

“根据印度法律规定，位于特区的企业免除增值税、中央销售税、服务税、免除邦销售税及其它邦政府的税赋。上述税的免除是印度政府的税收激励措施之一，给予特区内的企业，并且与出口业绩挂钩。因此，调查机关有理由推定，相对于特区外的企业，特区内的企业获得这些税收减免使之获得了市场竞争优势。

.....

综上，在初裁中，调查机关以公司报告调查期出口销售收入和公司申报的税收减免金额为基础，计算该项目被调查产品从价补贴率为 0.74%。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。”

6 经济特区（SEZ）内企业免除服务税

此项目的法律依据是印度《2005经济特区法案》，目的是为了促进出口。印度政府对经济特区内的企业免征服务税（Service Tax）³⁷。《2006年经济特区条例》明确规定特区企业享受此项补贴的前提条件是，必须在投产后的5年内实现累计“净创汇”。

中国商务部曾对此项目采取反补贴措施³⁸。

财政资助

印度政府免征经济特区企业的服务税，构成了《反补贴条例》第三条下的财政资助，即“出口国（地区）政府放弃或者不收缴应收收入”。

中国商务部在对原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定中对该项目认定：

“现有证据表明，该项目是印度《2005 经济特区法案》和《古吉拉特经济特区法案 2004》中所规定的经济特区内企业众多税收优惠政策。为了向经济特区吸引投资，促

³⁶ **附件十三**：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第43页。

³⁷ **附件十六**：印度《2005经济特区法案》，第六章。

³⁸ **附件十三**：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第39-43页。

进特区货物和劳务的出口，特区内的企业享受各种类型的税收减免。根据《反补贴条例》第三条的规定，出口国（地区）政府放弃或者不收缴应收收入是财政资助的一种方式。调查机关初步认定，印度政府在这些项目下的税收减免，符合上述规定，应认定为财政资助。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。”³⁹

专向性

印度《2006年经济特区条例》明确规定特区企业获得补贴的资格与出口业绩直接挂钩，即必须在投产后5年内实现累计“净创汇”。此项目符合《反补贴条例》第四条“以出口实绩为条件获得的补贴”的规定。

中国商务部在对原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定中对该项目认定：

“现有证据表明，印度《2005 经济特区法案》和《古吉拉特经济特区法案 2004》目标之一是促进货物和劳务的出口。法案明确规定特区企业获得税收减免前提条件是必须在设立 5 年内实现累计“净创汇”。印度政府通过立法形式将补贴获得明确限于某些企业，并且与出口业绩挂钩，根据《反补贴条例》第四条的规定，由出口国（地区）法律、法规明确规定某些企业获得的补贴具有专向性。调查机关初步认定，印度政府这些税收减免提供的补贴符合上述规定，属于出口补贴，具有专向性。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。”

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利益

印度政府放弃本应收取的税收，使获得上述税收减免的企业节省了同样金额的税金支出，构成了《反补贴条例》第三条下的“为接受者带来利益”，利益数额等于企业获得的税金抵

³⁹ 附件十三：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第40页。

⁴⁰ 附件十三：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第37页。

免数额。

由于申请人无法通过公开合理渠道获得印度企业实际获得的补贴金额，故恳请调查机关在调查过程中对企业在该补贴项目下的获益情况做进一步的调查。中国商务部在2017年对原产于印度的进口邻氯对硝基苯胺反补贴调查中认定该项目存在补贴⁴¹：

“根据印度法律规定，位于特区的企业免除增值税、中央销售税、服务税、免除邦销售税及其它邦政府的税赋。上述税的免除是印度政府的税收激励措施之一，给予特区内的企业，并且与出口业绩挂钩。因此，调查机关有理由推定，相对于特区外的企业，特区内的企业获得这些税收减免使之获得了市场竞争优势。

.....

综上，在初裁中，调查机关以公司报告调查期出口销售收入和公司申报的税收减免金额为基础，计算该项目被调查产品从价补贴率为 0.74%。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。”

7 经济特区（SEZ）内企业免除电力税和附加税（cess）

设立此项目的法律依据是的《2005经济特区法案》，目的是为了促进出口和与之有关的事项。印度政府对经济特区内的企业免征电力税⁴²和附加税（cess）⁴³。《2006年经济特区条例》明确规定特区企业享受此项补贴的前提条件是，必须在投产后的5年内实现累计“净创汇”。

中国商务部及其他国家的调查机关曾对此项目采取反补贴措施⁴⁴。

财政资助

印度政府免征经济特区企业的电力税和附加税（cess），构成了《反补贴条例》第三条

⁴¹ **附件十三**：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第43页。

⁴² **附件十八**：印度Odisha邦政府关于SEZ激励政策的网站介绍。

⁴³ **附件十六**：印度《2005经济特区法案》，第六章。

⁴⁴ **附件十三**：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第39-43页；**附件十二**：美国商务部——2017年10月《原产于印度的细旦涤纶短纤（Fine Denier Polyester Staple Fiber）反补贴初裁备忘录》，第10页。

下的财政资助，即“出口国（地区）政府放弃或者不收缴应收收入”。

中国商务部在对原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定中对该项目认定：

“现有证据表明，该项目是印度《2005 经济特区法案》和《古吉拉特经济特区法案 2004》中所规定的经济特区内企业众多税收优惠政策。为了向经济特区吸引投资，促进特区货物和劳务的出口，特区内的企业享受各种类型的税收减免。根据《反补贴条例》第三条的规定，出口国（地区）政府放弃或者不收缴应收收入是财政资助的一种方式。调查机关初步认定，印度政府在这些项目下的税收减免，符合上述规定，应认定为财政资助。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。”⁴⁵

专向性

印度《2006年经济特区条例》明确规定特区企业获得补贴的资格与出口业绩直接挂钩，即必须在设立5年内实现累计“净创汇”。此项目符合《反补贴条例》第四条“以出口实绩为条件获得的补贴”的规定。

中国商务部在对原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定中对该项目认定：

“现有证据表明，印度《2005 经济特区法案》和《古吉拉特经济特区法案 2004》目标之一是促进货物和劳务的出口。法案明确规定特区企业获得税收减免前提条件是必须在设立 5 年内实现累计“净创汇”。印度政府通过立法形式将补贴获得明确限于某些企业，并且与出口业绩挂钩，根据《反补贴条例》第四条的规定，由出口国（地区）法律、法规明确规定某些企业获得的补贴具有专向性。调查机关初步认定，印度政府这些税收减免提供的补贴符合上述规定，属于出口补贴，具有专向性。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。”

⁴⁵ 附件十三：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第40页。

利益

印度政府放弃本应收取的税收，使获得上述税收减免的企业节省了同样金额的税金支出，构成了《反补贴条例》第三条下的“为接受者带来利益”，利益数额等于企业获得的税金抵免数额。

由于申请人无法通过公开合理渠道获得印度企业实际获得的补贴金额，故恳请调查机关在调查过程中对企业在该补贴项目下的获益情况做进一步的调查。中国商务部在2017年对原产于印度的进口邻氯对硝基苯胺反补贴调查中认定该项目存在补贴⁴⁷：

“根据印度法律规定，位于特区的企业免除增值税、中央销售税、服务税、免除邦销售税及其它邦政府的税赋。上述税的免除是印度政府的税收激励措施之一，给予特区内的企业，并且与出口业绩挂钩。因此，调查机关有理由推定，相对于特区外的企业，特区内的企业获得这些税收减免使之获得了市场竞争优势。

.....

综上，在初裁中，调查机关以公司报告调查期出口销售收入和公司申报的税收减免金额为基础，计算该项目被调查产品从价补贴率为 0.74%。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。”

8 出口导向企业（EOU）免除进口货物的关税

印度对出口导向企业（Export Oriented Unit）的补贴政策与上述经济特区企业补贴政策类似。根据印度商务部《2015-2020外贸政策》第六章，承诺所有产品都用于出口的，且投资标准不低于1千万印度卢比的，可以申请设立出口导向企业（EOU）。该项目是为了促进出口、增加外汇收入、吸引对出口产品的投资和促进就业⁴⁸。

根据此项目，印度政府对出口导向企业进口的所有货物均免征关税。免税范围既包括原

⁴⁶ 附件十三：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第37页。

⁴⁷ 附件十三：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第43页。

⁴⁸ 附件十：印度商务部《2015-2020外贸政策》，第六章，第6.00节和第6.06节。

材料也包括“资本货物”（capital goods）。印度《2015-2020外贸政策》明确规定，出口导向企业获得补贴的前提条件是必须在投产后的5年内实现累计“净创汇”（net foreign exchange earnings）⁴⁹。

WTO《补贴与反补贴措施协定》允许对出口产品生产过程中的“投入物”（inputs）免征进口关税。根据《补贴与反补贴措施协定》脚注61，生产过程中消耗的“投入物”仅限于“生产过程中使用的物理结合的投入物、能源、燃料和油以及在用以获得出口产品过程中所消耗的催化剂”。印度对出口导向企业的所有进口均免征关税的政策明显违反了WTO规则。

其他国家调查机关曾对该项目实施反补贴措施⁵⁰。

财政资助

印度政府免征出口导向企业所有进口货物的关税，构成了《反补贴条例》第三条下的财政资助，即“出口国（地区）政府放弃或者不收缴应收收入”。

美国商务部在2017年9月《原产于印度的细旦涤纶短纤（Fine Denier Polyester Staple Fiber）反补贴初裁备忘录》中认定该项目属于财政资助：

*“根据目前已有的案件信息，我们初步认定这些项目构成政府财政资助并且具备专向性。”*⁵¹

专向性

印度《2015-2020外贸政策》明确规定出口导向企业获得补贴的资格与出口业绩直接挂钩，即必须在投产后的5年内实现累计“净创汇”。此项目符合《反补贴条例》第四条

⁴⁹ **附件十一**：印度商务部《2015-2020外贸政策》，第六章，第6.01节和第6.04节。

⁵⁰ **附件十二**：美国商务部——2017年10月《原产于印度的细旦涤纶短纤（Fine Denier Polyester Staple Fiber）反补贴初裁备忘录》，第14页。

⁵¹ **附件十二**：美国商务部——2017年10月《原产于印度的细旦涤纶短纤（Fine Denier Polyester Staple Fiber）反补贴初裁备忘录》，第10-11页。

“以出口实绩为条件获得的补贴”的规定。

美国商务部在2017年9月《原产于印度的细旦涤纶短纤（Fine Denier Polyester Staple Fiber）反补贴初裁备忘录》中认定该项目符合法律关于专向性的要求：

“根据目前已有的案件信息，我们初步认定这些项目构成政府财政资助并且具备专向性。”⁵²

利益

印度政府放弃本应收取的税收，使获得上述税收减免的企业节省了同样金额的税金支出，构成了《反补贴条例》第三条下的“为接受者带来利益”，利益数额等于企业获得的税金抵免数额。

美国商务部在2017年9月《原产于印度的细旦涤纶短纤（Fine Denier Polyester Staple Fiber）反补贴初裁备忘录》中认定该项目的补贴率为1.23%⁵³。

9 出口导向企业（EOU）境内采购货物免除中央消费税

该项目法律依据是印度商务部《2015-2020外贸政策》第6章，目的是促进出口、增加外汇收入、吸引对出口产品的投资和促进就业。根据此项目，印度政府免征出口导向企业在境内采购货物的中央消费税（Central Excise Duty）。印度《2015-2020外贸政策》明确规定，出口导向企业获得补贴的前提条件是必须在生产开始5年内实现累计“净创汇”（net foreign exchange earnings）。⁵⁴

消费税属于间接税。虽然WTO《补贴与反补贴措施协定》允许“对于出口产品的生产和分销”免除间接税，但此项补贴适用于从境内采购的所有货物，与“出口产品的生产和分

⁵² **附件十二**：美国商务部——2017年10月《原产于印度的细旦涤纶短纤（Fine Denier Polyester Staple Fiber）反补贴初裁备忘录》，第10-11页。

⁵³ **附件十二**：美国商务部——2017年10月《原产于印度的细旦涤纶短纤（Fine Denier Polyester Staple Fiber）反补贴初裁备忘录》，第14页。

⁵⁴ **附件十一**：印度商务部《2015-2020外贸政策》，第六章，第6.11节，第6.04节。

销”无关，明显违反了WTO规则。

财政资助

印度政府免征出口导向企业在境内采购货物的中央消费税，构成了《反补贴条例》第三条下的财政资助，即“出口国（地区）政府放弃或者不收缴应收收入”。

专向性

印度《2015-2020外贸政策》明确规定出口导向企业获得补贴的资格与出口业绩直接挂钩，即必须在设立5年内实现累计“净创汇”。此项目符合《反补贴条例》第四条关于“以出口实绩为条件获得的补贴”的要求。

利益

印度政府放弃本应收取的税收，使获得上述税收减免的企业节省了同样金额的税金支出，构成了《反补贴条例》第三条下的“为接受者带来利益”，利益数额等于企业获得的税金减免数额。

10 出口导向企业（EOU）境内采购货物返还中央销售税（CST）

该项目法律依据是印度商务部《2015-2020外贸政策》第6章，目的是促进出口、增加外汇收入、吸引对出口产品的投资和促进就业。根据此项目，印度政府免征出口导向企业在境内采购货物的中央销售税（CST）。印度《2015-2020外贸政策》明确规定，出口导向企业获得补贴的前提条件是必须在生产开始后的5年内实现累计“净创汇”（net foreign exchange earnings）⁵⁵。

销售税属于间接税。虽然WTO《补贴与反补贴措施协定》允许“对于出口产品的生产和分销”免除间接税，但此项补贴适用于从境内采购的所有货物，与“出口产品的生产和分销”无关，明显违反了WTO规则。

⁵⁵ **附件十**：印度商务部《2015-2020外贸政策》，第六章，第6.11节，第6.04节。

其他国家调查机关曾对该项目实施反补贴措施⁵⁶。

财政资助

印度政府免征出口导向企业在境内采购货物的中央消费税，构成了《反补贴条例》第三条下的财政资助，即“出口国（地区）政府放弃或者不收缴应收收入”。

美国商务部在2017年9月《原产于印度的细旦涤纶短纤（Fine Denier Polyester Staple Fiber）反补贴初裁备忘录》中认定该项目属于财政资助：

*“根据目前已有的案件信息，我们初步认定这些项目构成政府财政资助并且具备专向性。”*⁵⁷

专向性

印度《2015-2020外贸政策》明确规定出口导向企业获得补贴的资格与出口业绩直接挂钩，即必须在设立5年内实现累计“净创汇”。此项目符合《反补贴条例》第四条关于“以出口实绩为条件获得的补贴”的要求。

美国商务部在2017年9月《原产于印度的细旦涤纶短纤（Fine Denier Polyester Staple Fiber）反补贴初裁备忘录》中认定该项目符合法律关于专向性的要求：

*“根据目前已有的案件信息，我们初步认定这些项目构成政府财政资助并且具备专向性。”*⁵⁸

利益

⁵⁶ **附件十二**：美国商务部——2017年10月《原产于印度的细旦涤纶短纤（Fine Denier Polyester Staple Fiber）反补贴初裁备忘录》，第15页。

⁵⁷ **附件十二**：美国商务部——2017年10月《原产于印度的细旦涤纶短纤（Fine Denier Polyester Staple Fiber）反补贴初裁备忘录》，第10-11页。

⁵⁸ **附件十二**：美国商务部——2017年10月《原产于印度的细旦涤纶短纤（Fine Denier Polyester Staple Fiber）反补贴初裁备忘录》，第10-11页。

印度政府放弃本应收取的税收，使获得上述税收减免的企业节省了同样金额的税金支出，构成了《反补贴条例》第三条下的“为接受者带来利益”，利益数额等于企业获得的税金抵免数额。

美国商务部在2017年9月《原产于印度的细旦涤纶短纤（Fine Denier Polyester Staple Fiber）反补贴初裁备忘录》中认定该项目的补贴率为0.53%⁵⁹。

11 预先授权项目(Advance Authorisation Program)

此项目法律依据是印度《2015-2020外贸政策》第四章。根据此项目，企业在进口用于生产出口产品的所有投入物均免征关税。企业获得年度预先授权的前提是已有两年的出口实践；预先授权涉及的进口额，为上一年度实际出口FOB金额的3倍，或1千万印度卢比（取更高者）；且出口产品增值比例要达到15%⁶⁰。

其他国家的调查机关曾对此项目采取反补贴措施⁶¹。

财政资助

印度政府免征出口导向企业所有进口货物的关税，构成了《反补贴条例》第三条下的财政资助，即“出口国（地区）政府放弃或者不收缴应收收入”。

美国商务部在2018年2月《原产于印度的聚四氟乙烯树脂（polytetrafluoroethylene resin）反补贴初裁备忘录》中认定“印度政府通过该项目免除了应诉出口商的进口关税，属于财政资助”⁶²。

⁵⁹ **附件十二**：美国商务部——2017年10月《原产于印度的细旦涤纶短纤（Fine Denier Polyester Staple Fiber）反补贴初裁备忘录》，第15页。

⁶⁰ **附件十**：印度商务部《2015-2020外贸政策》，第四章，第4.03节，第4.07节，第4.09节。

⁶¹ **附件十二**：美国商务部——2017年10月《原产于印度的细旦涤纶短纤（Fine Denier Polyester Staple Fiber）反补贴初裁备忘录》，第15-18页；**附件十四**：美国商务部——2018年2月《原产于印度的聚四氟乙烯树脂（polytetrafluoroethylene resin）反补贴初裁备忘录》，第13-15页。

⁶² **附件十四**：美国商务部——2018年2月《原产于印度的聚四氟乙烯树脂（polytetrafluoroethylene resin）反补贴初裁备忘录》，第14页。

专向性

印度《2015-2020外贸政策》明确规定出口导向企业获得补贴的资格与出口业绩直接挂钩。此项目符合《反补贴条例》第四条关于“以出口实绩为条件获得的补贴”的要求。

美国商务部在2018年2月《原产于印度的聚四氟乙烯树脂（polytetrafluoroethylene resin）反补贴初裁备忘录》中认定“该项目因出口实绩为条件，符合法律要求”⁶³。

利益

印度政府放弃本应收取的税收，使获得上述税收减免的企业节省了同样金额的税金支出，构成了《反补贴条例》第三条下的“为接受者带来利益”，利益数额等于企业获得的税金抵免数额。

由于申请人无法通过公开合理渠道获得印度企业实际获得的补贴金额，故恳请调查机关在调查过程中对企业在该补贴项目下的获益情况做进一步的调查。美国商务部在2018年对原产于印度的聚四氟乙烯树脂反补贴调查中认定该项目存在0.99%的补贴率⁶⁴。

12 免税进口授权（Duty Free Import Authorization）

此项目的法律依据是印度《2015-2020外贸政策》。根据此项目，企业在进口用于生产出口产品的所有投入物均免征基本关税。该补贴要求出口产品增值比例达到20%⁶⁵。

财政资助

印度政府免征出口导向企业所有进口货物的关税，构成了《反补贴条例》第三条下的财政资助，即“出口国（地区）政府放弃或者不收缴应收收入”。

⁶³ **附件十四**：美国商务部——2018年2月《原产于印度的聚四氟乙烯树脂（polytetrafluoroethylene resin）反补贴初裁备忘录》，第14页。

⁶⁴ **附件十四**：美国商务部2018年2月《原产于印度的聚四氟乙烯树脂（polytetrafluoroethylene resin）反补贴初裁备忘录》，第15页。

⁶⁵ **附件十五**：印度商务部《2015-2020外贸政策》，第四章，第4.25节，第4.28节。

专向性

印度《2015-2020外贸政策》明确规定出口导向企业获得补贴的资格与出口业绩直接挂钩，即出口产品增值要达到20%。此项目属于《反补贴条例》第四条“以出口实绩为条件获得的补贴”。

利益

印度政府放弃本应收取的税收，使获得上述税收减免的企业节省了同样金额的税金支出，构成了《反补贴条例》第三条下的“为接受者带来利益”，利益数额等于企业获得的税金减免数额。

13 研发费用所得税减免 (Income Tax Deductions for Research and Development Expenses)

此项目的法律依据是1961年印度所得税法第35（2AB）节。根据此规定，除印度所得税法表11规定的清单外，生物技术公司或任何生产企业经当局批准，在科学研究中产生的费用（非土地或建筑物费用），可在所得税方面享受研发费用2倍扣除的优惠⁶⁶。

其他国家的调查机关曾对此项目采取反补贴措施⁶⁷。

财政资助

印度政府对企业研发费用的所得税减免，构成了《反补贴条例》第三条下的财政资助，即“出口国（地区）政府放弃或者不收缴应收收入”。

美国商务部在2017年9月《原产于印度的冷拔机械管（Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel）反补贴初裁备忘录》中认定，“该项目

⁶⁶ **附件十九**：印度所得税法第35（2AB）节，2018年将2倍研发费用扣除修改为1.5倍。

⁶⁷ **附件十一**：美国商务部——2017年9月《原产于印度的冷拔机械管（Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel）反补贴初裁备忘录》，第24-25页。

以政府放弃应收收入的形式提供了财政资助”⁶⁸。

专向性

印度所得税法明确规定获得补贴的企业资格，即生产企业。此项目具有《反补贴条例》第四条下规定的专向性，属于“由出口国(地区)法律、法规明确规定的某些企业、产业获得的补贴”。

美国商务部在2017年9月《原产于印度的冷拔机械管（Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel）反补贴初裁备忘录》中认定，“该项目仅限于部分企业、产业或部分企业或产业群，具备专向性”⁶⁹。

利益

印度政府放弃本应收取的税收，使获得上述税收减免的企业节省了同样金额的税金支出，构成了《反补贴条例》第三条下的“为接受者带来利益”，利益数额等于企业获得的税金抵免数额。

由于申请人无法通过公开合理渠道获得印度企业实际获得的补贴金额，故恳请调查机关在调查过程中对企业在该补贴项目下的获益情况做进一步的调查。美国商务部在2017年对原产于印度的冷拔机械管反补贴调查中初步裁定该项目的补贴率为0.29%⁷⁰。

14 所得税法第32AC条对投资项目的税收减免

此项目的法律依据是1961年印度所得税法第32AC条。根据此规定，从事制造业的企业如果在2013年4月至2017年3月期间投资于厂房或设备，可以获得相当于投资额15%的所得税减免。企业获得此项补贴必须满足以下条件之一：1) 在2013年4月至2014年3月期间，

⁶⁸ **附件十一**：美国商务部——2017年9月《原产于印度的冷拔机械管（Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel）反补贴初裁备忘录》，第24页。

⁶⁹ **附件十一**：美国商务部——2017年9月《原产于印度的冷拔机械管（Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel）反补贴初裁备忘录》，第24-25页。

⁷⁰ **附件十一**：美国商务部——2017年9月《原产于印度的冷拔机械管（Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel）反补贴初裁备忘录》，第25页；

对厂房或设备的投资额超过10亿印度卢比；2) 在2014年4月至2017年3月期间，对厂房或设备的投资额超过2.5亿印度卢比⁷¹。

中国商务部和其他国家调查机关曾对该项目采取反补贴措施⁷²。

财政资助

印度政府对企业投资项目的所得税减免，构成了《反补贴条例》第三条下的财政资助，即“出口国（地区）政府放弃或者不收缴应收收入”。

中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定中认定该项目为财政资助：

*“现有证据表明，印度政府在《所得税法案》第 32AC 节规定，满足条件制造企业可以按照投资额 15% 获得税收减免。根据《反补贴条例》第三条的规定，出口国（地区）政府放弃或者不收缴应收收入是财政资助的一种方式。调查机关初步认定，印度政府在该项目下的税收减免，符合上述规定，应认定为财政资助。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。”*⁷³

专向性

根据印度《所得税法案》第32AC章的规定，只有在2013年4月至2017年3月期间在厂房或设备方面的投资超过一定规模的制造业企业才能享受此项补贴。此项目具有《反补贴条例》第四条下规定的专向性，属于“由出口国（地区）法律、法规明确规定的某些企业、产业获得的补贴”。

中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定中认定该项目

⁷¹ **附件二十**：印度所得税法第35AC章。

⁷² **附件十三**：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第33-36页；**附件十一**：美国商务部——2017年9月《原产于印度的冷拔机械管（Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel）反补贴初裁备忘录》，第25-26页。

⁷³ **附件十三**：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第33-34页。

具有专向性：

“现有证据表明，根据法律规定，企业获得投资税收减免需要满足一定条件，即在2013-2014财年和2014-2015财年投资安装新厂房或设备的实际成本超过10亿印度卢比。2015-2016财年和2016-2017财年投资安装新厂房或设备的实际成本超过2.5亿印度卢比。根据上述条件，印度政府通过立法形式将补贴明确限于某些企业，根据《反补贴条例》第四条的规定，由出口国（地区）法律、法规明确规定某些企业获得的补贴具有专向性。调查机关初步认定，印度政府在该项目下提供的补贴符合上述规定，具有专向性。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。”⁷⁴

利益

印度政府放弃本应收取的税收，使获得上述税收减免的企业节省了同样金额的税金支出，构成了《反补贴条例》第三条下的“为接受者带来利益”，利益数额等于企业获得的税金抵免数额。

由于申请人无法通过公开合理渠道获得印度企业实际获得的补贴金额，故恳请调查机关在调查过程中对企业在该补贴项目下的获益情况做进一步的调查。中国商务部2017年对原产于印度的进口邻氯对硝基苯胺反补贴调查中裁定该项目的补贴率为0.47%，美国商务部在2017年对原产于印度的冷拔机械管反补贴调查中初步裁定该项目的补贴率为0.08%⁷⁵。

15 出口信贷利息补贴（Interest Equalisation Scheme）

2015年，印度内阁经济事务委员会公布了新的出口信贷利息补贴政策，旨在通过减轻出口融资的成本，提高印度出口产品的价格竞争力。根据这一项目，印度政府对出口企业的出口信贷提供3%的利息补贴。这一措施为期5年，从2015年4月1日起追溯实施。⁷⁶

⁷⁴ **附件十三**：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第34页。

⁷⁵ **附件十三**：中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定，第36页；**附件十一**：美国商务部——2017年9月《原产于印度的冷拔机械管（Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel）反补贴初裁备忘录》，第25页；

⁷⁶ **附件二十一**：印度出口信贷利息补贴公告及新闻介绍。2018年新闻称，出口信贷利息补贴率将从3%提升到5%。

其他国家调查机关曾对该项目采取反补贴措施⁷⁷。

财政资助

印度政府对出口企业提供出口信贷利息补贴，构成了《反补贴条例》第三条下的财政资助，即“出口国（地区）政府以拨款、贷款、资本注入等形式直接提供资金”。

美国商务部在2017年9月《原产于印度的冷拔机械管（Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel）反补贴初裁备忘录》中认定，该项目“构成财政资助”⁷⁸。

专向性

此项利息补贴专门用于出口信贷，符合《反补贴条例》第四条的“以出口实绩为条件获得的补贴”要求。

美国商务部在2017年9月《原产于印度的冷拔机械管（Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel）反补贴初裁备忘录》中认定，“根据案卷信息，该项目具备专向性”⁷⁹。

利益

印度政府对出口企业提供出口信贷利息补贴，使获得补贴的企业节省了同样金额的利息支出，构成了《反补贴条例》第三条下的“为接受者带来利益”，利益数额等于企业获得的资金数额。

⁷⁷ **附件十一**：美国商务部——2017年9月《原产于印度的冷拔机械管（Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel）反补贴初裁备忘录》，第23-24页。

⁷⁸ **附件十一**：美国商务部——2017年9月《原产于印度的冷拔机械管（Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel）反补贴初裁备忘录》，第24页。

⁷⁹ **附件十一**：美国商务部——2017年9月《原产于印度的冷拔机械管（Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel）反补贴初裁备忘录》，第24页。

由于申请人无法通过公开合理渠道获得印度企业实际获得的补贴金额，故恳请调查机关在调查过程中对企业在该补贴项目下的获益情况做进一步的调查。美国商务部在2017年对原产于印度的冷拔机械管反补贴调查中初步裁定该项目的补贴率为0.27%⁸⁰。

（二）印度安得拉邦（Andhra Pradesh）政府的补贴项目

根据申请人的了解，出口商Virchow Laboratories Limited位于安得拉邦（Andhra Pradesh）的海得拉巴市（Hyderabad）。申请人通过公开信息了解到安得拉邦通过《2010-2015年工业投资鼓励政策》对当地企业提供了各种补贴。

1 返还土地交易印花税

印度安得拉邦政府针对本地出台了《2010-2015年工业投资鼓励政策》。此政策文件的目的是推动经济发展，创造就业机会。根据该政策文件规定，企业在购买用于工业用途的土地时可以返还100%的印花税和交易税⁸¹。

财政资助

印度政府对企业的印花税免税返还，构成了《反补贴条例》第三条下的财政资助，即“出口国(地区)政府放弃或者不收缴应收收入”。

专向性

此项补贴专门用于指定地区，具有《反补贴条例》第四条下规定的专向性，属于“指定特定区域内的企业、产业获得的补贴”。

利益

印度政府对企业的印花税免税返还，使获得补贴的企业节省了同样金额的税金支出，构

⁸⁰ **附件十一**：美国商务部——2017年9月《原产于印度的冷拔机械管（Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel）反补贴初裁备忘录》，第24页。

⁸¹ **附件二十二**：印度安得拉邦《2010-2015年工业投资鼓励政策》，第4.1.6条。

成了《反补贴条例》第三条下的“为接受者带来利益”，利益数额等于企业获得的资金数额。

2 企业土地费用的返还

本项目的法律依据是印度安得拉邦政府的《2010-2015年工业投资鼓励政策》。根据规定，企业在工业区/工业公园内的土地花费可以享有25%的返还（不超过1亿印度卢比）⁸²。

财政资助

印度政府对企业的土地费用返还，构成了《反补贴条例》第三条下的财政资助，即“出口国(地区)政府放弃或者不收缴应收收入”。

专向性

此项补贴专门用于指定地区，具有《反补贴条例》第四条下规定的专向性，属于“指定特定区域内的企业、产业获得的补贴”。

利益

印度政府对企业的土地费用返还，使获得补贴的企业节省了同样金额的费用支出，构成了《反补贴条例》第三条下的“为接受者带来利益”，利益数额等于企业获得的资金数额。

3 中小微企业土地转换费用返还

本项目的法律依据是印度安得拉邦政府的《2010-2015年工业投资鼓励政策》。根据规定，中小微企业土地转换费用享有25%的返还（不超过1亿印度卢比）⁸³。

财政资助

⁸² 附件二十二：印度安得拉邦《2010-2015年工业投资鼓励政策》，第4.1.7条。

⁸³ 附件二十二：印度安得拉邦《2010-2015年工业投资鼓励政策》，第4.1.8条。

印度政府对中小微企业返还土地转换费用，构成了《反补贴条例》第三条下的财政资助，即“出口国(地区)政府放弃或者不收缴应收收入”。

专向性

此项补贴专门用于指定地区，具有《反补贴条例》第四条下规定的专向性，属于“指定特定区域内的企业、产业获得的补贴”。

利益

印度政府对中小微企业返还土地转换费用，使获得补贴的企业节省了同样金额的支出，构成了《反补贴条例》第三条下的“为接受者带来利益”，利益数额等于企业获得的资金数额。

4 企业固定电费补贴

本项目的法律依据是印度安得拉邦政府的《2010-2015年工业投资鼓励政策》。根据规定，企业在开始商业生产的5年内可以享有每单位0.75印度卢比的电费返还⁸⁴。

财政资助

印度政府对企业的电费返还，构成了《反补贴条例》第三条下的财政资助，即“出口国(地区)政府放弃或者不收缴应收收入”。

专向性

此项补贴专门用于指定地区，具有《反补贴条例》第四条下规定的专向性，属于“指定特定区域内的企业、产业获得的补贴”。

利益

⁸⁴ **附件二十二**：印度安得拉邦《2010-2015年工业投资鼓励政策》，第4.1.18条。

印度政府对企业的电费返还，使获得补贴的企业节省了同样金额的支出，构成了《反补贴条例》第三条下的“为接受者带来利益”，利益数额等于企业获得的资金数额。

5 对小微企业的多种补贴

本项目的法律依据是印度安得拉邦政府的《2010-2015年工业投资鼓励政策》。根据规定，小微企业可以享有固定资本投资补贴（不超过2亿印度卢比），自开始商业生产5年内返还100%的中央销售税和州商品和服务税。小型企业自开始商业生产5年内可以返还50%的中央销售税和州商品和服务税⁸⁵。小微企业在进行质量鉴定和专利申请时，50%的费用可以获得补贴资助（不超过2亿印度卢比）⁸⁶。小微企业采用特殊清洁生产措施的，25%的费用可以获得补贴资助（不超过0.5亿印度卢比）⁸⁷。

财政资助

印度政府向企业返还中央销售税和州商品和服务税，构成了《反补贴条例》第三条下的财政资助，即“出口国(地区)政府放弃或者不收缴应收收入”；对企业的投资补贴、质量鉴定和专利申请补贴以及特殊清洁生产措施补贴，构成了《反补贴条例》第三条下的“出口国(地区)政府以拨款、贷款、资本注入等形式直接提供资金，或者以贷款担保等形式潜在地直接转让资金或者债务”。

专向性

本项目下的补贴专门用于指定地区，具有《反补贴条例》第四条下规定的专向性，属于“指定特定区域内的企业、产业获得的补贴”。

利益

印度政府对小微企业的各种补贴使获得补贴的企业节省了同样金额的支出，构成了《反

⁸⁵ 附件二十二：印度安得拉邦《2010-2015年工业投资鼓励政策》，第4.2.3条。

⁸⁶ 附件二十二：印度安得拉邦《2010-2015年工业投资鼓励政策》，第4.2.5条。

⁸⁷ 附件二十二：印度安得拉邦《2010-2015年工业投资鼓励政策》，第4.12.2条。

补贴条例》第三条下的“为接受者带来利益”，利益数额等于企业获得的资金数额。

六、国内产业受到的损害情况

（一）累积评估

此次申请调查产品的原产地和出口国范围仅为印度一个国家，关于累积评估的问题在本次反补贴调查申请中不适用。

（二）申请调查产品进口数量、价格的变化及国内产业的状况

1 申请调查产品的数量增长情况

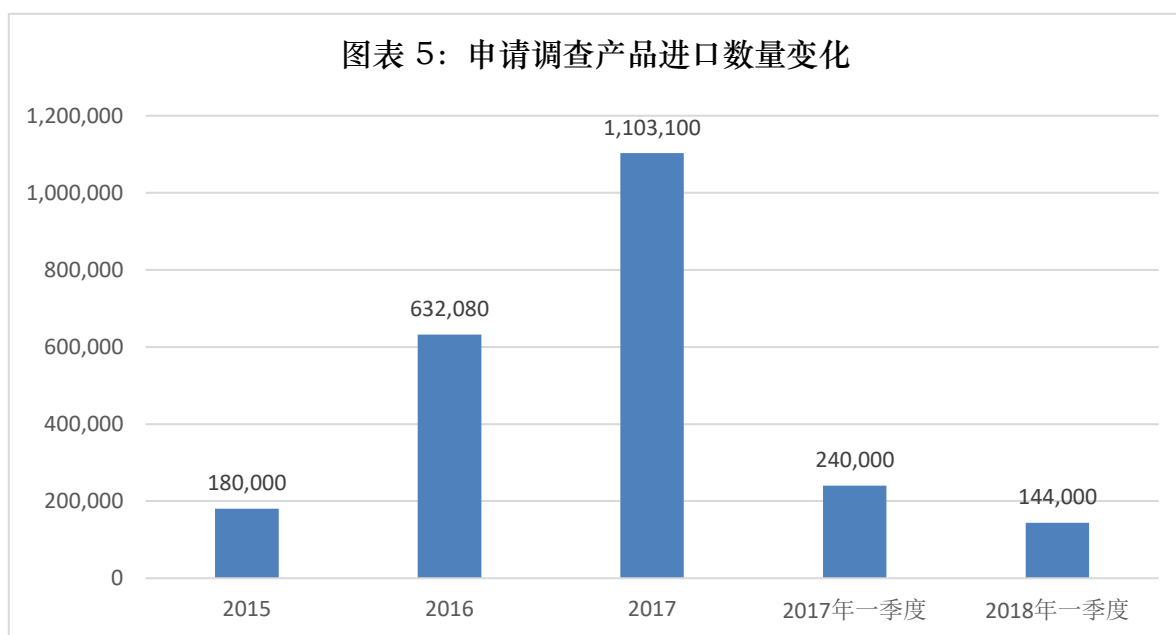
1.1 申请调查产品绝对进口数量变化情况

如前文所述，目前世界范围内只有中国和印度生产GCLE产品，因此，印度申请调查产品是中国唯一进口来源。2015年至2018年一季度印度进口GCLE产品情况如下：

表格 7：2015 年至 2018 年一季度申请调查产品进口数量

期间	2015	2016	2017	2017 年 一季度	2018 年 一季度
申请调查产品进口数量 (千克)	180,000	632,080	1,103,100	240,000	144,000
指数变化	100	351	613	133	80

数据来源：附件七：GCLE进口统计数据。



在绝对进口数量方面，2015年以来申请调查产品进口数量呈快速增长的趋势，2015年至2017年，申请调查产品进口数量分别为180,000千克，632,080千克和1,103,100千克，2016年、2017年进口量分别是2015年的3.51倍和6.13倍。2018年一季度进口数量为144,000千克，较2017年一季度有所下降，这是由于2017年因为主要原材料青霉素钾盐价格的大幅增长，推动了下游用户在2017年下半年增加了库存，致使2018年第一季度为消化库存减少了需求。

1.2 申请调查产品相对进口数量变化情况

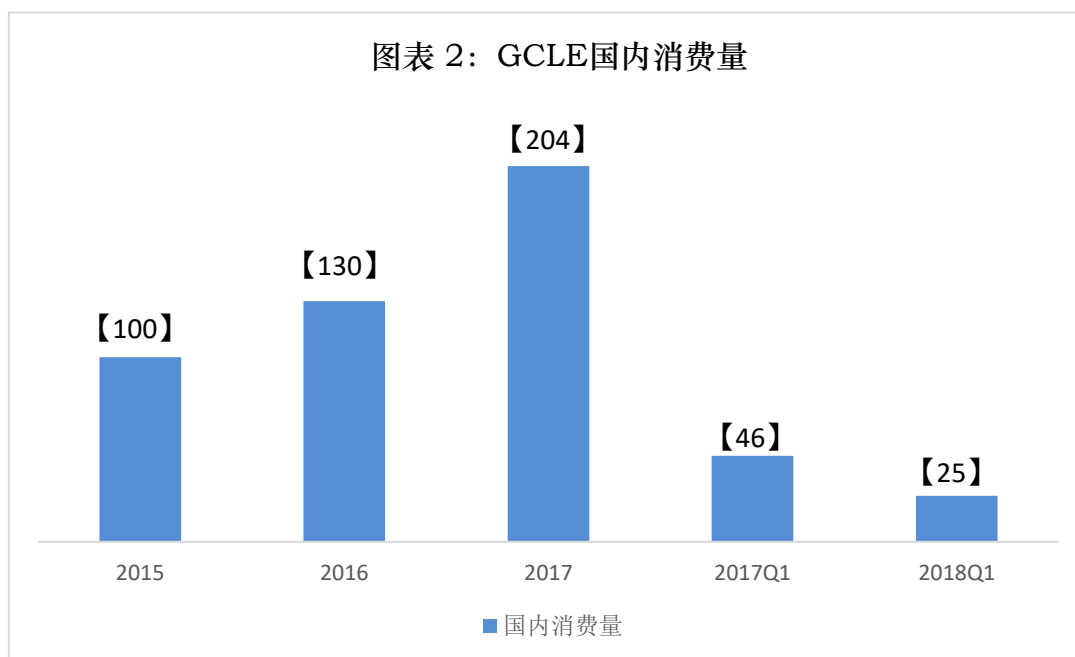
1.2.1 中国同类产品的需求量变化情况

表格 8：2015 年至 2018 年一季度中国 GCLE 市场需求量变化

期间	2015	2016	2017	2017 年一 季度	2018 年一 季度
申请调查产品进口数量 (千克)	180,000	632,080	1,103,100	240,000	144,000
申请人内销数量 (千克)	【490,000- 720,000】	【300,000- 550,000】	【300,000- 640,000】	【60,000- 160,000】	【10,000- 60,000】
国内市场消费量 (千克)	【100】	【130】	【204】	【46】	【25】
国内市场消费量 (指数)	100	130	204	46	25

说明：（1）国内消费量 = 申请调查产品进口数量 + 国内产业内销数量；

(2) 数据来源：附件七：GLCE进口统计数据；附件八：申请人财务数据和报表。



GCLE可以合成几十种头孢产品，特别是第三、第四代头孢产品，如头孢克肟、头孢哌酮、头孢布烯等。在以7-ACA为母核制备的头孢菌素品种中，大部分品种都可以用GCLE来生产，而且以GCLE为母核生产头孢菌素时，产品收率，工艺条件等均具有明显的优势。另外，由于GCLE的C3位氯甲基活泼的化学反应性给合成新型第三、第四代头孢类抗生素带来优于7-ACA的反应特性，GCLE还可以用于合成多种新型的内酰胺类抗生素，特别是在第四代头孢菌素如头孢地尼，头孢克肟，头孢他啶等的合成上比7-ACA有更大的优势。近年来随着口服药剂的安全优势凸显，GCLE的市场需求将继续保持增长的趋势。

如上述图表所示，2015年至2017年，中国GCLE需求量上升明显，从2015年的【100】千克上升到2016年的【130】千克和2017年的【204】千克，增长幅度高达104%。2018年一季度需求量较2017年一季度有较大下降，这是由于2017年因为主要原材料青霉素钾盐价格的大幅增长，推动了下游用户在2017年下半年增加了库存，致使2018年第一季度下游用户为消化库存减少了需求。这只是短期市场变化，从长期来看GLCE的市场需求依然是持续稳定增长的。

【上述括号内的信息为申请人内销数量和国内市场消费量，其中申请人内销数量属于申请人商业秘密。此外，由于申请人为国内同类产品的唯一生产企业，披露国内市场消费量会导致

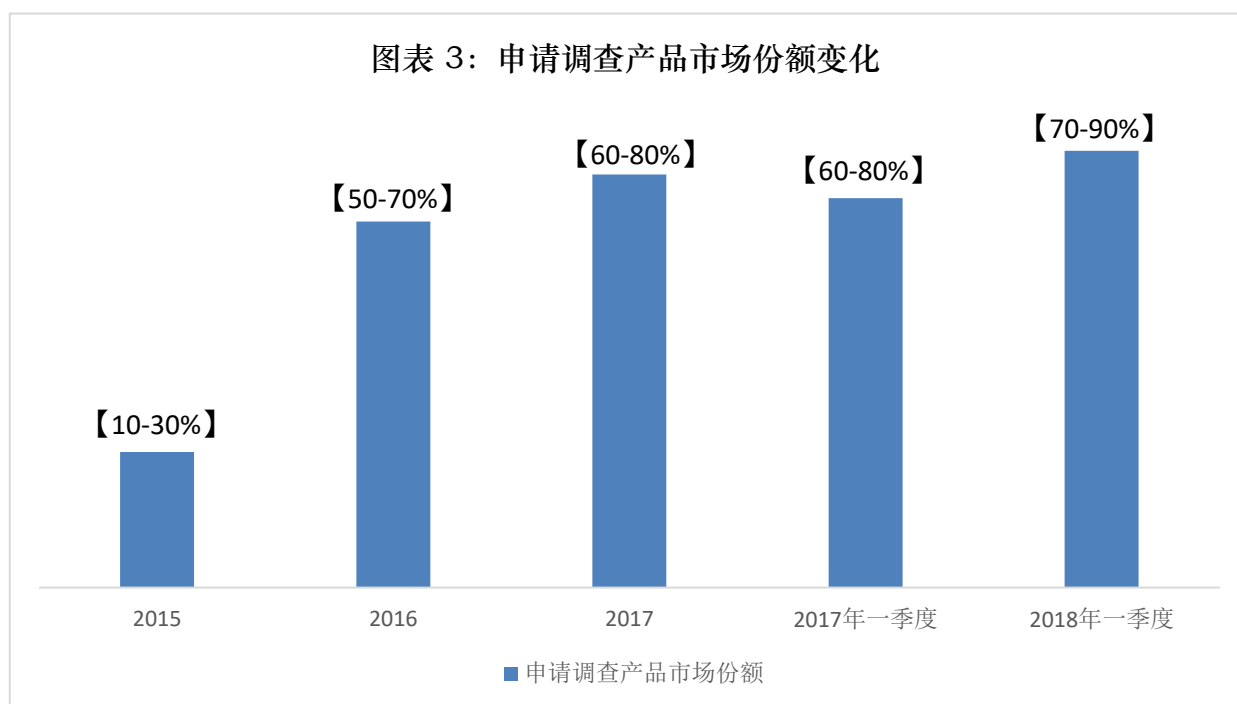
利害关系方推算出申请人内销数量，从而得知申请人商业秘密。因此，申请人申请对申请人内销数量和国内市场消费量作保密处理，不予公开。为说明中国同类产品的需求量变化情况，申请人对申请人内销数量和国内市场消费量均已分别作区间表示和指数处理。】

1.2.2 申请调查产品的进口量相对于中国需求量的变化情况

表格 5：2015 年至 2018 年一季度申请调查产品市场份额变化

期间	2015	2016	2017	2017 年一 季度	2018 年一 季度
申请调查产品进口数量（千克）	180,000	632,080	1,103,100	240,000	144,000
国内市场消费量（千克）	【100】	【130】	【204】	【46】	【25】
申请调查产品市场份额	【10-30%】	【50-70%】	【60-80%】	【60-80%】	【70-90%】

说明：申请调查产品市场份额 = 申请调查产品进口数量 / 国内消费量



如上述图表所示，2015年以来，申请产品所占中国市场份额持续大幅度上升，2015、2016和2017年，申请调查产品的市场份额分别为【10-30%】、【50-70%】和【60-80%】，2015年至2017年上升了【50-70】个百分点，完全取代了国内产业同类产品在国内市场上的主导地位。2018年一季度，申请调查产品的市场份额相比2017年一季度仍然是上升趋势，从2017年一季度的【60-80%】上升到【70-90%】。

【上述括号内的信息为国内市场消费量和申请调查产品市场份额。由于申请人为国内同类产品的唯一生产企业，披露国内市场消费量和申请调查产品市场份额会导致利害关系方推算出申请人内销数量，从而得知申请人商业秘密。因此，申请人申请对国内市场消费量作保密处理和申请调查产品市场份额，不予公开。为说明申请调查产品的进口量相对于中国需求量的变化情况，申请人对国内市场消费量已作指数处理，并以区间表示申请调查产品市场份额的范围。】

2 申请调查产品对国内同类产品价格的影响情况

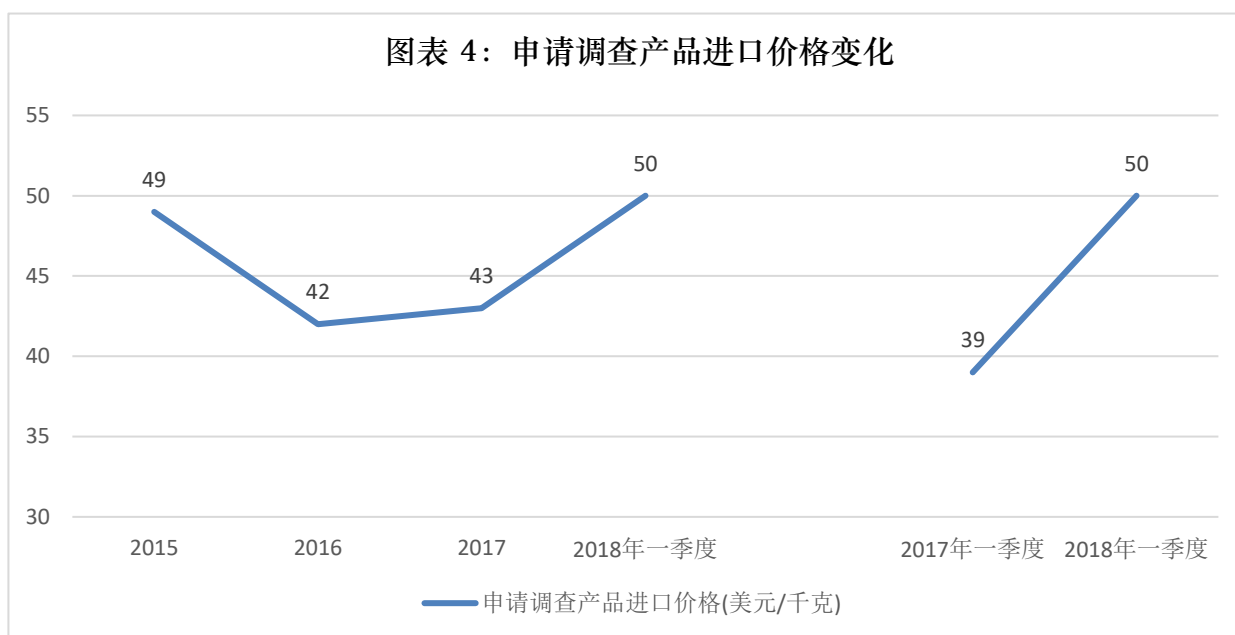
2.1 申请调查产品的进口价格变化情况

表格 9：申请调查产品进口价格变化情况

期间	2015	2016	2017	2017 年一 季度	2018 年一 季度
申请调查产品进口数量 (千克)	180,000	632,080	1,103,100	240,000	144,000
申请调查产品进口金额 (美元)	8,749,483	26,386,889	46,899,187	9,382,630	7,188,360
申请调查产品进口价格 (美元/千克)	49	42	43	39	50
申请调查产品进口价格 指数	100	86	87	80	103

数据来源：附件七：GLCE进口统计数据；

图表 4：申请调查产品进口价格变化



如上述图表所示，2015年以来，申请调查产品的价格先下降后上升。2015年至2017年，申请调查产品的进口价格分别为49美元/千克、42美元/千克和43美元/千克，相比2015年，被调查进口产品价格分别在2016年和2017年分别下降了14%和13%。如下文解释，因为GCLE主要原材料青霉素钾盐的价格在2017年开始连续上涨，申请调查产品的进口价格在2018年一季度出现大幅上涨。

2.2 申请调查产品对国内同类产品价格的影响

2.2.1 申请调查产品和国内同类产品的市场竞争分析

申请人认为，申请调查产品和国内同类产品在中国市场上存在直接竞争关系，主要表现在如下几个方面：

第一，如前文所述，印度对中国出口的GCLE产品与申请人生产的GCLE产品具有完全相同的化学分子式和结构，这决定了二者之间基本物化特性相同。同时，印度对中国出口的GCLE产品与申请人生产的GCLE产品的外观及包装、主要原材料生产工艺流程和用途等方面上均是基本相同的，具有相似性和可比性，可以互替代，在中国市场上它们是相互竞争的。

第二，印度对中国出口的GCLE产品以及申请人生产的GCLE产品销售渠道相同，均是

直接销售给下游用户，即制药企业。而且印度进口GCLE产品和国内同类产品的下游用户重合度很高。主要下游客户如【文字保密信息】等既购买、使用申请调查产品，也同时购买、使用申请人生产的同类产品，申请人认为印度进口GCLE产品和国内产业同类产品的客户群基本相同，存在大量相互交叉的现象，申请调查进口产品和国内产业同类产品之间在中国市场上是直接竞争并且相互替代的。

【上述括号内的信息为申请人同类产品下游用户的名称，涉及到申请人的商业秘密，披露上述信息会对申请人的利益造成不利影响，也有可能损害以上下游用户的利益，故对上述信息申请保密处理，不予列出。】

第三，GCLE是一种重要的医药化工中间体，目前印度生产企业和申请人的生产工艺基本相同，而且如上文所述两者产品具有完全相同的化学分子式和结构，基本物化特性相同，生产工艺流程和生产装置和设备等也不存在实质性差别，产品同质化率高，国产同类产品与申请调查产品在销售渠道方面相同或类似，下游用户存在明显的交叉，产品价格对于下游用户的选购有非常重要影响。

第四，由于产品价格对于下游用户具有重要影响，在中国市场销售GCLE的过程中，印度生产企业是价格的领导者，申请人是价格的跟随者，下游用户通常在对印度企业进行询价后和申请人报价进行比较，再来确定销售价格。

在上述背景下，正是由于印度政府提供的大量补贴，申请调查产品的价格在2015年、2016年、2017年和2018年第一季度始终低于国内同类产品的销售价格，给同类产品造成了严重的价格削减。申请人在对同类产品定价时，明显受到了申请调查产品价格削减的严重影响。2017年当GCLE的主要原材料青霉素钾盐的价格持续上升时，尽管申请调查产品的价格较2016年略有上升，但由于申请调查产品价格始终处于较低水平且一直低于国内同类产品的价格，导致申请人无法将原材料成本上升传导到内销价格，内销价格受到明显的价格抑制，致使出现严重的亏损。【文字保密信息】

【上述括号内的信息为申请人的具体经营状况，披露上述信息会对申请人的利益造成不利影响，故对上述信息申请保密处理。】

因此，申请人认为，申请调查产品和申请人在中国市场上存在直接竞争关系，在二者属于同类产品且相互替代的情况下，申请调查产品由于受到印度政府的大量补贴，长期低于国内同类产品价格销售，对国内产业同类产品内销价格产生了严重的价格削减和价格抑制，具体说明如下：

2.2.2 申请调查产品对国内同类产品造成了明显的价格削减

表格 10：申请调查产品对国内同类产品的削价幅度

期间	2015	2016	2017	2017 年 第一季度	2018 年 第一季度
申请调查产品进口完税价格 (元/千克)	317.97	291.05	301.78	282.83	332.84
国内同类产品内销价格 (元/千克)	【100】	【94】	【97】	【92】	【107】
削价幅度	【100】	【147】	【129】	【154】	【138】

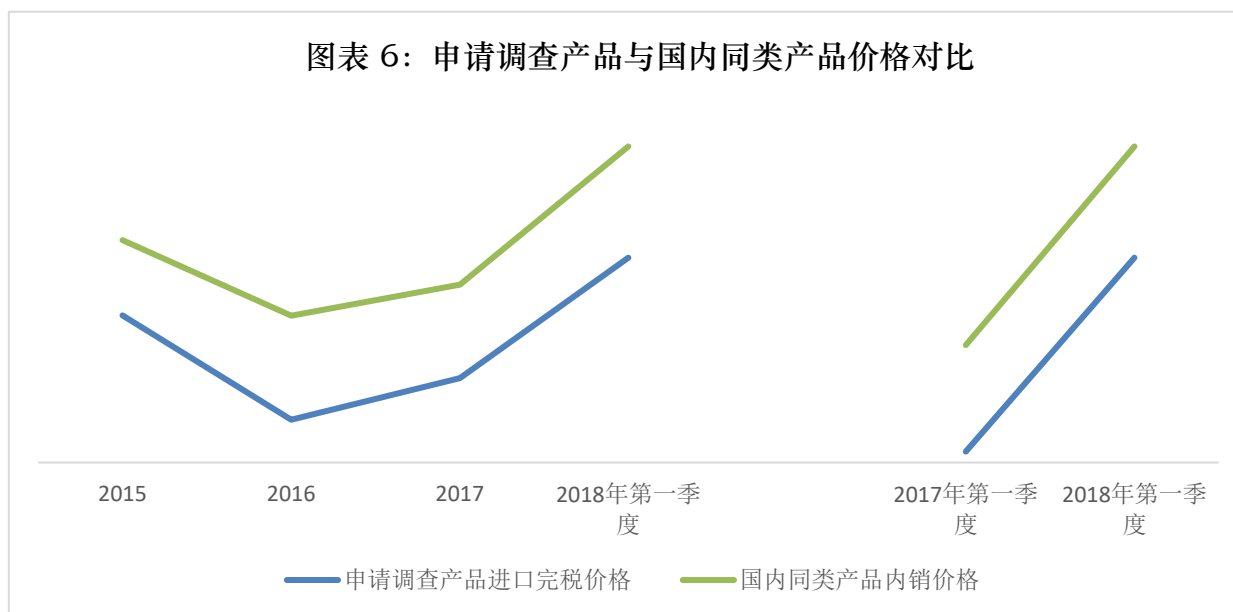
说明：（1）进口完税价格=CIF价格*（1+5%关税）* 美元兑人民币汇率。关税税率参见中国海关进出口税则，从印度进口GCLE产品适用《亚太贸易协定》所规定的优惠关税税率5%。2015年至2018年一季度美元兑人民币汇率分别为6.23、6.64、6.76、6.89和6.35，数据来源于国际货币基金组织：

<http://data.imf.org/regular.aspx?key=61545850>，具体请见附件九：美元兑人民币汇率统计；

（2）国内同类产品内销价格 = 申请人GCLE产品内销收入/申请人GCLE产品内销数量。请见附件八：申请人财务数据和报表；

（3）削价幅度 = （国内同类产品内销价格 - 申请调查产品进口完税价格）/国内同类产品内销价格

图表 6：申请调查产品与国内同类产品价格对比



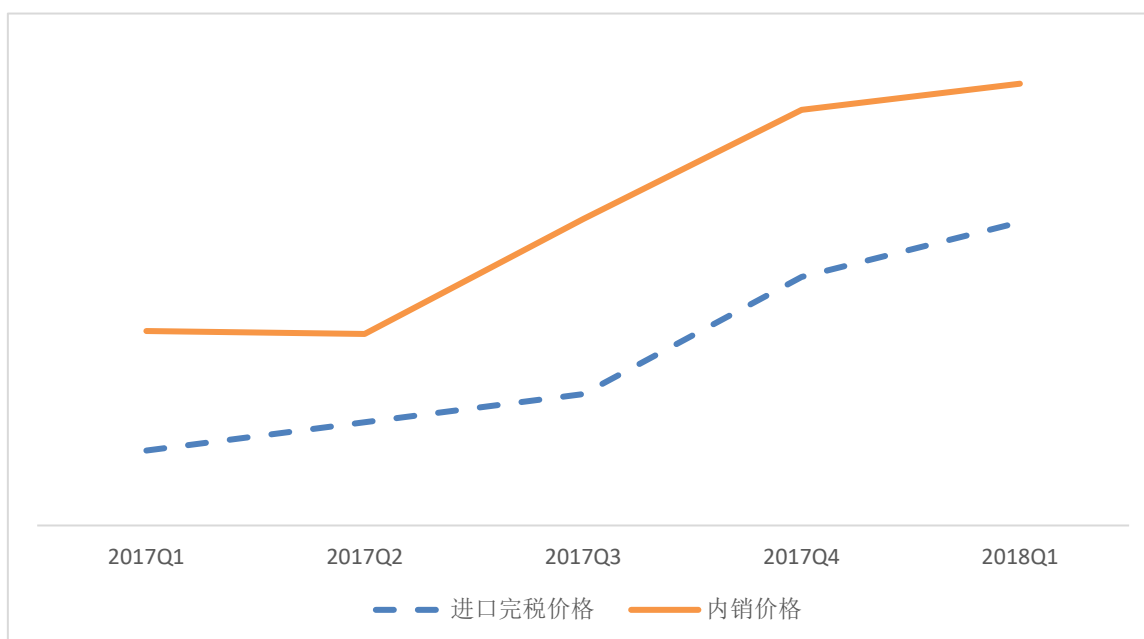
上述数据表明，在2015年至2018年第一季度期间，申请调查产品的进口价格和国内同类产品的内销价格按照同一趋势变化，但是申请调查产品的进口价格因为印度政府的大量补贴，始终低于国内同类产品的内销价格，削价幅度从2015年的【100】增大至2017的【129】，2018年一季度甚至进一步增至【138】。申请调查产品对国内产业同类产品造成了明显的价格削价影响。

基于2017年四个季度和2018年第一季度进行季度分析，申请调查产品的进口价格和国内同类产品的内销价格同样按照同一趋势变化，申请调查产品对国内同类产品的价格削减依然明显，具体如下：

表格 11：2017 年一季度至 2018 年一季度申请调查产品对国内同类产品的削价幅度

期间	2017 年第一 季度	2017 年第二 季度	2017 年第三 季度	2017 年第四 季度	2018 年第一 季度
申请调查产品进口完税价格（元/千克）	282.83	291.38	297.24	321.53	332.84
国内同类产品内销价格（元/千克）	【100.00】	【99.80】	【107.48】	【114.77】	【116.51】
削价幅度	【100】	【67】	【123】	【110】	【90】

图表 7：申请调查期内申请调查产品进口价格和国内产业同类产品内销价格对比



上述数据显示，在2017年四个季度和2018年第一季度，申请调查产品的进口价格始终低于国内同类产品的内销价格，申请调查产品对国内产业同类产品造成了明显的价格削减影响。

需要说明的是，以上价格比较是基于同一贸易水平，即申请调查产品的清关后完税价格和国内同类产品的出厂价格。此外，GCLE产品没有细分规格。因此，以上价格比较的结果反映了申请进口产品对于国内同类产品的价格削减，而没有受到贸易水平和规格差异的扭曲。

【上述括号内的信息为国内同类产品内销价格和削价幅度。由于申请人为国内同类产品的唯一生产企业，披露国内同类产品内销价格将会导致利害关系方得知申请人商业秘密。此外，披露削价幅度也将会导致利害关系方推算得知申请人同类产品内销价格。因此，申请人申请对国内同类产品内销价格和削价幅度作保密处理，不予公开。为说明申请调查产品对国内同类产品造成了明显的价格削减，申请人对国内同类产品内销价格和削价幅度已作指数处理。】

2.2.3 申请调查产品对国内同类产品造成了明显的价格抑制

表格 12：2015 年至 2018 年一季度申请调查产品对国内同类产品的价格抑制

期间	2015 年	2016 年	2017 年	2017 年第一 季度	2018 年第一 季度
申请调查产品进口完税 价格（元/千克）	317.97	291.05	301.78	282.83	332.84
申请调查产品价格指数	100	92	95	89	105
国内同类产品内销价格 （元/千克）	【100】	【94】	【97】	【92】	【107】
同类产品价格指数	100	94	97	92	107
青霉素钾盐采购单价 （元/千克）	【100】	【93】	【116】	【89】	【147】
青霉素钾盐采购单价环 比变化（元/千克）			【23】		【58】
青霉素钾盐价格变化反 映到 GCLE 成本变化 （元/千克）			【7】		【17】
实际内销价格环比变化 （元/千克）			【3】		【15】

说明：（1）青霉素钾盐采购单价数据来源：附件八：申请人财务数据和报表；

（2）主要原材料青霉素钾盐在2017年的采购价格出现大幅变动。按照申请人最近年份（即2017年）的数据显示，生产1吨GCLE需耗用【保密处理】吨的青霉素钾盐，也就是说，当青霉素钾盐价格上升10元，GCLE的成本相应上升【保密处理】元。数据来源：附件八：申请人财务数据和报表。

以上表格表明，2017年青霉素钾盐的采购价格开始不断上升，然而因为申请调查产品的进口价格因为印度政府提供的大量补贴，长期低于国内同类产品的内销价格，且抢占了国内同类产品大量的市场份额，申请人无法将青霉素钾盐的价格波动影响合理地传导到内销价格。具体而言，当2017年青霉素钾盐的单价比2016年上涨【23】元/千克，国内同类产品内销价格应当上涨【7】。但因为长期以来的价格削减以及市场份额的大量丢失，国内同类产品无法将本应上涨的成本合理地传导到内销价格中去，内销价格2017年只比2016年提高了【3】，出现明显的价格抑制。在2018年第一季度，青霉素钾盐的价格出现【58】的上涨，虽然国内产业同类产品价格有所上升，但涨幅（【15】）低于青霉素钾盐成本应当上升的幅度（【17】元/千克），依然是存在明显的价格抑制。

表格 13: 2017 年一季度至 2018 年一季度申请调查产品对国内同类产品的价格抑制

期间	2017 年第一 季度	2017 年第二 季度	2017 年第三 季度	2017 年第四 季度	2018 年第一 季度
申请调查产品进口完税价格 (元/千克)	282.83	291.38	297.24	321.53	332.84
国内同类产品内销价格 (元/千克)	【100.00】	【99.80】	【107.48】	【114.77】	【116.51】
青霉素钾盐采购单价 (元/千克)	【100】	【123】	【148】	【160】	【165】
青霉素钾盐采购单价与 2017 年一季度相比变化		【23】	【48】	【60】	【65】
青霉素钾盐价格变化反映到 GCLE 成本变化 (元/千克)		【6】	【13】	【17】	【18】
实际内销价格与一季度相比变化		【0】	【7】	【15】	【17】

数据来源: 附件八: 申请人财务数据和报表。

基于2017年四个季度和2018年第一季度进行季度分析, 同样表明申请进口产品对于国内产业造成了价格抑制。2017年第二季度至2018年一季度, 青霉素钾盐的季度价格分别是【123】元/千克、【148】元/千克、【160】元/千克和【165】元/千克, 导致GCLE生产成本应当比2017年第一季度分别上升【6】元/千克、【13】元/千克、【17】元/千克和【18】元/千克, 但因为申请调查产品的削价影响, 国内同类产品内销价格只能从2017年第三季度才开始上升, 较2017年一季度分别上升了【7】、【15】和【17】, 仍然低于成本上涨的幅度, 证明了申请调查产品对国内产业同类产品内销价格造成了明显的价格抑制。

综上, 由于印度政府提供的大量补贴, 申请调查产品给国内同类产品造成了明显的价格削减和价格抑制。如下文分析, 申请调查产品进而导致国内同类产品的内销无法实现合理利润。特别是2017年以来, 国内产业同类产品生产经营受到了严重的负面影响, 各项重要指标均出现明显下滑, 【文字保密信息】。

【上述括号内的信息为申请人经营状况描述、国内同类产品内销价格、原材料采购和耗用信息和成本变化。由于申请人为国内同类产品的唯一生产企业, 国内同类产品内销价格、原材

料采购和耗用信息和成本变化也即申请人的信息，披露以上信息及申请人经营状况将会导致利害关系方得知申请人商业秘密。因此，申请人申请对以上信息作保密处理，不予公开。为说明申请调查产品对国内同类产品造成了明显的价格抑制，申请人对国内同类产品内销价格、原材料采购和耗用信息和成本变化信息已作指数处理。】

3 申请调查产品对国内产业有关经济指标或因素的影响

根据法律规定，在分析补贴进口产品对国内业的相关经济因素和指标影响时，主要包括对国内产业状况的所有相关经济因素和指数综合评估，实际或潜在的变化，如产量、销售市场份额、利润、投资效益开工率、价格、就业、工资、筹措资本或投资能力等指标和因素。

2015年至2018年第一季度，申请人是国内唯一的GCLE生产企业，其相关经济指标的变化趋势就是国内GCLE产业状况。

申请人申请的产业损害调查期为2015年1月1日至2018年3月31日。本申请书对申请人在2015年至2018年第一季度期间内同类产品的产能、产量、开工率、销量、市场份额、销售收入、价格、利润、投资收益率、期末库存、工资和就业、劳动生产率、现金流等经济指标和因素的变化趋势进行了评估。通过此分析和评估，申请人认为，由于申请调查产品受到印度政府的大量补贴，国内GCLE产业遭受了实质损害。

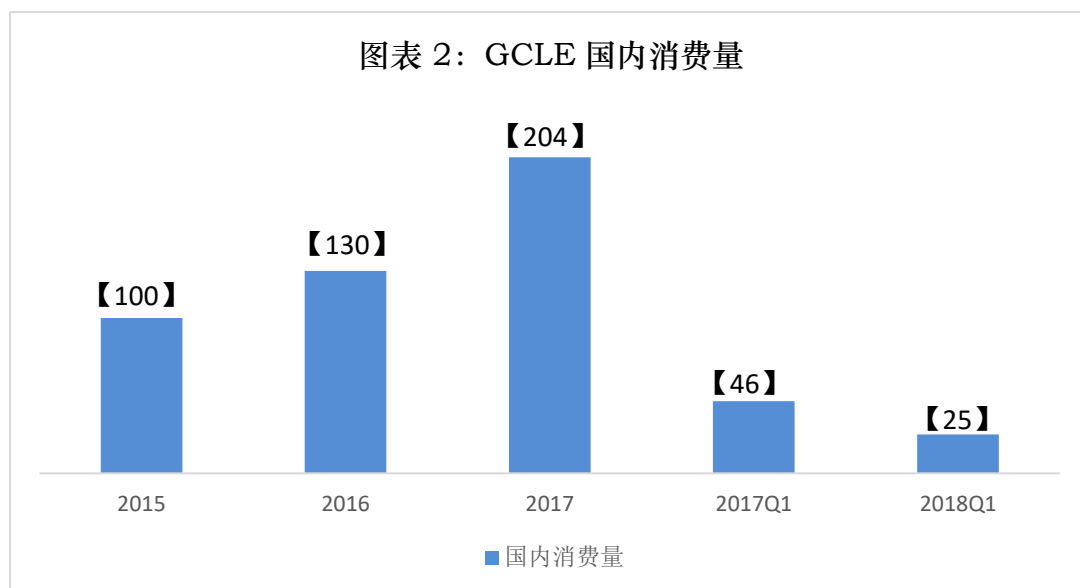
3.1 中国同类产品的需求量变化情况

表格 14：2015 年至 2018 年一季度中国 GCLE 市场需求量变化

期间	2015	2016	2017	2017 年一 季度	2018 年一 季度
申请调查产品进口数量 (千克)	180,000	632,080	1,103,100	240,000	144,000
申请人内销数量 (千克)	【490,000- 720,000】	【300,000- 550,000】	【300,000- 640,000】	【60,000- 160,000】	【10,000- 60,000】
国内市场消费量 (千克)	【100】	【130】	【204】	【46】	【25】
国内市场消费量 (指数)	100	130	204	46	25

说明：（1）国内消费量 = 申请调查产品进口数量 + 国内产业内销数量；

（2）数据来源：附件七：GLCE进口统计数据；附件八：申请人财务数据和报表。



如上述图表所示，2015年至2017年，中国GCLE需求量上升明显，从2015年的【100】千克上升到2016年的【130】千克和2017年的【204】千克，增长幅度高达104%。2018年一季度需求量较2017年一季度有较大下降，这是由于主要原材料青霉素钾盐价格在2017年出现大幅增长，推动了下游用户在2017年下半年增加了库存，致使2018年第一季度下游用户为消化库存减少了需求。这只是短期市场变化，从长期来看GLCE的市场需求依然是稳定持续增长的。

【上述括号内的信息为申请人内销数量和国内市场消费量，其中申请人内销数量属于申请人商业秘密。由于申请人为国内同类产品的唯一生产企业，披露国内市场消费量会导致利害关系方推算出申请人内销数量，从而得知申请人商业秘密。因此，申请人申请对申请人内销数量和国内市场消费量作保密处理，不予公开。为说明中国同类产品的需求量变化情况，申请人对申请人内销数量和国内市场消费量均已分别作指数处理。】

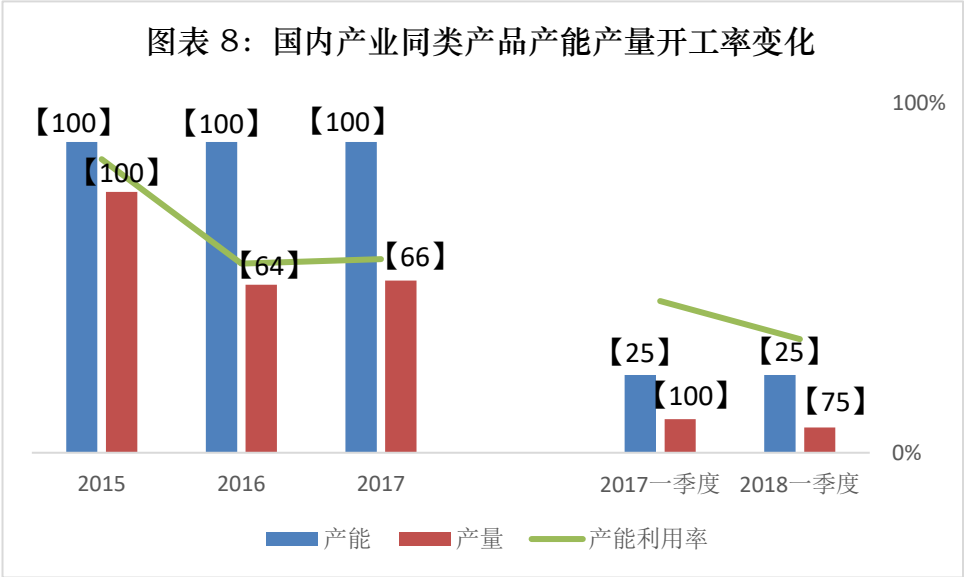
3.2 国内产业同类产品的产能、产量、开工率的变化

表格 15: 国内产业同类产品产能、产量、开工率变化

期间	2015	2016	2017	2017年 第一季度	2018年 第一季度
产能 (千克)	【100】	【100】	【100】	【25】	【25】
产量 (千克)	【100】	【64】	【66】	【100】	【75】
产量变化指数	100	64	66	100	75

开工率	【100】	【64】	【66】	【100】	【75】
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说明：（1）数据来源：附件八：申请人财务数据和报表；
（2）开工率=产量/产能



2015年至2018年第一季度，国内同类产品的产能始终保持在【100】千克/年。但是在此期间，国内同类产品产量却明显下降：较2015年，国内同类产品产量在2016年和2017年分别下降36%和34%；2018年一季度相比2017年一季度下降25%。国内同类产品的开工率处于较低水平且总体呈下降趋势，2015年、2016年和2017年，国内同类产品开工率为【100】、【64】和【66】，2017年第一季度和2018年第一季度国内同类产品开工率仅为【100】和【75】。【文字保密信息】

【上述括号内的信息为国内产业同类产品的产能产量、开工率数据和具体经营状况描述。由于申请人为国内同类产品的唯一生产企业，披露国内产业同类产品的产能产量、开工率数据和经营状况会导致利害关系方得知申请人商业秘密。因此，申请人申请对国内产业同类产品的产能产量和开工率数据作保密处理，不予公开。为说明国内产业同类产品的产能、产量、开工率的变化，申请人对国内产业同类产品的产能产量和开工率数据均已分别作指数处理。】

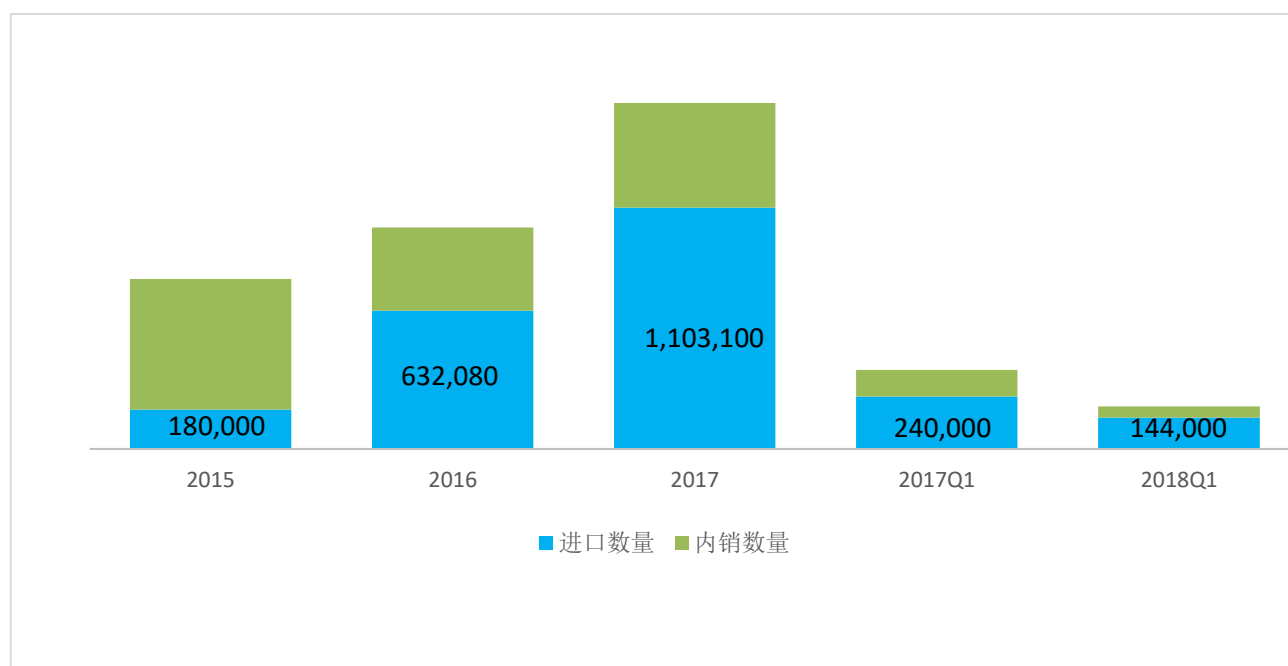
3.3 国内产业同类产品的国内销售数量 and 市场份额的变化

表格 16：国内产业同类产品国内销售数量 and 市场份额变化

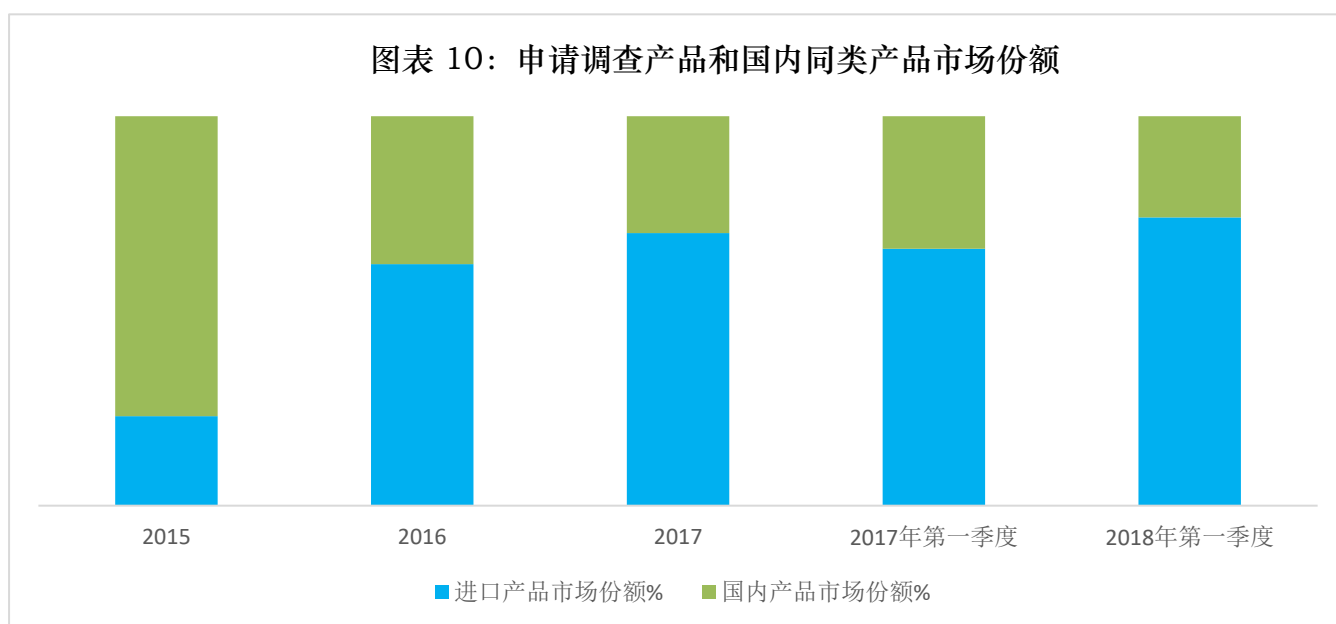
期间	2015	2016	2017	2017年第一 季度	2018年第一 季度
申请调查产品进口数量 (千克)	180,000	632,080	1,103,100	240,000	144,000
申请人内销数量 (千克)	【490,000- 720,000】	【300,000- 550,000】	【300,000- 640,000】	【60,000- 160,000】	【10,000- 60,000】
国内市场消费量 (千克)	【100】	【130】	【204】	【46】	【25】
申请调查产品市场份额 %	【10-30%】	【50-70%】	【60-80%】	【60-80%】	【70-90%】
国内同类产品市场份额 %	【70-90%】	【30-50%】	【20-40%】	【20-40%】	【10-30%】

说明：（1）数据来源：**附件七**：GCLE进口统计数据；**附件八**：申请人财务数据和报表；
（2）国内消费量 = 申请调查产品进口数量 + 国内同类产品内销数量；
（3）进口产品市场份额 = 申请调查产品进口数量 / 国内消费量；
（4）国内产品市场份额 = 国内同类产品内销数量 / 国内消费量。

图表 9：申请调查产品进口数量和国内同类产品内销数量以及总消费量构成



图表 10：申请调查产品和国内同类产品市场份额



以上图表表明，国内同类产品的销量在2016年大幅下降，从2015年的【490,000-720,000】千克下降到2016年的【300,000-550,000】千克，同期中国市场需求量从【100】千克上升到【130】千克，国内同类产品的市场份额从【70-90%】下降到【30-50%】。2017年国内同类产品销量为【300,000-640,000】千克，虽然较2016年有所增加，但市场份额却从【30-50%】继续下降到【20-40%】。2018年一季度国内同类产品的销量较2017年一季度又进一步下降，从2017年一季度的【60,000-160,000】千克下降到【10,000-60,000】千克，同时市场份额从【20-40%】下降到【10-30%】。从2015年至2018年一季度，国内同类产品在国内的市场份额累计下降了【40-80】个百分点，同期申请调查产品的市场份额增长了【40-80】个百分点。

【上述括号内的信息为申请人内销数量、国内市场消费量、申请调查产品市场份额和国内同类产品市场份额。申请人内销数量为申请人商业秘密。此外，由于申请人为国内同类产品的唯一生产企业，披露国内市场消费量、申请调查产品市场份额和国内同类产品市场份额会导致利害关系方得知申请人商业秘密。因此，申请人申请对申请人内销数量、国内市场消费量、申请调查产品市场份额和国内同类产品市场份额作保密处理，不予公开。为说明国内产业同类产品的国内销售数量 and 市场份额的变化，申请人对国内市场消费量均已作指数处理，并以区间表示申请人内销数量、申请调查产品市场份额和国内同类产品市场份额。】

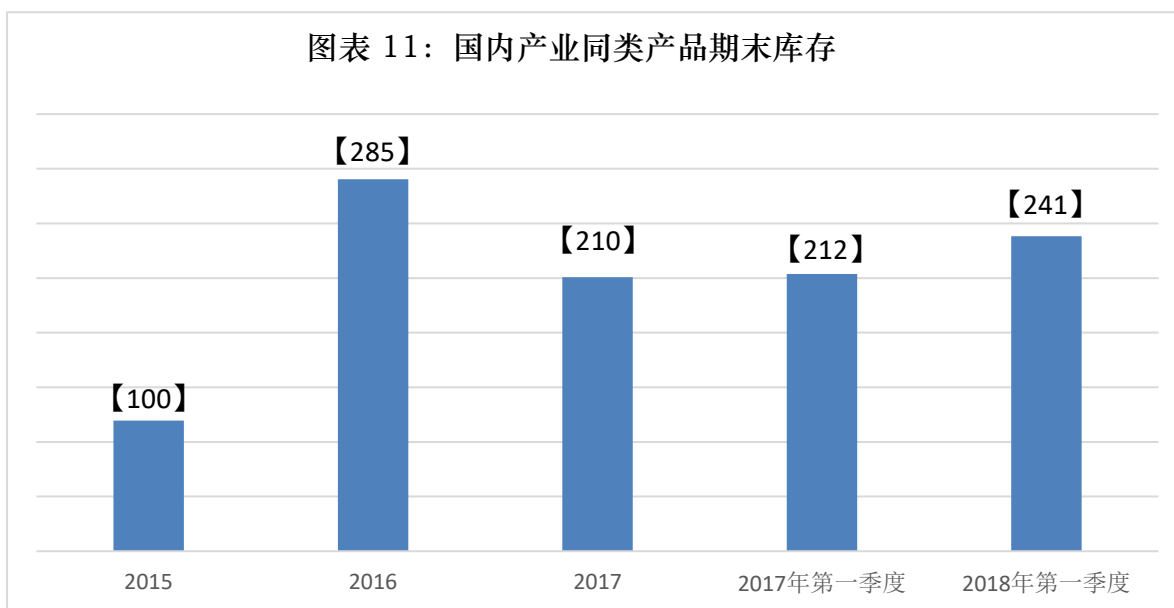
3.4 国内产业同类产品期末库存量的变化

表格 17：国内产业同类产品期末库存量变化

期间	2015	2016	2017	2017 年第一 季度	2018 年第一 季度
期末库存（千克）	【100】	【285】	【210】	【212】	【241】
指数	100	285	210	212	241
产量（千克）	【100】	【64】	【66】	【100】	【75】
相对产量%	7.12%	31.43%	22.61%	116.97%	177.33%

数据来源：附件八：申请人财务数据和报表。

图表 11：国内产业同类产品期末库存



国内同类产品期末库存在2016年出现较大幅度增长，从2015年的【100】千克增至【285】千克，增幅达到185%。从2016至2018年一季度，国内同类产品的期末库存有所下降，但相比2015年仍然保持在较高的水平。

【上述括号内的信息为国内产业同类产品期末库存量和国内同类产品产量。由于申请人为国内同类产品的唯一生产企业，披露国内产业同类产品期末库存量和国内同类产品产量会导致利害关系方得知申请人商业秘密。因此，申请人申请对国内产业同类产品期末库存量和国内同类产品产量作保密处理，不予公开。为说明国内产业同类产品期末库存量的变化，申请人对国内产业同类产品期末库存量和国内同类产品产量均已分别作指数处理。】

3.5 国内产业同类产品的价格变化

表格 18：国内产业同类产品内销价格变化

期间	2015 年	2016 年	2017 年	2017 年第一 季度	2018 年第一 季度
国内同类产品内销价格 (元/千克)	【100】	【94】	【97】	【92】	【107】
指数	100	94	97	92	107

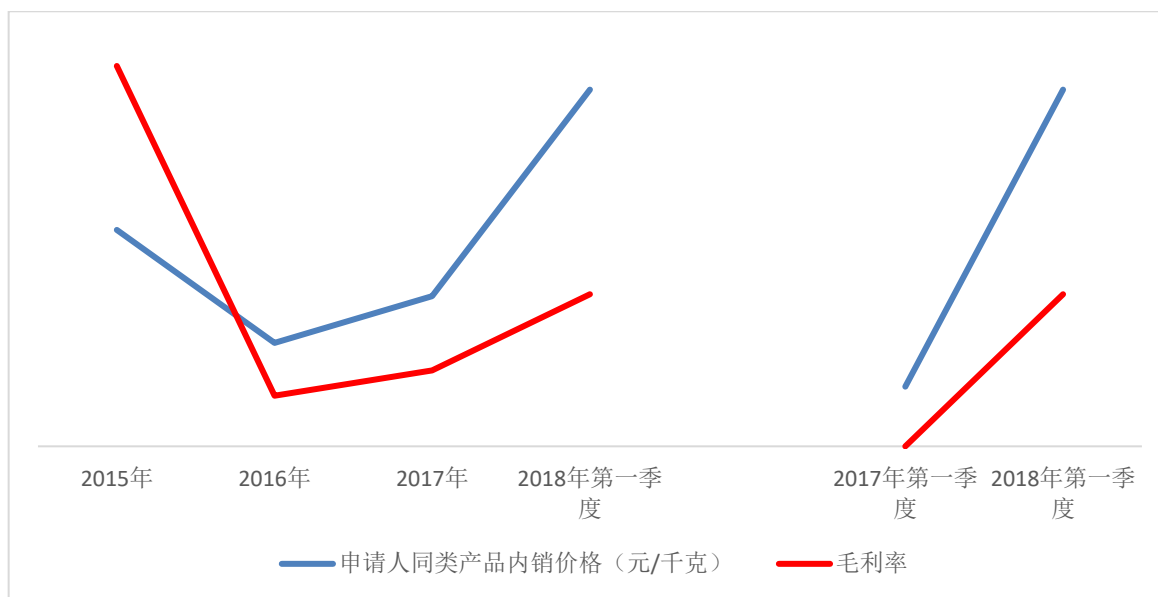
数据来源：附件八：申请人财务数据和报表。

表格 19：国内产业同类产品毛利率变化

期间	2015 年	2016 年	2017 年	2017 年第一 季度	2018 年第一 季度
毛利率	【100】	【13】	【20】	【0】	【40】
指数	100	13	20	0	40

说明：毛利润率=毛利润/销售收入

图表 12：国内产业同类产品价格和毛利率变化



如上文所述，2015年至2018年一季度，申请调查产品对国内产业同类产品始终存在明显的价格削减，导致国内同类产品销售下滑，市场份额从【70-90%】下降到【10-30%】，国内产业因此开工率大幅下滑，销售价格无法弥补成本的上升，毛利率出现大幅下滑，净利润长期亏损。尤其是2017年当主要原材料青霉素钾盐的价格迅速上涨时，申请调查产品对国内同类产品内销价格又造成了明显的价格抑制，即使国内产业同类产品内销价格在2017年有所上升，从2016年的【94】元/千克上升至2017年的【97】元/千克，甚至2018年一

季度的价格超过了2015年的销售价格，但上升的成本无法合理传导到内销价格中，导致毛利率依然维持在低水平。如下文分析，国内同类产品的净利润从2016年开始已经持续处于亏损中。

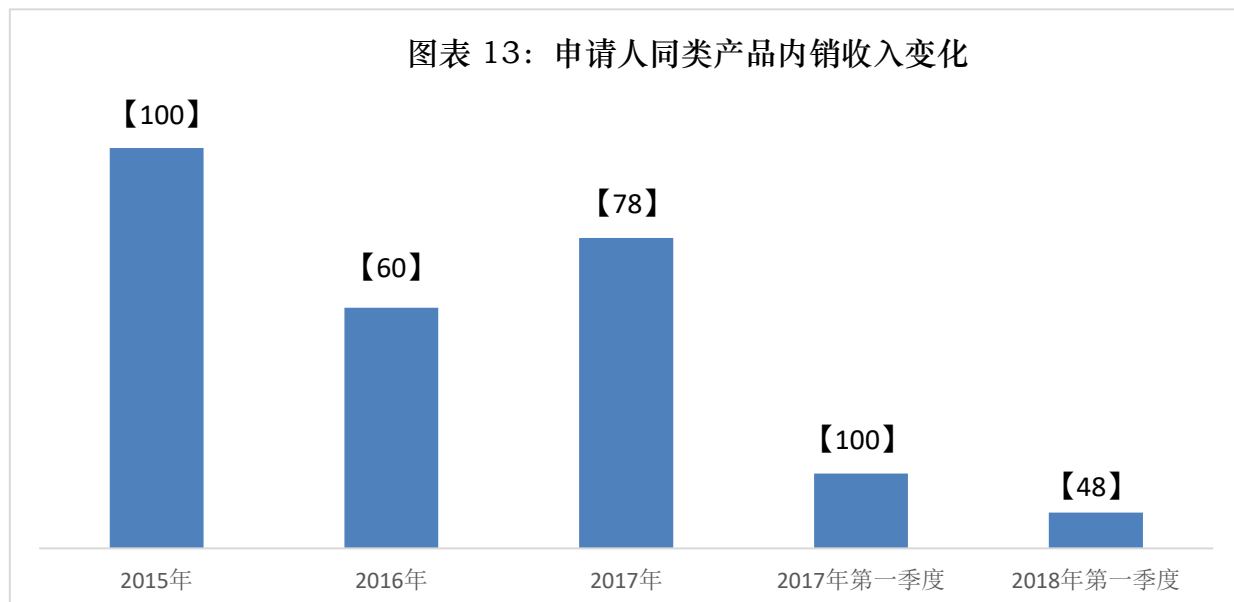
【上述括号内的信息为国内同类产品内销价格和毛利率。由于申请人为国内同类产品的唯一生产企业，披露国内同类产品内销价格和毛利率会导致利害关系方得知申请人商业秘密。因此，申请人申请对国内同类产品内销价格和毛利率作保密处理，不予公开。为说明国内产业同类产品的价格变化，申请人对国内同类产品内销价格和毛利率均已分别作指数处理。】

3.6 国内产业同类产品销售收入的变化情况

表格 20：国内产业同类产品销售收入变化

期间	2015 年	2016 年	2017 年	2017 年第一 季度	2018 年第一 季度
国内同类产品内销收入 (元)	【100】	【60】	【78】	【100】	【48】
指数	100	60	78	100	48

数据来源：附件八：申请人财务数据和报表。



2015年至2018年一季度，国内同类产品内销收入呈现下降趋势。2016年和2017年，国内同类产品内销收入分别比2015年下降40%和22%。2018年一季度相比2017年一季度

下降约52%。

【上述括号内的信息为国内同类产品内销收入。由于申请人为国内同类产品的唯一生产企业，披露国内同类产品内销收入会导致利害关系方得知申请人商业秘密。因此，申请人申请对国内同类产品内销收入作保密处理，不予公开。为说明国内产业同类产品销售收入的变化情况，申请人对国内同类产品内销收入已作指数处理。】

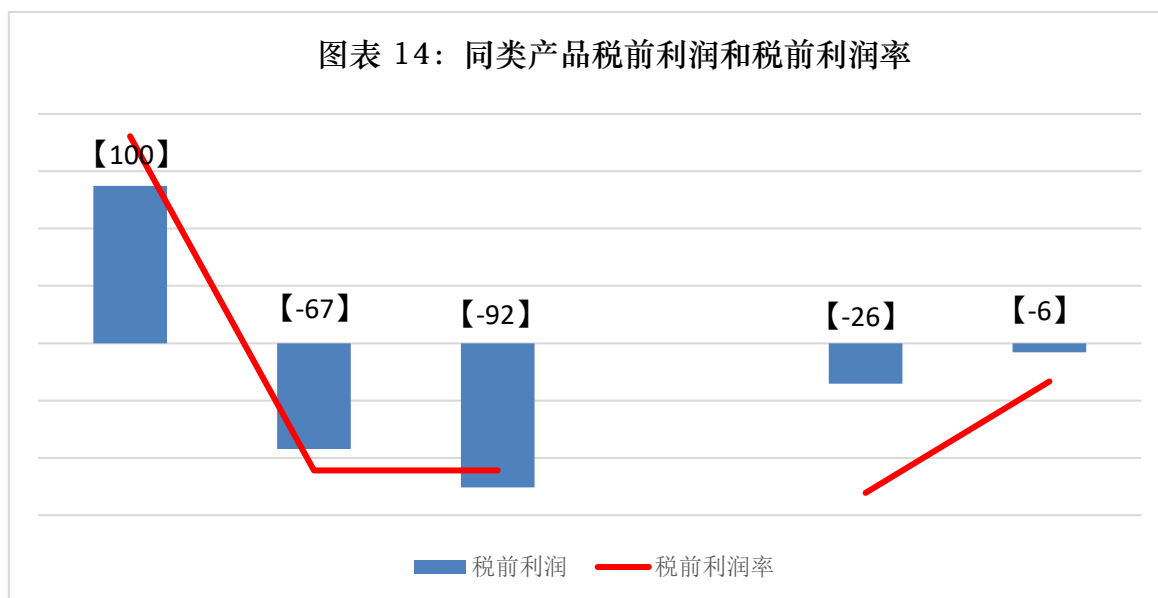
3.7 国内产业同类产品税前利润的变化

表格 21：国内产业同类产品税前利润变化

期间	2015 年	2016 年	2017 年	2017 年第一 季度	2018 年第一 季度
税前利润	【100】	【-67】	【-92】	【-26】	【-6】
指数	100	-67	-92	-26	-6
税前利润率	【100】	【-120】	【-120】	【-143】	【-68】

说明：（1）数据来源：附件八：申请人财务数据和报表；

（2）税前利润率=税前利润/内销收入。



2015年至2018年一季度期间，由于申请调查产品对申请人国内同类产品造成了明显的价格削减和价格抑制影响，使得申请人毛利润大幅下降。受此影响，国内同类产品自2016年起始终处于亏损状态。2016年至2018年一季度期间，国内同类产品的税前利润率分别为【-120】、【-120】和【-68】，【文字保密信息】。

【上述括号内的信息为国内产业同类产品税前利润、利润率和经营状况描述。由于申请人为国内同类产品的唯一生产企业，披露国内产业同类产品税前利润、利润率和经营状况会导致利害关系方得知申请人商业秘密。因此，申请人申请对国内产业同类产品税前利润、利润率和经营状况描述作保密处理，不予公开。为说明国内产业同类产品税前利润和利润率的变化情况，申请人对国内产业同类产品税前利润、利润率已作指数处理。】

3.8 国内产业同类产品投资收益率的变化

虽然申请人在2015年至2018年一季度间对同类产品再无新增投资，与税前利润相对应，国内同类产品的收益率在2016年至2018年一季度也始终处于负值，【文字保密信息】。

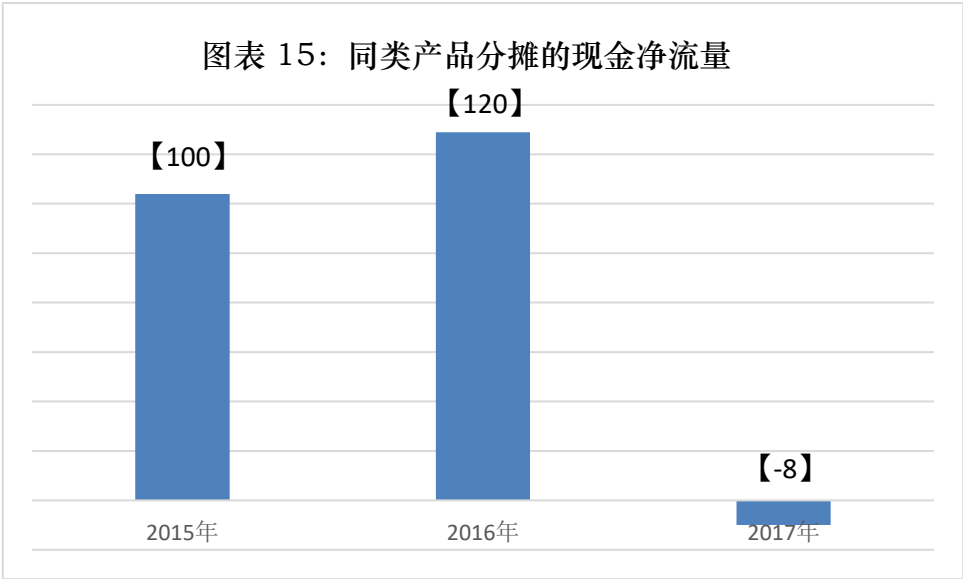
【上述括号内的信息为申请人的具体经营状况，披露上述信息会对申请人的利益造成不利影响，故对上述信息申请保密处理。】

3.9 国内产业同类产品与经营活动有关的现金净流量的变化

表格 22：国内产业同类产品现金净流量变化

期间	2015 年	2016 年	2017 年
现金净流量	【100】	【120】	【-8】
指数	100	120	-8

数据来源：附件八：申请人财务数据和报表。



2015年至2017年，国内同类产品分摊的经营活动现金净流量呈先升后降趋势。2015和2016年，国内同类产品分摊的经营活动现金流分别为净流入【100】元和【120】元，2017年国内同类产品分摊的经营活动现金流为净流出【-8】元。

【上述括号内的信息为国内产业同类产品与经营活动有关的现金净流量。由于申请人为国内同类产品的唯一生产企业，披露国内产业同类产品与经营活动有关的现金净流量会导致利害关系方得知申请人商业秘密。因此，申请人申请对国内产业同类产品与经营活动有关的现金净流量作保密处理，不予公开。为说明国内产业同类产品与经营活动有关的现金净流量的变化，申请人对国内产业同类产品与经营活动有关的现金净流量已作指数处理。】

3.10 国内产业同类产品工资和就业的变化

表格 23：国内产业同类产品工资和就业变化

期间	2015 年	2016 年	2017 年	2017 年第一 季度	2018 年第一 季度
员工人数	【100】	【100】	【100】	【100】	【100】
工资总额（元）	【100】	【96】	【101】	【100】	【135】
人均工资（元/人）	【100】	【96】	【101】	【100】	【135】
人均工资指数	100	96	101	100	135

数据来源：附件八：申请人财务数据和报表。

2015年至2018年一季度，国内同类产品就业人数并未有变化，这是因为国内同类产品的生产工艺已经成熟，进行同类产品的生产必须维持必要的人数。由于我国工资整体水平在近年大幅提高，但是国内同类产品的人均工资却基本维持不变。2018年一季度平均工资上升，主要是受到发放奖金的影响。

【上述括号内的信息为国内产业同类产品员工人数、工资总额和人均工资。由于申请人为国内同类产品的唯一生产企业，披露国内产业同类产品员工人数、工资总额和人均工资会导致利害关系方得知申请人商业秘密。因此，申请人申请对国内产业同类产品员工人数、工资总额和人均工资作保密处理，不予公开。为说明国内产业同类产品工资和就业的变化，申请人对国内产业同类产品员工人数、工资总额和人均工资均已分别作指数处理。】

3.11 国内产业同类产品劳动生产率的变化

表格 24：国内产业同类产品劳动生产率变化

期间	2015 年	2016 年	2017 年	2017 年第一 季度	2018 年第一 季度
国内同类产品产量（千克）	【100】	【64】	【66】	【100】	【75】
员工人数	【100】	【100】	【100】	【100】	【100】
劳动生产率（千克/人）	【100】	【64】	【66】	【100】	【75】
指数	100	64	66	100	75

说明：（1）数据来源：附件八：申请人财务数据和报表；

（2）劳动生产率 = 产量 / 员工人数。

由于2015年至2018年一季度国内同类产品产量的下降，国内同类产品劳动生产率呈下降趋势。2017年，同类产品劳动生产率比2015年下降34%，2018年一季度劳动生产率比2017年一季度又下降25%。

【上述括号内的信息为国内产业同类产品产量、员工人数和劳动生产率。由于申请人为国内同类产品的唯一生产企业，披露国内产业同类产品产量、员工人数和劳动生产率会导致利害关系方得知申请人商业秘密。因此，申请人申请对国内产业同类产品产量、员工人数和劳动生产率作保密处理，不予公开。为说明国内产业同类产品劳动生产率的变化，申请人对国内产业同类产品产量、员工人数和劳动生产率均已分别作指数处理。】

（三）损害的程度和类型

作为全球重要的GCLE消费市场，需求总体增长的中国市场对印度企业具有较大的吸引力。自2015年以来，印度厂商为了抢占中国市场份额，凭借印度政府提供的大量补贴，持续采取低价销售策略。如上文统计数据显示：2015年至2017年，申请调查产品的进口价格始终低于国内同类产品的内销价格，导致其进口数量持续大幅增长，所占中国市场份额也呈持续大幅上升的趋势，已经占据了中国市场的主导地位。受此冲击和影响，国内产业同类产品的生产经营和盈利状况受到了明显不利影响【文字保密信息】。

1、2015年至2018年一季度期间，国内同类产品的内销数量先下降后略有上升，与中

国市场需求量及申请调查产品进口数量的大幅增长呈鲜明的不同趋势，导致国内同类产品市场份额急剧下降，2017年比 2015年下降了【30-70】个百分点，2018年一季度市场份额持续下降到【10-30%】，累计下降了【40-80】个百分点，完全被申请调查产品所替代。

2、2015年至2018年一季度期间，受到销售数量和产量出现大幅下滑的影响，国内同类产品的开工率处于较低水平且总体呈下降的趋势，2015年至 2017年，国内同类产品开工率始终较低，而且累计下降了34个百分点。【文字保密信息】。

3、2015年至2018年一季度期间，申请调查产品对于国内产业持续造成价格削减。2017年至2018年一季度，在主要原材料青霉素钾盐价格持续上升的情况下，国内同类产品的销售价格受到抑制，无法将上升的成本传导到内销价格，直接导致国内同类产品的亏损，【文字保密信息】。2016年、2017年及2018年一季度的税前利润率分别为【-120】、【-120】和【-68】，2016年、2017年及2018年一季度的亏损额分别为【-67】、【-92】和【-6】。

综上分析，申请人认为，2015年至2018年一季度期间，在申请调查产品持续低价冲击下，国内同类产品的生产经营和财务指标明显恶化。产能无法得到有效利用，开工率始终处于较低水平，开工率、产量总体均呈下降趋势；在市场需求总体大幅增长的情况下，销量、市场份额反而总体大幅下滑，与申请调查产品进口数量及所占市场份额的持续大幅增长形成了鲜明的对比；由于受到申请调查进口产品的价格削减和价格抑制，同类产品自2016年开始处于亏损的状态。

鉴于上述分析，申请人认为，国内产业正在遭受申请调查产品低价进口所造成的实质损害，【文字保密信息】。如果不及时采取反补贴救济措施，国内产业将出现永久性、不可逆转的终结。

【上述括号内的信息为申请人经营状况描述、国内产业同类产品市场份额、亏损额和利润率。申请人经营状况描述、亏损额和利润率为申请人商业秘密。此外，由于申请人为国内同类产品的唯一生产企业，披露国内产业同类产品市场份额会导致利害关系方得知申请人商业秘密。因此，申请人申请对国内产业同类产品市场份额、亏损额和利润率作保密处理，不予公开。为说明国内产业所受的损害程度，申请人对国内产业同类产品市场份额、亏损额和利润率均

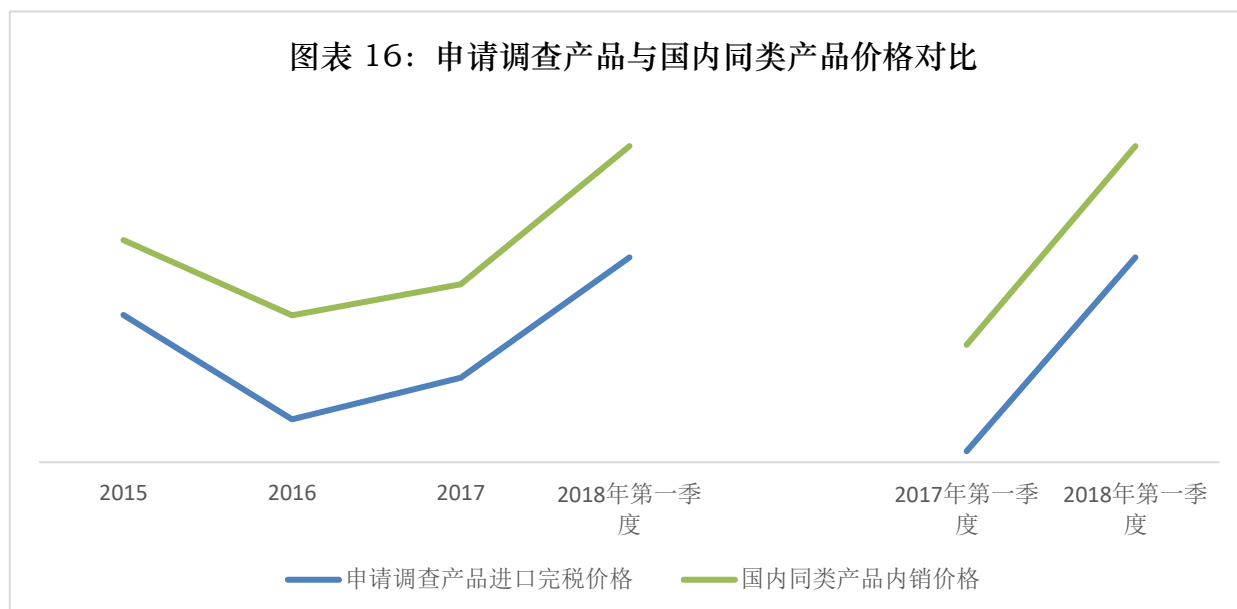
已分别作指数处理。】

七、 补贴与损害之间的因果关系

（一） 申请调查产品造成国内产业实质损害的原因分析

2015年至2018年一季度期间，中国GCLE需求量总体呈大幅增长趋势：从2015年的【100】上升到2016年的【130】和2017年的【204】，增长幅度高达104%。由于全球仅有中国和印度生产GCLE产品，同时中国市场又是全球重要的消费市场，为了抢占中国市场份额，申请调查进口产品长期、持续采取低价策略，对国内产业造成了实质损害。

在2015年至2018年一季度期间，印度GCLE产品进口数量持续大幅增长，2016年和2017年分别比2015年进口数量大幅增长了2.51倍和5.13倍。同时，随着进口数量的大幅增长，申请调查产品所占中国市场份额呈大幅上升趋势，由2015年的【10-30%】急剧上升至2018年一季度的【70-90%】，累计增长【40-80】个百分点，已经占据了中国市场的主导地位。而同期国内同类产品的市场份额丢失了【40-80】个百分点，全部为申请调查产品所替代。



从价格上看，如前文所述，2015年至2018年一季度期间，申请调查产品进口价格先大幅下降，后因原材料成本上升而逐渐上升。但是，基于申请调查产品的进口价格和国内同类

产品价格的比较，如上图所示，在2015年至2018年第一季度期间，申请调查产品长期、持续对国内同类产品造成价格削减，致使国内同类产品的销售数量受到抑制，市场份额大幅下滑，市场份额累计丢失【40-80】个百分点，开工率因此从2015年的【100】持续下降到【75】。

同时，由于印度政府提供的大量补贴，申请调查产品对于国内同类产品长期、持续的价格削减，国内同类产品的销售价格受到抑制，销售价格无法弥补成本的上升，导致国内产业自2016年以来长期亏损，2016年、2017年及2018年一季度的税前利润率分别为【-120】、【-120】和【-68】，2016年、2017年及2018年一季度的亏损额分别为【-67】、【-92】和【-6】，【文字保密信息】。

【上述括号内的信息为申请人的市场份额、开工率、税前利润率和具体经营状况，披露上述信息会对申请人的利益造成不利影响，故对上述信息申请保密处理。如前文所示，税前利润率和开工率已经作指数化处理，用区间表示市场份额。】

综上，申请人认为，印度GCLE产品依靠印度政府的大量补贴对中国低价出口是造成国内GCLE产业实质损害的原因，申请调查产品的大量低价进口与国内产业同类产品遭受的损害之间具有因果关系。

（二）其它可能造成国内产业损害的因素分析

1 其它国家和地区的进口产品的影响

2015年至2018年一季度期间，印度是中国GCLE产品唯一的进口来源地，没有其他国家或地区对中国出口GCLE产品。因此，不存在其他国家（地区）的进口产品对国内产业造成影响的情况。

2 市场需求变化的影响

如上文所述，2015年至2018年一季度，中国GCLE需求量总体呈大幅增长趋势：从2015年的【100】上升到2016年的【130】和2017年的【204】，增长幅度高达104%。因此，申请人认为，2015年至2018年一季度国内产业受到的损害并非市场需求萎缩造成的。

【上述括号内的信息为国内产业同类产品需求量。由于申请人为国内同类产品的唯一生产企业，披露国内产业同类产品需求量会导致利害关系方得知申请人商业秘密。因此，申请人申请对国内产业同类产品需求量作保密处理，不予公开。为说明其他因素并不是造成国内产业实质损害的原因，申请人对国内产业同类产品需求量已作指数处理。】

2018年一季度需求量较2017年一季度有较大下降，这是由于主要原材料青霉素钾盐的价格在2017年大幅增长，推动了下游用户在2017年下半年增加了库存，致使2018年第一季度下游用户为消化库存减少了需求。如上文所述，国内GCLE总体需求量依然是增长的。

3 消费方式的变化的影响

GCLE用于合成几十种头孢产品，特别是第三、第四代头孢产品，而且以GCLE为母核生产头孢菌素时，产品收率更高、生产工艺更简单、生产条件更温和、产品成本更低。另外，由于GCLE的C3位氯甲基活泼的化学反应性给合成新型第三、第四代头孢类抗生素带来优于7-ACA的反应特性，GCLE还可以用于合成多种新型的内酰胺类抗生素，特别是在第四代头孢菌素如头孢地尼，头孢克肟，头孢他啶等的合成上比7-ACA有更大的优势。近年来随着口服药剂的安全优势凸显，未来GCLE的市场需求将继续保持增长的趋势。因此没有出现由于其他替代产品等消费模式变化而导致GCLE需求萎缩的情况。

4 出口变化的影响

2015年以来，申请人生产的GCLE产品只在2016年有非常少量出口。因此，申请人认为，国内GCLE产业的损害不是由于出口变化造成的。

5 国内外正常竞争的影响

如上文所述，申请调查产品和申请人生产的GCLE产品的生产工艺基本相同，二者生产设备和装置不存在实质性差别；而且，产品质量和品质、销售渠道、销售地域和客户群体均基本相同。在生产经营管理方面，申请人对管理和生产工艺的提升也是持续的投入和关注。

因此，国内同类产品无论在产品质量上还是生产经营管理上都具备良好的市场竞争能力。

而且，申请人具有明显的区位优势，具有交货及时性、便利性、售后及时性等进口产品不能替代的有利要素。如果申请调查产品与国内同类产品进行公平竞争，国内产业完全具备本土的优势，不应当会遭受如此严重的损害。

6 商业流通渠道和贸易政策的影响

随着改革开放的进一步深入以及市场经济体制的不断完善，目前国内GCLE产品完全实行市场化的价格机制，生产经营完全受市场规律调节。国内产业同类产品在销售渠道、客户群体基本与申请调查产品相同，在商业流通领域并不存在、预计在未来一段时间也不会存在其它阻碍国内同类产品销售或造成国内产业损害的因素。

7 不可抗力因素的影响

在本案申请调查期间内，申请人企业并未发生自然灾害或者其他严重不可抗力事件，同类产品生产设备营运正常，未受到意外影响。

（三）结论

基于上述证据以及数据分析，申请人认为，申请调查补贴进口产品与国内GCLE产业遭受的实质损害之间存在因果关系，而其他因素并不是造成国内产业实质损害的原因。

八、 公共利益之考量

申请人认为，贸易救济是为了纠正进口产品不公平的贸易竞争行为，消除其对国内产业造成的不利影响和损害。采取反补贴措施的目的就是通过对破坏正常市场秩序的政府不规范补贴行为加以制约，以维护和规范正常的贸易秩序，恢复和促进公平竞争。在考量公共利益时，对于恢复被扭曲的市场竞争和保护有效的竞争应当予以重视。根据上文所述的数据和证据，原产于印度的GCLE产品依靠印度政府的大量补贴获得相对竞争优势，低价出口到中国市场，严重破坏了中国市场的公平竞争和正常秩序，对国内产业造成了实质损害。鉴于此，采取合理有效的反补贴措施，有助于恢复正常的竞争秩序，并能维护国内产业的安全并进而维护国家药品供应安全 and 经济安全。因此，申请人根据国家法律法规的规定请求商务部采取必要的贸易救济措施以维护国内产业的合法权益，进而维护国家公共利益。

药品的充足和安全供应是关乎国计民生的重要问题，药品不仅是保障人民身体健康的必需品，也是一个国家重要的战略物资。而作为制药产业的基础，化学原料药行业是保障药品安全供应的重中之重。总体上看，原料药工业属于精细化工，生产工序多、投入大。同时，市场对原料药的依赖度高。因此原料药行业事关国家方方面面的利益。

抗生素作为人类最重要的抗菌抑菌类药物，以口服、注射、静脉滴注等多种形式被广泛应用于现代医疗活动中。而以头孢克肟、头孢地尼、头孢丙烯、头孢妥仑匹酯等为代表的第三代、第四代头孢类抗生素药品，具有抗菌谱较广、半衰期长、服用方便、交叉耐药性低、对于适应症的疗效比较显著等特点，是世界范围内最具优势的抗生素产品类型，在我国具有广泛的应用前景和市场前景，一度供不应求。而作为生产上述新型头孢的母核，GCLE更具优势，如产品收率更高、生产工艺更简单、生产条件更温和、产品成本更低。GCLE还能用于合成传统母核不能合成的新头孢类药物，如头孢妥仑酯。

正因如此，商务部和税务总局在2006年发布的《中国鼓励引进技术目录》明确将GCLE列入急需支持发展的医药中间体之一，成为政府鼓励发展的重要产业。而传统头孢类抗生素药品的母核7-ADCA和7-ACA，其产品或工艺由于产能过剩和优势不在，已被2013年修订的《产业结构调整指导目录（2011年）》列为限制类产业。因此GCLE产品有着广阔的市场前景，也对保障药品供应安全具有重要意义。

同时，GCLE的生产原料是青霉素钾盐，而我国是全世界最大的青霉素生产国。除了出口及国内临床使用外，国产青霉素尚有较多余量。将廉价的青霉素经化学转化为GCLE，进而制取各类新一代的头孢菌素是符合国情的，也有利于推进经济结构的战略性调整，促进产业升级，提高竞争力。所以，保护国内GCLE产业的正常发展有助于促进青霉素产业结构调整，符合我国“供给侧改革”的方针和要求。

如上文所述，我国GCLE产业的技术水平、设备设施、工艺水平、产品质量等与印度企业不存在实质差别。只要保证国内产业的正常生产和销售，国内同类产品完全可以满足国内下游产业的需求。所以对申请调查产品采取反补贴措施，不会给下游产业的正常发展带来不利影响。

而且，GCLE产业的正常发展，也有利于下游制药生产企业的正常生产经营，合理预测和控制原材料成本并合理规划今后发展规模。印度某些企业不顾员工利益和环境后果，凭借印度政府提供的大量补贴所创造的“优势”，向中国市场大肆低价出口，排斥竞争者，从而达到占领中国市场的目的。若对此行为听之任之，濒危的GCLE国内产业将会彻底消失，国内市场将完全依赖进口。下游企业将会轻易受到进口产品任意定价的摆布，从而影响正常的生产经营，进而影响到药品的充足和安全供应，并最终危害消费者的利益。申请人认为，GCLE产业与下游产业之间是相互依存的关系，上下游产业之间的任何一方受到损害，都不可避免的影响另一方的利益。只有规范国内GCLE市场，使GCLE价格保持在一个合理且稳定的水平上，整个产业链的上下游企业才能获得健康和持续的发展，下游企业才能从稳定的市场中最终获益。因此，GCLE的下游企业和GCLE产业的最终利益是一致的，对补贴进口产品进行反补贴调查并征收反补贴税，有利于GCLE产业和下游企业的共同发展，贸易救济措施将为保护下游企业以及消费者的最终利益发挥作用。

反补贴措施针对的是依靠印度政府大量补贴而取得“竞争优势”的进口产品，并不抵制正常的对外贸易，也不会对正当的、公平的进口造成障碍。采取反补贴措施的目的是将被补贴进口产品的价格调整到公平的竞争水平上，并不是将进口产品挡在门外。如果采取适当的反补贴措施，进口产品也完全可以以公平、正常的价格向中国出口，国外企业的正当出口行为不会受到任何限制。

综上，申请人认为，对原产于印度的进口GCLE产品开展反补贴调查、并采取相应的反补贴措施符合中华人民共和国的公共利益。

九、 结论和请求

（一） 结论

基于上述事实 and 证据，申请人认为原产于印度的GCLE产品从印度政府获得了大量的补贴，且已经给国内产业造成了实质损害。

因此，进行反补贴调查并采取及时、有效的反补贴措施，有利于保障国内企业的合法权益，保障国内产业的正常发展，且符合中华人民共和国的公共利益。

（二）请求

为了保护国内GCLE产业的合法权益以及今后的正常发展，依据《中华人民共和国对外贸易法》和《中华人民共和国反补贴条例》的规定，申请人请求中华人民共和国商务部对原产于印度并向中国出口的GCLE产品进行反补贴立案调查，并根据调查结果向国务院关税税则委员会做出建议，对原产于印度并向中国出口的GCLE产品征收反补贴税。

【文字保密信息】如果不尽快采取反补贴措施对国内产业进行及时、有效的救济，国内产业将出现永久性、不可逆转的终结。因此，申请人请求商务部加快立案，加快初裁并采取临时措施，对【文字保密信息】国内产业依法提供必要的正当保护。

【上述括号内的信息为申请人的具体经营状况，披露上述信息会对申请人的利益造成不利影响，故对上述信息申请保密处理。】

此外，根据《中华人民共和国反补贴条例》第四十五条规定，如果在立案后初裁前，来自印度的申请调查产品出现激增的情况时，为了保证反补贴措施的救济效果，申请人请求商务部依法对有关进口产品追溯征收反补贴税。

第二部分 保密申请

一、 保密申请

根据《中华人民共和国反补贴条例》第 22 条的规定，申请人请求对本申请书中的材料以及附件作保密处理，即除了本案调查机关及《中华人民共和国反补贴条例》所规定的部门可以审核及查阅之外，该部分材料得以任何方式进行保密，禁止以任何方式接触、查阅、调卷或了解。

二、 非保密性概要

为使本案的利害关系方能了解本申请书以及附件的综合信息，申请人特此制作申请书以及附件的公开文本，而有关申请保密的材料和信息在申请书及附件的公开文本中作了有关说明或非保密性概要。

三、 保密处理方法说明

对于本申请书公开文本中涉及申请人商业秘密的相关数据和信息及能够用于推算申请人商业秘密的数据，申请人按照如下方法进行保密处理：

第一，对于表格中列示的保密数据，以指数或区间的形式替代原有数字并表示原有数字的变化情况。涉及的数据包括：国内同类产品总产量和总需求量、国内同类产品的内销价格、产能、产量、开工率、销量、市场份额、期末库存、销售收入、税前利润、利润率、平均投资额、投资收益率、现金净流量、工资总额、就业人数、人均工资、劳动生产率等相关数据；

第二，对于文字中涉及的保密信息和数据，以方括号“【 】”的方式隐去原有数据和信息，并以表格中的指数或以文字概要的方式提供了相关非保密概要。

第三部分 证据目录和清单

- 附件一： 申请人营业执照
- 附件二： 授权委托书
- 附件三： 律师指派书和律师执业证明
- 附件四： 中华人民共和国海关进出口税则，2015年版、2016年版和2017年版
- 附件五： 印度大冢GCLE产品技术指标
- 附件六： 申请人国内同类产品技术指标
- 附件七： GCLE进口统计数据
- 附件八： 申请人财务数据和报表
- 附件九： 美元兑人民币汇率统计表
- 附件十： 印度商务部《2015-2020 外贸政策》
- 附件十一： 美国商务部——2017年9月《原产于印度的冷拔机械管（Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel）反补贴初裁备忘录》
- 附件十二： 美国商务部——2017年10月《原产于印度的细旦涤纶短纤（Fine Denier Polyester Staple Fiber）反补贴初裁备忘录》
- 附件十三： 中国商务部关于原产于印度的进口邻氯对硝基苯胺反补贴调查的最终裁定
- 附件十四： 美国商务部——2018年2月《原产于印度的聚四氟乙烯树脂（polytetrafluoroethylene resin）反补贴初裁备忘录》
- 附件十五： 印度商务部《2015-2016年度报告》
- 附件十六： 印度《2005经济特区法案》
- 附件十七： 印度《2006年经济特区条例》
- 附件十八： 印度Odisha邦政府关于SEZ激励政策的网站介绍
- 附件十九： 印度所得税法第35（2AB）节
- 附件二十： 印度所得税法第 35AC节
- 附件二十一： 印度出口信贷利息补贴公告及新闻介绍
- 附件二十二： 印度安得拉邦《2010-2015年工业投资鼓励政策》

公开版本

原产于印度的进口7-苯乙酰氨基-3-氯甲基-4-头孢烷酸对甲氧基苄
酯（GCLE）反补贴调查申请书

附件

附件一： 申请人营业执照



营业执照

(副本)

统一社会信用代码 91330211778210340X (1/1)

名称 宁波人健化学制药有限公司
类型 有限责任公司(台港澳与境内合资)
住所 浙江省宁波化工区北海路 255 号(漕浦)
法定代表人 翁维杰
注册资本 壹仟肆佰捌拾柒万美元
成立日期 2005 年 08 月 05 日
营业期限 2005 年 08 月 05 日 至 2045 年 08 月 04 日
经营范围 医药中间体产品(危化品除外)、原料药及(甲醇、乙醇、二氯甲烷、甲苯、乙酸乙酯、乙酸丁酯、二氧六环)副产品的制造、加工。(依法须经批准的项目,经相关部门批准后方可开展经营活动)



登记机关



应当于每年 1 月 1 日至 6 月 30 日通过浙江省企业信用信息公示系统报送上一年度年度报告

附件二：授权委托书



宁波人健化学制药有限公司

宁波市镇海区澥浦镇北海路255号1568号 电话: (0574)86666928

(宁波石化经济技术开发区)

传真: (0574)86509868

邮政编码: 315204

E-mail: info@rjpharm.com

授权委托书

委托人: 宁波人健化学制药有限公司

受托人: 上海市锦天城(北京)律师事务所

因对原产于印度的 GCLE 产品提起反补贴调查事宜, 委托人特此委托受托人为全权代理人, 代理权限具体如下:

1. 就申请反补贴调查事宜, 协助委托人收集和整理有关证据和材料;
2. 起草反补贴调查申请书;
3. 代表委托人向中华人民共和国商务部递交反补贴调查的书面申请;
4. 代表委托人向中华人民共和国商务部提交相关证据材料, 包括调查问卷和补充问卷的回答, 并依法查阅与本案有关的证据和材料;
5. 代表委托人参加本案的听证会;
6. 其他与本案有关的事宜。

本授权书所规定的权限于本案结案时终止。

委托人: 宁波人健化学制药有限公司

(盖章)



时间: 二〇一八年八月二十六日

附件三： 律师指派书和律师执业证明



锦天城律师事务所
ALLBRIGHT LAW OFFICES

北京市 东城区 东长安街1号 东方广场C1座6层 (100738)
6/F, Office Tower C1, Oriental Plaza, No.1 East Chang An Avenue, Beijing 100738, PRC
Tel: +86 10 8523 0688 Fax: +86 10 8523 0699 www.allbrightlaw.com

律师指派书

就代理宁波人健化学制药有限公司向中华人民共和国商务部申请对原产于印度的 GCLE 产品进行反补贴调查，上海市锦天城（北京）律师事务所已接受宁波人健化学制药有限公司的全权委托。

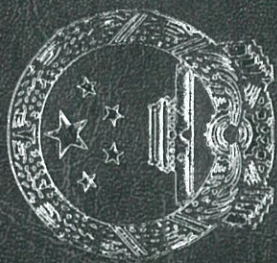
根据上述委托，上海市锦天城（北京）律师事务所指派李烨律师，处理与该案相关的事宜。

特此证明。

上海市锦天城（北京）律师事务所



二〇一八年八月二十六日



中华人民共和国

律师执业证

Lawyer's License
People's Republic of China

本证为持证人依法获准律师执业
的有效证件。持证人执业应当出示本
证，请司法机关和有关单位、个人予以
协助。

中华人民共和国
律师执业证
Lawyer's License
People's Republic of China

中华人民共和国司法部

中华人民共和国司法部监制

执业机构 上海市锦天城（北京）

律师事务所

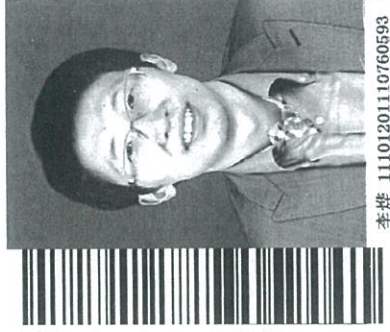
执业证类别 派驻律师

执业证号 11101201110760593

法律职业资格
或律师资格证号 20072114814703

发证机关 北京市司法局

发证日期 2013 年 05 月 09 日



持证人 李辉

性别 男

身份证号 211481198006300036

律师年度考核备案

考核年度	二〇一四年度
考核结果	称 职
备案机关	
备案日期	2014年6月-2015年5月

律师年度考核备案

考核年度	二〇一三年度
考核结果	称 职
备案机关	
备案日期	2013年6月-2014年5月

律师年度考核备案

考核年度	二〇一六年度
考核结果	称 职
备案机关	北京市东城区司法局 专用章 律师年度考核备案
备案日期	2016年6月-2017年5月

律师年度考核备案

考核年度	二〇一五年度
考核结果	称 职
备案机关	北京市东城区司法局 专用章 律师年度考核备案
备案日期	2015年6月-2016年5月

律师年度考核备案

考核年度	二〇一七年度
考核结果	称 职
备案机关	北京市东城区司法局 专用章 律师年度考核备案
备案日期	2017年6月-2018年5月

律师年度考核备案

考核年度	二〇一八年度
考核结果	称 职
备案机关	北京市东城区司法局 专用章 律师年度考核备案
备案日期	2018年6月-2019年5月

备 注

注意事项

一、本证应当加盖发证机关印章、钢印，并应当加盖律师年度考核案卷专用章（首次发证之日起首次年度考核完成前除外）。

二、持证人应当依法使用本证并予以妥善保管，不得伪造、涂改、转让、抵押、出借和损毁。如有遗失，应当立即向所在地县（区）司法行政机关报告，并依照有关规定申请补发。持证人申请换发新证，应当将本证交回原发证机关。

三、持证人受到停止执业处罚的，由所在地县（区）司法行政机关收回律师执业证，并于处罚期满时发还。持证人受到吊销律师执业证或者因其他原因终止执业的，由所在地县（区）司法行政机关收回律师执业证，并交原发证机关注销。除司法行政机关外，其他任何单位和个人不得扣留、收缴和吊销本证。

四、了解律师详细信息，请登录

核验网址：_____。

No. 10384302

附件四：中华人民共和国海关进出口税则，
2015年版、2016年版和2017年版

中华人民共和国 海关进出口税则

十位编码·监管条件·申报目录·出口退税·政策法规·海关代征税一览表

2015年中英文对照版(附光盘)

中华人民共和国海关进出口税则 编委会 编

Customs Import and Export Tariff
of the People's Republic of China

Decade Coding of HS, Customs Control Conditions, Declares Contents,
Export Drawback, Regulations, Detailed Customs Duties Levied on Commission Basis

Compiled by the Editorial Department of the Customs
Import and Export Tariff of the People's Republic of China

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- 2、归类服务：归类办权威专家三次免费线上归类咨询；历史通关归类结果查询、归类工具自主归类；
- 3、准确的模拟计税服务；
- 4、提供货物仓单信息查询、知识产权备案查询等。

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税率适用说明

一、进口税则

进口税则商品分类目录采用《商品名称及编码协调制度》。进口税则税目税率设置税则号列、货品中文名称、最惠国税率、普通税率、增值税税率、出口退税率、计量单位、监管条件、货品英文名称等栏目。

(一) 正文税率使用说明

1. 最惠国税率

根据《条例》规定,原产于共同适用最惠国待遇条款的世界贸易组织成员的进口货物,原产于与中华人民共和国签订含有互给予最惠国待遇条款的双边贸易协定的国家或者地区的进口货物,以及原产于中华人民共和国境内的进口货物,适用最惠国税率。

(1)“税则号列”栏目中的右上角标有“暂”字的税号所对应的“最惠国税率”栏目的税率为“进口暂定税率”,根据海关征收关税采用“从低征收”的原则,适用最惠国税率的进口货物有暂定税率的,应当适用暂定税率。税则号前标注“ex”的,表示适用暂定税率的应税进口货物以货品名称栏中的描述为准。

(2)税率栏中标有“T2”的表示此商品实行从量、复合税,具体税率参见附表2。

2. 暂定税率

根据《条例》规定,适用最惠国税率、协定税率、特惠税率、关税配额税率的进口货物在一定期限内可以实行暂定税率。

本书“税则号列”上标注有“暂”字的商品,对应“最惠国”税率列明的是进口暂定税率。

适用最惠国税率、协定税率、特惠税率的进口货物有暂定税率的,应当从低适用税率;适用关税配额税率的进口货物有暂定税率的,应当适用暂定税率。适用普通税率的进口货物,不适用暂定税率。

3. 普通税率

根据《条例》规定,原产于除适用最惠国税率、协定税率、特惠税率国家或地区以外的国家或者地区的进口货物,以及原产地不明的进口货物,适用普通税率。

4. 增值税税率

海关代征的进口货物法定增值税税率,栏目空白时为免征,其他分为13%和17%两种。

5. 出口退税率

国家为鼓励出口对出口商品已征收的国内税部分或全部退还给出口企业的税率。本书收录截止2015年1月1日前实施的退税率因出口税率在年度内调整频繁,所以本书所列出口退税率仅供企业参考,若年度内出口税率有调整,请参照最新出台的税率政策。其中部分税号项下存在同一税号退税率不一致的情况,退税率一栏会出现一个或以上退税率,按商品不同情况分别退税。

(二) 附件税率使用说明

1. 协定税率(参见附表1)

根据我国与有关国家或地区签署的贸易或关税优惠协定,对有关国家或地区实施协定税率。

(1)对原产于韩国、印度、斯里兰卡、孟加拉和老挝的1891个税目商品实施亚太贸易协定税率;

(2)对原产于文莱、印度尼西亚、马来西亚、新加坡、泰国、菲律宾、越南、缅甸、老挝和柬埔寨的部分税目商品实施中国-东盟自由贸易协定税率;

(3)对原产于智利的7347个税目商品实施中国-智利自由贸易协定税率;

(4)对原产于巴基斯坦的6546个税目商品实施中国-巴基斯坦自由贸易协定税率;

(5)对原产于新西兰的7358个税目商品实施中国-新西兰自由贸易协定税率;

(6)对原产于新加坡的2794个税目商品实施中国-新加坡自由贸易协定税率;

(7)对原产于秘鲁的7124个税目商品实施中国-秘鲁自由贸易协定税率;

(8)对原产于哥斯达黎加的7320个税目商品实施中国-哥斯达黎加自由贸易协定税率;

(9)对原产于瑞士的7110个税目商品实施中国-瑞士自由贸易协定税率;

(10)对原产于冰岛的7248个税目商品实施中国-冰岛自由贸易协定税率;

(11)对原产于香港特别行政区且已制定优惠原产地标准的1812个税目商品实施零关税;

(12)对原产于澳门特别行政区且已制定优惠原产地标准的1315个税目商品实施零关税;

(13)对原产于台湾地区的622个税目商品实施海峡两岸经济合作框架协议货物贸易早期收获计划协定税

税则号列	货 品 名 称	最惠国	协定税率											特惠税率								
			东盟统一	亚太5国	智利	巴基斯坦	新加坡	新西兰	秘鲁	哥达	香港	澳门	台湾	瑞士	冰岛	亚太2国	老挝	柬埔寨	缅甸	LDC1	LDC2	LDC3
29333920	奎宁环-3-醇	6.5	0		0	5		0	0	0				3.9	0					0	0	
29333990	其他结构上有非稠合吡啶环化合物(不论是否氢化)	6.5	0		0	5		0	0	0				5.2	0					0	0	
29334100	左非诺及其盐	6.5	0		0	5		0	0	0				3.9	0					0	0	
29335920	环丙氧哌酸	6.5	0	6	0	5		0	0	0				3.9	0					0	0	
29334990	其他含喹琳或异喹琳环系的化合物(但未经进一步稠合)	6.5	0		0	5		0	0	0				3.9	0					0	0	
29335200	丙二酰脲(巴比土酸)及其盐	6.5	0		0	5		0	0	0				3.9	0					0	0	
29335300	阿洛巴比妥、异戊巴比妥、巴比妥、布他比妥、正丁巴比妥、环己巴比妥、甲苯巴比妥、戊巴比妥、苯巴比妥、仲丁巴比妥、司可巴比妥和乙烯巴比妥以及他们的盐	6.5	0		0	5		0	0	0				3.9	0					0	0	
29335400	其他丙二酰脲的衍生物以及他们的盐	6.5	0		0	5		0	0	0				3.9	0					0	0	
29335500	氯普唑仑、甲氯唑酮等以及他们的盐	6.5	0		0	5		0	0	0				3.9	0					0	0	
29335910	胞嘧啶	6.5	0	4.6	0	0		0	0	0				3.9	0					0	0	
29335990	其他结构上有嘧啶环或嘧啶环的化合物(不论是否氢化)	6.5	0	4.6	0	0		0	0	0				5.2	0					0	0	
29336100	三聚氰胺(蜜胺)	6.5	0		0	5		0	0	0				3.9	0					0	0	
29336910	三聚氰氯	6	0		0	5		0	0	0		0		3.6	0					0	0	
29336921	二氯异氰尿酸	6.5	0		0	5		0	0	0		0		3.9	0					0	0	
29336922	三氯异氰尿酸	6.5	0		0	5		0	0	0		0		3.9	0					0	0	
29336929	其他异氰尿酸氯化衍生物	6.5	0		0	5		0	0	0		0		3.9	0					0	0	
29336990	其他结构上含非稠合三嗪环化合物(不论是否氢化)	6.5	0		0	5		0	0	0		0		3.9	0					0	0	
29337100	6-己内酰胺	9	9		0			0		0				5.4	0							
29337200	氯巴占和甲乙哌酮	9	0		0	5		0	0	0				5.4	0					0	0	
29337900	其他内酰胺	9	0		0	5		0	0	0					0					0	0	
29339100	阿普唑仑、卡马西洋等以及它们的盐	6.5	0		0	5		0	0	0				3.9	0					0	0	
29339900	其他仅含氮杂原子的杂环化合物	6.5	0		0	5		0	0	0				5	0					0	0	
29341000	结构上含有非稠合噻唑环的化合物(不论是否氢化)	6.5	0		0	5		0	0	0				3.9	0					0	0	
29342000	含一个苯并噻唑环系的化合物(但未经进一步稠合,不论是否氢化)	6.5	0		0	5		0	0	0				3.9	0					0	0	
29343000	含一个吩噻嗪环系的化合物(但未经进一步稠合,不论是否氢化)	6.5	0		0	5		0	0	0				3.9	0					0	0	
29349100	阿米雷司、溴替唑仑、氯噻西洋等以及他们的盐	6.5	0		0	5		0	0	0				3.9	0					0	0	
29349910	磺内酯及磺内酰胺	6.5	0		0	5		0	0	0				3.9	0					0	0	
29349920	咪唑啉酮	6	0		0	5		0	0	0					0					0	0	
29349930	核酸及其盐	6.5	0		0	5		0	0	0				3.9	0					0	0	
29349940	奈韦拉平、依发韦仑、利托那韦及它们的盐	6.5	0		0	5		0	0	0				3.9	0					0	0	
29349950	克拉维酸及其盐	6.5	0		0	5		0	0	0				3.9	0					0	0	
29349960	7-苯乙酰氨基-3-氯甲基-4-头孢烷酸对甲氧基苄酯、7-氨基头孢烷酸、7-氨基脱乙酰氧基头孢烷酸	6	0	5	0	0		0	0	0				3.6	0					0	0	
29349990	其他杂环化合物	6.5	0		0	5		0	0	0				3.9	0					0	0	
29350010	磺胺嘧啶	6.5	0		0	5		0	0	0				3.9	0					0	0	
29350020	磺胺双甲基嘧啶	6.5	0		0	5		0	0	0				3.9	0					0	0	
29350030	磺胺甲恶唑	6.5	0		0	5		0	0	0				3.9	0					0	0	
29350090	其他磺(酰)胺	6.5	0		0	5		0	0	0				5	0					0	0	
29362100	未混合的维生素 A 及其衍生物	4	0		0	0		0	0	0		0		3.1	0					0	0	0
29362200	未混合的维生素 B1 及其衍生物	4	0		0	0		0	0	0		0		0	0					0	0	0
29362300	未混合的维生素 B2 及其衍生物	4	0		0	0		0	0	0		0		0	0					0	0	0
29362400	未混合的 D 或 DL-泛酸及其衍生物	4	0		0	0		0	0	0		0		0	0					0	0	0
29362500	未混合的维生素 B6 及其衍生物	4	0		0	0		0	0	0		0		0	0					0	0	0
29362600	未混合的维生素 B12 及其衍生物	4	0		0	0		0	0	0		0		3.2	0					0	0	0
29362700	未混合的维生素 C 及其衍生物	4	0		0	0		0	0	0		0		0	0					0	0	0
29362800	未混合的维生素 E 及其衍生物	4	0		0	0		0	0	0		0		3.2	0					0	0	0
29362900	其他未混合的维生素及其衍生物	4	0		0	0		0	0	0		0		3.2	0					0	0	0

中华人民共和国 海关进出口税则

十位编码·监管条件·申报目录·出口退税·政策法规·海关代征税一览表

2016年中英文对照版(附光盘)

中华人民共和国海关进出口税则 编委会 编

Customs Import and Export Tariff
of the People's Republic of China

Decade Coding of HS, Customs Control Conditions, Declares Contents,
Export Drawback, Regulations, Detailed Customs Duties Levied on Commission Basis

Compiled by the Editorial Department of the Customs
Import and Export Tariff of the People's Republic of China



税率适用说明

一、进口税则

进口税则商品分类目录采用《商品名称及编码协调制度》。进口税则税目税率设置税则号列、货品中文名称、最惠国税率、普通税率、增值税税率、出口退税率、计量单位、监管条件、货品英文名称等栏目。

(一) 正文税率使用说明

1. 最惠国税率

根据《条例》规定，原产于共同适用最惠国待遇条款的世界贸易组织成员的进口货物，原产于与中华人民共和国签订含有互给予最惠国待遇条款的双边贸易协定的国家或者地区的进口货物，以及原产于中华人民共和国境内的进口货物，适用最惠国税率。

(1) “税则号列”栏目中的左上角标有“暂”字的税号所对应的“最惠国税率”栏目的税率为“进口暂定税率”，根据海关征收关税采用“从低征收”的原则，适用最惠国税率的进口货物有暂定税率的，应当适用暂定税率。税则号前标注“ex”的，表示适用暂定税率的应税进口货物以货品名称栏中的描述为准。

(2) 税率栏目标有“T2”的表示此商品实行从量、复合税，具体税率参见附表2。

2. 暂定税率

根据《条例》规定，适用最惠国税率、协定税率、特惠税率、关税配额税率的进口货物在一定期限内可以实行暂定税率。

本书“税则号列”上标注有“暂”字的商品，对应“最惠国”税率列明的是进口暂定税率。

适用最惠国税率、协定税率、特惠税率的进口货物有暂定税率的，应当从低适用税率；适用关税配额税率的进口货物有暂定税率的，应当适用暂定税率。适用普通税率的进口货物，不适用暂定税率。

3. 普通税率

根据《条例》规定，原产于除适用最惠国税率、协定税率、特惠税率国家或地区以外的国家或者地区的进口货物，以及原产地不明的进口货物，适用普通税率。

4. 增值税税率

海关代征的进口货物法定增值税税率，栏目空白时为免征，其他分为13%和17%两种。

5. 出口退税率

国家为鼓励出口对出口商品已征收的国内税部分或全部退还给出口企业的税率。本书收录截止2016年1月1日前实施的退税率因出口税率在年度内调整频繁，所以本书所列出口退税率仅供企业参考，若年度内出口税率有调整，请参照最新出台的税率政策。其中部分税号项下存在同一税号退税率不一致的情况，退税率一栏会出现一个或以上退税率，按商品不同情况分别退税。

(二) 附件税率使用说明

1. 协定税率（参见附表1）

根据我国与有关国家或地区签署的贸易或关税优惠协定，对有关国家或地区实施协定税率。

(1) 对原产于韩国、印度、斯里兰卡、孟加拉和老挝的1891个税目商品实施亚太贸易协定税率；

(2) 对原产于文莱、印度尼西亚、马来西亚、新加坡、泰国、菲律宾、越南、缅甸、老挝和柬埔寨的部分税目商品实施中国-东盟自由贸易协定税率；

(3) 对原产于智利的商品实施中国-智利自由贸易协定税率；

(4) 对原产于巴基斯坦的商品实施中国-巴基斯坦自由贸易协定税率；

(5) 对原产于新西兰的商品实施中国-新西兰自由贸易协定税率；

(6) 对原产于新加坡的商品实施中国-新加坡自由贸易协定税率；

(7) 对原产于秘鲁的商品实施中国-秘鲁自由贸易协定税率；

(8) 对原产于哥斯达黎加的商品实施中国-哥斯达黎加自由贸易协定税率；

(9) 对原产于瑞士的商品实施中国-瑞士自由贸易协定税率；

(10) 对原产于冰岛的商品实施中国-冰岛自由贸易协定税率；

(11) 对原产于香港特别行政区且已制定优惠原产地标准的商品实施零关税；

(12) 对原产于澳门特别行政区且已制定优惠原产地标准的商品实施零关税；

(13) 对原产于台湾地区商品实施海峡两岸经济合作框架协议货物贸易早期收获计划协定税率

2. 特惠税率（参见附表1）

税则号列	货 品 名 称	澳大利 亚	韩 国	协定税率										特惠税率								
				冰 岛	秘 鲁	哥 达	瑞 士	新西 兰	香 港	澳 门	东 盟	亚 太 5 国	巴 基 斯 坦	新 加 坡	智 利	台 湾	老 挝	柬 埔 寨	緬 甸	亚 太 2 国	LDC1	LDC2
29336922	三氯异氰尿酸	3.9	3.9	0	0	0	2.6	0		0	0		5		0					0	0	
29336929	其他异氰尿酸氯化衍生物	3.9	3.9	0	0	0	2.6	0		0	0		5		0					0	0	
29336990	其他结构上含非稠合三嗪环化合物(不论是否氢化)	3.9	5.2	0	0	0	2.6	0		0	0		5		0					0	0	
29337100	6-己内酰胺	5.4		0		0	3.6	0							0							
29337200	氯巴占和甲乙哌酮	5.4	5.4	0	0	0	3.6	0			0		5		0					0	0	
29337900	其他内酰胺	5.4	5.4	0	0	0		0			0		5		0					0	0	
29339100	阿普唑仑、卡马西洋等以及它们的盐	3.9	3.9	0	0	0	2.6	0			0		5		0					0	0	
29339900	其他仅含氮杂原子的杂环化合物	3.9	3.9	0	0	0	4.7	0			0		5		0					0	0	
29341000	结构上含有非稠合噻唑环的化合物(不论是否氢化)	3.9	5.6	0	0	0	2.6	0			0		5		0					0	0	
29342000	含一个苯并噻唑环系的化合物(但未经进一步稠合,不论是否氢化)	3.9	5.2	0	0	0	2.6	0			0		5		0					0	0	
29343000	含一个吩噻嗪环系的化合物(但未经进一步稠合,不论是否氢化)	3.9	3.9	0	0	0	2.6	0			0		5		0					0	0	
29349100	阿米雷司、溴替唑仑、氯噻西洋等以及它们的盐	3.9	3.9	0	0	0	2.6	0			0		5		0					0	0	
29349910	磺内酯及磺内酰胺	3.9	3.9	0	0	0	2.6	0			0		5		0					0	0	
29349920	咪唑唑酮	3.6	3.6	0	0	0		0			0		5		0					0	0	
29349930	核酸及其盐	3.9	3.9	0	0	0	2.6	0			0		5		0					0	0	
29349940	奈韦拉平、依发韦仑、利托那韦及它们的盐	3.9	3.9	0	0	0	2.6	0			0		5		0					0	0	
29349950	克拉维酸及其盐	3.9	3.9	0	0	0	2.6	0			0		5		0					0	0	
29349960	7-苯乙酰氨基-3-氯甲基-4-头孢烷酸对甲氧基苯酯、7-氨基头孢烷酸、7-氨基脱乙酰氧基头孢烷酸	3.6	3.6	0	0	0	2.4	0			0		5		0					0	0	
29349990	其他杂环化合物	3.9	3.9	0	0	0	2.6	0			0		5		0					0	0	
29350010	磺胺嘧啶	3.9	3.9	0	0	0	2.6	0			0		5		0					0	0	
29350020	磺胺双甲基嘧啶	3.9	3.9	0	0	0	2.6	0			0		5		0					0	0	
29350030	磺胺甲恶唑	3.9	3.9	0	0	0	2.6	0			0		5		0					0	0	
29350090	其他磺(酰)胺	3.9	3.9	0	0	0	4.7	0			0		5		0					0	0	
29362100	未混合的维生素 A 及其衍生物	0	0	0	0	0	2.9	0		0	0		0		0					0	0	0
29362200	未混合的维生素 B1 及其衍生物	0	0	0	0	0	0	0		0	0		0		0					0	0	0
29362300	未混合的维生素 B2 及其衍生物	0	2.4	0	0	0	0	0		0	0		0		0					0	0	0
29362400	未混合的 D 或 DL-泛酸及其衍生物	0	0	0	0	0	0	0		0	0		0		0					0	0	0
29362500	未混合的维生素 B6 及其衍生物	0	0	0	0	0	0	0		0	0		0		0					0	0	0
29362600	未混合的维生素 B12 及其衍生物	0	0	0	0	0	2.8	0		0	0		0		0					0	0	0
29362700	未混合的维生素 C 及其衍生物	0	0	0	0	0	0	0		0	0		0		0					0	0	0
29362800	未混合的维生素 E 及其衍生物	0	0	0	0	0	2.8	0		0	0		0		0					0	0	0
29362900	其他未混合的维生素及其衍生物	0	0	0	0	0	2.8	0		0	0		0		0					0	0	0
29369010	维生素 AD3	0	0	0	0	0	0	0		0	0		0		0					0	0	0
29369090	其他维生素原、混合维生素及其衍生物	0	0	0	0	0	0	0		0	0		0		0					0	0	0
29371100	生长激素及其衍生物和类似结构物	0	0	0	0	0	0	0			0		0		0					0	0	
29371210	重组人胰岛素及其盐	0	0	0	0	0	0	0			0		0		0					0	0	
29371290	其他胰岛素及其盐	0	0	0	0	0	0	0			0		0		0					0	0	
29371900	其他多肽激素、蛋白激素、糖蛋白激素及其衍生物和类似结构物	0	0	0	0	0	2.8	0			0		0		0					0	0	
29372100	可的松、氢化可的松及脱氢可的松及脱氢皮质(甾)醇	0	0	0	0	0	0	0			0		0		0					0	0	
29372210	地塞米松	0	0	0	0	0	0	0			0		0		0					0	0	
29372290	其他皮质(甾)激素的卤化衍生物	0	0	0	0	0	0	0			0		0		0					0	0	
29372311	孕马结合雌激素	0	0	0	0	0	0	0			0		0		0					0	0	
29372319	其他动物源的雌(甾)激素和孕激素	0	0	0	0	0	0	0			0		0		0					0	0	
29372390	其他皮质甾类激素的卤化衍生物	0	0	0	0	0	0	0			0		0		0					0	0	
29372900	其他甾族激素及其衍生物和类似结构物	0	0	0	0	0	0	0			0		0		0					0	0	
29375000	前列腺素、血栓烷和白细胞三烯及其衍生物和结构类似物	0	2.4	0	0	0	0	0			0		0		0					0	0	
29379000	其他天然或合成再制的激素及其衍生物和结构类似物,包括主要用作激素的改性链多肽	0	0	0	0	0	0	0			0		0		0					0	0	
29381000	芳香苷及其衍生物	3.9	3.9	0	0	0	2.6	0			0		5		0					0	0	

中华人民共和国 海关进出口税则

十位编码·监管条件·申报目录·出口退税·政策法规·海关代征税一览表

2017年中英文对照版 附光盘

中华人民共和国海关进出口税则 编委会 编

Customs Import and Export Tariff of the People's Republic of China

Decade Coding of HS, Customs Control Conditions, Declare Contents, Export
Drawback, Regulations Detailed Customs Duties Levied on Commission Basis

Compiled by the Editorial Department of the Customs
Import and Export Tariff of the People's Republic of China

经济日报出版社
Economic Daily Press

税率适用说明

一、进口税则

进口税则商品分类目录采用《商品名称及编码协调制度》。进口税则税目税率设置税则号列、货品中文名称、最惠国税率、普通税率、增值税税率、出口退税率、计量单位、监管条件、货品英文名称等栏目。

(一) 正文税率使用说明

1. 最惠国税率

根据《条例》规定，原产于共同适用最惠国待遇条款的世界贸易组织成员的进口货物，原产于与中华人民共和国签订含有互给予最惠国待遇条款的双边贸易协定的国家或者地区的进口货物，以及原产于中华人民共和国境内的进口货物，适用最惠国税率。

(1) “税则号列”栏目中的右上角标有“暂”字的税号所对应的“最惠国税率”栏目的税率为“进口暂定税率”，根据海关征收关税采用“从低征收”的原则，适用最惠国税率的进口货物有暂定税率的，应当适用暂定税率。税则号前标注“ex”的，表示适用暂定税率的应税进口货物以货品名称栏中的描述为准。

(2) 税率栏中标有“T2”的表示此商品实行从量、复合税，具体税率参见附表2。

(3) 对《中华人民共和国加入世界贸易组织关税减让表修正案》附表所列信息技术产品最惠国税率自2017年1月1日至2017年6月30日继续首次降税，自2017年7月1日起实施第二次降税。税率栏中标有两个税率的表示此商品实行“信息技术产品最惠国税率”，两个税率中间用逗号隔开，逗号前面的税率是首次降税税率，逗号后面的税率是第二次降税税率。

2. 暂定税率

根据《条例》规定，适用最惠国税率、协定税率、特惠税率、关税配额税率的进口货物在一定期限内可以实行暂定税率。

本书“税则号列”上标注有“暂”字的商品，对应“最惠国”税率列明的是进口暂定税率。

适用最惠国税率、协定税率、特惠税率的进口货物有暂定税率的，应当从低适用税率；适用关税配额税率的进口货物有暂定税率的，应当适用暂定税率。适用普通税率的进口货物，不适用暂定税率。

3. 普通税率

根据《条例》规定，原产于除适用最惠国税率、协定税率、特惠税率国家或地区以外的国家或者地区的进口货物，以及原产地不明的进口货物，适用普通税率。

4. 增值税税率

海关代征的进口货物法定增值税税率，栏目空白时为免征，其他分为13%和17%两种。

5. 出口退税率

国家为鼓励出口对出口商品已征收的国内税部分或全部退还给出口企业的税率。本书收录截止2017年1月1日前实施的退税率因出口税率在年度内调整频繁，所以本书所列出口退税率仅供企业参考，若年度内出口税率有调整，请参照最新出台的税率政策。其中部分税号项下存在同一税号退税率不一致的情况，退税率一栏会出现一个或以上退税率，按商品不同情况分别退税。

(二) 附件税率使用说明

1. 协定税率（参见附表1）

根据我国与有关国家或地区签署的贸易或关税优惠协定，对有关国家或地区实施协定税率。

(1) 对原产于韩国、印度、斯里兰卡、孟加拉和老挝的1891个税目商品实施亚太贸易协定税率；

(2) 对原产于文莱、印度尼西亚、马来西亚、新加坡、泰国、菲律宾、越南、缅甸、老挝和柬埔寨的部分税目商品实施中国-东盟自由贸易协定税率；

(3) 对原产于智利的商品实施中国-智利自由贸易协定税率；

(4) 对原产于巴基斯坦的商品实施中国-巴基斯坦自由贸易协定税率；

(5) 对原产于新西兰的商品实施中国-新西兰自由贸易协定税率；

(6) 对原产于新加坡的商品实施中国-新加坡自由贸易协定税率；

(7) 对原产于秘鲁的商品实施中国-秘鲁自由贸易协定税率；

(8) 对原产于哥斯达黎加的商品实施中国-哥斯达黎加自由贸易协定税率；

(9) 对原产于瑞士的商品实施中国-瑞士自由贸易协定税率；

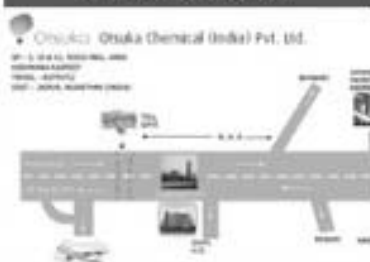
(10) 对原产于冰岛的商品实施中国-冰岛自由贸易协定税率；

税则号列	货 品 名 称	协定税率													特惠税率								
		澳大利亚	韩国	冰岛	秘鲁	哥达	瑞士	新西兰	香港	澳门	台湾	东盟	亚太5国	巴基斯坦	新加坡	智利	老挝	柬埔寨	缅甸	亚太2国	LDC1	LDC2	LDC3
29339100	阿普唑仑、卡马西平等以及它们的盐	2.6	2.6	0	0	0	1.3	0				0		5		0					0	0	
29339200	甲基谷硫磷(ISO)	2.6	2.6	0	0	0	4.4	0				0		5		0					0	0	
29339900	其他仅含氮杂原子的杂环化合物	2.6	2.6	0	0	0	4.4	0				0		5		0					0	0	
29341000	结构上含有非稠合噻唑环的化合物(不论是否氢化)	2.6	5.2	0	0	0	1.3	0				0		5		0					0	0	
29342000	含一个苯并噻唑环系的化合物(但未经进一步稠合,不论是否氢化)	2.6	4.5	0	0	0	1.3	0				0		5		0					0	0	
29343000	含一个吩噻嗪环系的化合物(但未经进一步稠合,不论是否氢化)	2.6	2.6	0	0	0	1.3	0				0		5		0					0	0	
29349100	阿米雷司、溴替唑仑、氯噻西洋等以及他们的盐	2.6	2.6	0	0	0	1.3	0				0		5		0					0	0	
29349910	磺内酯及磺内酰胺	2.6	2.6	0	0	0	1.3	0				0		5		0					0	0	
29349920	咪唑啉酮	2.4	2.4	0	0	0		0				0		5		0					0	0	
29349930	核酸及其盐	2.6	2.6	0	0	0	1.3	0				0		5		0					0	0	
29349940	奈韦拉平、依发韦仑、利托那韦及它们的盐	2.6	2.6	0	0	0	1.3	0				0		5		0					0	0	
29349950	克拉维酸及其盐	2.6	2.6	0	0	0	1.3	0				0		5		0					0	0	
29349960	7-苯乙酰氨基-3-氯甲基-4-头孢烷酸对甲氧基苄酯,7-氨基头孢烷酸,7-氨基脱乙酰氧基头孢烷酸	2.4	2.4	0	0	0	1.2	0				0	5	0		0					0	0	
29349990	其他杂环化合物	2.6	2.6	0	0	0	1.3	0				0		5		0					0	0	
29351000	N-甲基全氟辛基磺酰胺	2.6	2.6	0	0	0	4.4	0				0		5		0					0	0	
29352000	N-乙基全氟辛基磺酰胺	2.6	2.6	0	0	0	4.4	0				0		5		0					0	0	
29353000	N-乙基-N-(2-羟乙基)全氟辛基磺酰胺	2.6	2.6	0	0	0	4.4	0				0		5		0					0	0	
29354000	N-(2-羟乙基)-N-甲基全氟辛基磺酰胺	2.6	2.6	0	0	0	4.4	0				0		5		0					0	0	
29355000	其他全氟辛基磺酰胺	2.6	2.6	0	0	0	4.4	0				0		5		0					0	0	
29359000	其他磺(酰)胺	2.6	2.6	0	0	0	4.4	0				0		5		0					0	0	
29362100	未混合的维生素 A 及其衍生物	0	0	0	0	0	2.7	0		0		0		0		0					0	0	0
29362200	未混合的维生素 B1 及其衍生物	0	0	0	0	0	0	0		0		0		0		0					0	0	0
29362300	未混合的维生素 B2 及其衍生物	0	1.6	0	0	0	0	0		0		0		0		0					0	0	0
29362400	未混合的 D 或 DL-泛酸及其衍生物	0	0	0	0	0	0	0		0		0		0		0					0	0	0
29362500	未混合的维生素 B6 及其衍生物	0	0	0	0	0	0	0		0		0		0		0					0	0	0
29362600	未混合的维生素 B12 及其衍生物	0	0	0	0	0	2.4	0		0		0		0		0					0	0	0
29362700	未混合的维生素 C 及其衍生物	0	0	0	0	0	0	0		0		0		0		0					0	0	0
29362800	未混合的维生素 E 及其衍生物	0	0	0	0	0	2.4	0		0		0		0		0					0	0	0
29362900	其他未混合的维生素及其衍生物	0	0	0	0	0	2.4	0		0		0		0		0					0	0	0
29369010	维生素 AD3	0	0	0	0	0	0	0		0		0		0		0					0	0	0
29369090	其他维生素原、混合维生素及其衍生物	0	0	0	0	0	0	0		0		0		0		0					0	0	0
29371100	生长激素及其衍生物和类似结构物	0	0	0	0	0	0	0				0		0		0					0	0	
29371210	重组人胰岛素及其盐	0	0	0	0	0	0	0				0		0		0					0	0	
29371290	其他胰岛素及其盐	0	0	0	0	0	0	0				0		0		0					0	0	
29371900	其他多肽激素、蛋白激素、糖蛋白激素及其衍生物和类似结构物	0	0	0	0	0	2.4	0				0		0		0					0	0	
29372100	可的松、氢化可的松及脱氢可的松及脱氢皮质(甾)醇	0	0	0	0	0	0	0				0		0		0					0	0	
29372210	地塞米松	0	0	0	0	0	0	0				0		0		0					0	0	
29372290	其他皮质(甾)激素的卤化衍生物	0	0	0	0	0	0	0				0		0		0					0	0	
29372311	孕马结合雌激素	0	0	0	0	0	0	0				0		0		0					0	0	
29372319	其他动物源的雌(甾)激素和孕激素	0	0	0	0	0	0	0				0		0		0					0	0	
29372390	其他皮质甾类激素的卤化衍生物	0	0	0	0	0	0	0				0		0		0					0	0	
29372900	其他甾族激素及其衍生物和类似结构物	0	0	0	0	0	0	0				0		0		0					0	0	
29375000	前列腺素、血栓烷和白细胞三烯及其衍生物和结构类似物	0	1.6	0	0	0	0	0				0		0		0					0	0	
29379000	其他天然或合成纤维再制的激素及其衍生物和结构类似物,包括主要用作激素的改性链多肽	0	0	0	0	0	0	0				0		0		0					0	0	
29381000	芸香苷及其衍生物	2.6	2.6	0	0	0	1.3	0				0		5		0					0	0	
29389010	齐多夫定、拉米夫定、司他夫定、地达诺新及它们的盐	2.6	2.6	0	0	0	1.3	0				0		5		0					0	0	
29389090	其他天然或合成纤维再制的苷及其盐、醚、酯和其他衍生物	2.6	2.6	0	0	0	1.3	0				0		5		0					0	0	

附件五：印度大冢GCLE产品技术指标

History of GCLE

Plant Location



view

Gallery



view

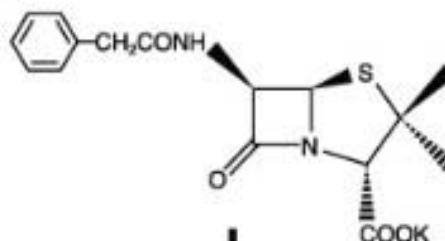
Products

Inovative cephalosporin intermediate for advanced antibiotics

Otsuka Chemical offers chloromethyl cephalosporin GCLE as a new reactive intermediate for cephalosporin antibiotics. In addition to GCLE, Otsuka Chemical provides other potent intermediates, such as those illustrated below, based on its own expertise and patented know-how. Otsuka Chemical can also produce advanced intermediates by customers' request to meet its specific needs.

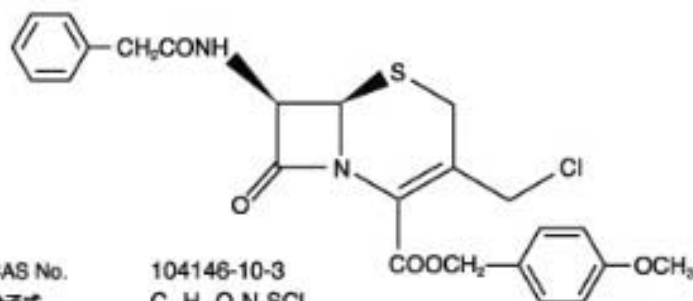
大塚化学のセファロスポリン中間体

ペニシリンG



GCLE

7-Phenylacetamido-3-chloromethyl-3-cephem-4-carboxylic acid
p-methoxybenzyl ester



CAS No. 104146-10-3
分子式 $C_{24}H_{23}O_5N_2SCl$
分子量 486.95
性状 白色～淡黄色粉末
底層化学物質 No. 5-6305
ELINCS 403-040-0

Otsuka Otsuka Chemical (India) Pvt. Ltd.

Head Office : 416, JMD Pacific Square, Sector 15, Part-II, Near 32nd Mile Stone,
Gurgaon - 122001, Haryana (India) Tel : +91-124-4597979, Fax : +91-124-4597980
QUALITY ASSURANCE DEPARTMENT

CERTIFICATE OF ANALYSIS

Product	: GCLE (7-Phenyl acetamido-3-Chloromethyl Cephalosporanic Acid Para-methoxybenzyl Ester)	
Analytical Certificate No.	GCLE/2016/04/077	

Lot No.	OCI/16/04/0301	OCI/16/04/0311	OCI/16/04/0313	OCI/16/04/0317
A. R. No.	QA/2016/04/0301	QA/2016/04/0311	QA/2016/04/0313	QA/2016/04/0317
Mfg Date	April-2016	April-2016	April-2016	April-2016
Retest Period	1 Year	1 Year	1 Year	1 Year
Lot Size (In Kgs)	930.0Kgs(31x30.0Kgs)	900.0Kgs(30x30.0Kgs)	900.0Kgs(30x30.0Kgs)	930.0Kgs(31x30.0Kgs)
Total Qty:	10020.00Kgs(334X30.0Kgs)			

S.No.	Tests	Specifications		Observations	
		White to off white crystalline powder.	Off white crystalline powder	Off white crystalline powder	Off white crystalline powder
01	Description		Complies	Complies	Complies
02	Identification (IR)	The maximum wavelength should comply with authentic sample.			
03	Assay (By HPLC)	~Min 95.50% w/w	96.53%w/w	96.58%w/w	96.59%w/w
04	Related Substances (by HPLC)				
杂质	Purity	Min 97.50%Area	97.98%Area	98.04%Area	98.06%Area
	GCLE-2 (Δ GCLE)	Max0.15%Area	0.02%Area	0.02%Area	0.02%Area
	GENE	Max0.3%Area	0.23%Area	0.25%Area	0.21%Area
05	Water (KF)	Max2.0%Area	1.07%Area	1.03%Area	1.05%Area
	含水量	Max 0.4% w/w	0.12%w/w	0.12%w/w	0.13%w/w
06	Residue on Ignition	Max 0.2% w/w	0.04%w/w	0.02%w/w	0.04%w/w
07	Heavy metal (ppm)	Max 20 ppm	Complies	Complies	Complies
08	Loss on drying	Max 0.5% w/w	0.16%w/w	0.13%w/w	0.14%w/w

Remarks : The above material complies/does not comply the specification

Prepared By
Yashvir Singh
(Manager -QA/QC)
Date: 22/04/16

Checked By
S.S. Dhaka
(Sr. Manager- QA/QC)
Date: 22/04/16

Approved By
Masahiro Ito
(Director of Quality)
Date: 29 APR. 2016

Factory : SP3-10 & 11, RIICO Industrial Area,
Keshwana Rajpoot, Teh. Kotputli, Distt.
Jaipur (Raj.) Tel.: 09314041878

ORIGINAL
CELEBRATING
10 Years

附件六： 申请人国内同类产品技术指标

非保密概要

附件六：申请人国内同类产品技术指标

本附件内容为申请书正文部分所提供的申请人国内同类产品技术指标的内部底层数据，属于申请人的商业秘密，故申请保密。

在申请书公开版本的正文部分，已经以摘要形式提供了本附件的主要内容，其他利害关系方可以合理理解。

附件七：GCLE进口统计数据

非保密概要

附件七：GCLE 进口统计数据

本附件为 2015 年至 2018 年一季度中国进口 GCLE 的逐笔交易信息，为申请人从第三方机构获得，如披露可能会造成不利影响，且交易信息涉及交易双方的商业秘密，故申请保密。以下是根据本附件之内容整理统计的数据，已作为公开信息全部披露。

根据申请人掌握的情况，中国仅从印度进口 GCLE，所以以下数据就是申请调查产品的进口统计数据。根据中国海关统计介绍，进口货物金额按 CIF 价格统计。

以下为汇总后的统计数据，以及按对应美元汇率及适用的关税计算得出的进口完税价格。

2015 年至 2018 年一季度 GCLE 进口统计数据

期间	2015	2016	2017	2017年一 季度	2018年一 季度
申请调查产品进口数量 (千克)	180,000	632,080	1,103,100	240,000	144,000
申请调查产品进口金额 (美元)	8,749,483	26,386,889	46,899,187	9,382,630	7,188,360
申请调查产品进口价格 (美元/千克)	49	42	43	39	50
对应的美元汇率	6.23	6.64	6.76	6.89	6.35
申请调查产品进口完税 价格（5%关税）（元/ 千克）	317.97	291.05	301.78	282.83	332.84

2017 年一季度至 2018 年一季度 GCLE 进口统计数据

期间	2017 年第 一季度	2017 年第 二季度	2017 年第 三季度	2017 年第 四季度	2018 年第 一季度
申请调查产品进口数量 (千克)	240,000	258,060	245,040	360,000	144,000
申请调查产品进口金额 (美元)	9,382,630	10,439,137	10,399,864	16,677,556	7,188,360
申请调查产品进口价格 (美元/千克)	39	40	42	46	50

对应的美元汇率	6.89	6.86	6.67	6.61	6.35
申请调查产品进口完税 价格（5%关税）（元/ 千克）	282.83	291.38	297.24	321.53	332.84

在申请的倾销调查期内（即 2017 年 4 月至 2018 年 3 月），申请调查产品的进口数量和金额情况如下：

申请调查产品进口数量(千克)	1,007,100
申请调查产品CIF进口金额(美元)	44,704,917
申请调查产品CIF进口价格(美元/千克)	44.39



海关信息网
www.haiguan.info

商品归类 海关法规 贸易统计 企业黄页 你问我答 互联网资讯

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资讯要闻 行业聚焦 宏观分析 海关要闻 关务指南 海关法规 政策解读 海关词典 通关流程 交流互动 常见问题 用户中心 联系我们



布时间
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海关数据 > 中国海关统计

海关统计介绍



统计司司长 郑跃声

2. 内设机构及人员

综合统计司下设5个处室：办公室、贸易统计处、数据管理处、统计分析处和执法评估处。 现有人员21人，其中

（二）直属海关统计机构的基本职责

执行进出口贸易海关统计制度和海关业务统计制度，负责进出口贸易统计和海关业务统计原始资料的收集、审核、汇总和

编制本地区进出口贸易统计和海关业务统计，开展统计分析和统计咨询服务；管理和发布本地区进出口贸易统计资料，对本关区的统计质量负责。

四、海关统计制度

中国海关统计是中国的进出口货物贸易统计。中国海关统计制度是参照联合国建议各国政府编制本国对外贸易统计时应统一采用的国际标准制定的。

（一）统计范围

中国海关统计采用专门贸易记录制。凡能引起中华人民共和国关境内物质资源存量增加或减少的进出口货物，即实际进出中国关境的货物，均列入海关统计。

（二）商品分类

凡列入海关统计范围的进出口货物均根据《中华人民共和国海关统计商品目录》 归类统计。该目录采用海关合作理事会制定的《商品名称和编码协调制度》(HS)为基础编制，由8位数编码组成，前6位数是《HS》编码，后2位数是根据中国关税、统计和贸易管理方面的需要而增设的本国子目。全目录计有8000余个8位数商品编号。

（三）统计价格

进口货物按CIF价格统计，出口货物按FOB价格统计。

（四）、统计范围（地区）



点击进入

常见问题 更多>>

每月海关统计数据大概什么时间发...
在哪里能够找到商品HS编码？
海关统计商品的数量、金额是按什...
想购买海关数据，希望了解都能够...
想购买进出口数据，请问是怎样的...
海关信息网会员分类
如何开具本企业进出口数据证明
企业年报如何填报？

附件八： 申请人财务数据和报表

非保密概要

附件八：申请人财务数据和报表

本附件内容为申请书正文部分所提供的申请人生产、经营和财务数据，属于申请人的商业秘密，故申请保密。

在申请书公开版本的正文部分，已经以指数形式提供了各数据的非保密概要，其他利害关系方可以合理理解。

附件九：美元兑人民币汇率统计表

汇率来自国际货币基金组织: <http://data.imf.org/regular.aspx?key=61545850>

Exchange Rates selected indicators
China, P.R.: Mainland

Source: International Financial Statistics (IFS)
Metadata by Country (IFS)

Concept	Unit	Code	Scale	2015	2016	2017	2017Q1	2017Q2	2017Q3	2017Q4	2018Q1
Domestic Currency per U.S. Dollar, End of Period	Rate	ENDE_XDC_USD_RATE	Units	6.28	6.95	6.71	6.89	6.78	6.65	6.51	6.28
Domestic Currency per U.S. Dollar, Period Average	Rate	ENDA_XDC_USD_RATE	Units	6.23	6.64	6.76	6.89	6.86	6.67	6.61	6.35

附件十：印度商务部《2015-2020 外贸政
策》

FOREIGN TRADE POLICY

[1st April, 2015 – 31st March, 2020]

Updated upto 30-06-2015

**Government of India
Ministry of Commerce and Industry
Department of Commerce**

निर्मला सीतारमण
NIRMALA SITHARAMAN



वाणिज्य एवं उद्योग राज्य मंत्री (स्वतंत्र प्रभार)
भारत
MINISTER OF STATE (Independent Charge)
COMMERCE & INDUSTRY
INDIA

FOREWORD

The new five year Foreign Trade Policy, 2015-20 provides a framework for increasing exports of goods and services as well as generation of employment and increasing value addition in the country, in keeping with the "Make in India" vision of our Hon'ble Prime Minister. The focus of the government is to support both the manufacturing and services sectors, with a special emphasis on improving the 'ease of doing business'.

There are various forces shaping India and its equation with the rest of world. These pose challenges, but also present opportunities for government, trade and industry. Government and industry must work in tandem to deal with both.

This Foreign Trade Policy is also accompanied by a detailed FTP statement. The FTP statement explains the vision, goals and objectives underpinning our Foreign Trade Policy and lays down a road map for India's global trade engagement in the coming years. It describes the market and product strategy and measures required for trade promotion, infrastructure development and overall enhancement of the trade eco system. This has been framed after a careful evaluation of the global and domestic contexts and seeks to enable India to respond to the challenges of the external environment, keeping in step with a rapidly evolving international trading architecture and, most importantly, make trade a major contributor to the country's economic growth and development. We shall continue to have regular interaction with all stakeholders including State Governments to achieve our objectives.

FTP 2015-20 introduces two new schemes, namely "Merchandise Exports from India Scheme (MEIS)" for export of specified goods to specified markets and "Services Exports from India Scheme (SEIS)" for increasing exports of notified services, in place of a plethora of schemes earlier, with different conditions for eligibility and usage. There would be no conditionality attached to any scrips issued under these schemes. Duty credit scrips issued under MEIS and SEIS and the goods imported against these scrips are fully transferable. Measures have been adopted to nudge procurement of capital goods from indigenous manufacturers under the EPCG scheme by reducing specific export obligation to 75% of the normal export obligation. This will promote the domestic capital goods manufacturing industry. Such flexibilities will help exporters to develop their productive capacities for both local and global consumption. Measures have been taken to give a boost to exports of defence and hi-tech items. At the same time e-Commerce exports of handloom

products, books/periodicals, leather footwear, toys and customized fashion garments through courier or foreign post office would also be able to get benefit of MEIS (for values upto 25,000 INR). These measures would not only capitalize on our strength in these areas and increase exports but also provide employment.

Although exports from SEZs have seen phenomenal growth, significantly higher than the overall export growth of the country, in recent times they have been facing several challenges. In order to give a boost to exports from SEZs, it has been decided to extend benefits of both the reward schemes (MEIS and SEIS) to units located in SEZs. This will benefit the manufacturing sector in terms of both technology transfer and gainful employment.

Trade facilitation and enhancing the ease of doing business are major focus areas in this FTP. It has been our endeavor and commitment to move towards paperless processing. Recently, we have reduced the number of mandatory documents required for exports and imports to three, which is comparable with international benchmarks. Now, a facility has been created to upload documents in exporter/importer profile and the exporters will not be required to submit documents repeatedly. Attention has been paid to simplify various 'Aayat Niryat' Forms, bringing in clarity in different provisions, removing ambiguities and enhancing electronic governance.

Manufacturers, who are also status holders, will be enabled to self certify their manufactured goods in phases, as originating from India with a view to qualifying for preferential treatment under various forms of bilateral and regional trade agreements. This "Approved Exporter System" will help these manufacturer exporters considerably in getting fast access to international markets.

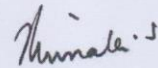
A number of steps have been taken for encouraging manufacturing and exports under 100% EOU/EHTP/STPI/BTP Schemes. The steps include a fast track clearance facility for these units, permitting them to share infrastructure facilities, permitting inter unit transfer of goods and services, permitting them to set up warehouses near the port of export and to use duty free equipment for training purposes.

DGFT will continue to mentor new and potential exporters through the 'Niryat Bandhu Scheme'. The scheme has been galvanized and repositioned to achieve the objectives of 'Skill India'. Considering the strategic significance of small and medium scale enterprise in the manufacturing sector and in employment generation, 'MSME clusters' have been identified, based on the export potential of the product and the density of industries in the cluster for focused interventions to boost exports. Outreach activities will be organized in a structured way at these

Continuation Sheet

clusters with the help of Export Promotion Councils and other willing "Industry Partners" and "Knowledge Partners". This will specifically help in increasing exports from MSME sectors.

I am confident that the five year Foreign Trade Policy, 2015-20, will enable India to respond to the challenges of the external trade environment and take India to the next level in international trade.



(Nirmala Sitharaman)

TO BE PUBLISHED IN THE GAZETTEE OF INDIA
EXTRAORDINARY
PART-II, SECTION-3, SUB SECTION (ii)

Government of India
Ministry of Commerce and Industry
Department of Commerce
Directorate General of Foreign Trade

Notification. 01/2015-2020

New Delhi, 1st April, 2015

In exercise of powers conferred by Section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (No.22 of 1992), as amended from time to time, the Central Government hereby notifies the Foreign Trade Policy, 2015-2020. This Foreign Trade Policy shall come into force w.e.f. 01.04.2015.

Effect of this Notification: Foreign Trade Policy, 2015-2020, is hereby notified.



[Pravir Kumar]
Director General of Foreign Trade
Email: dgft@nic.in

[Issued from File No.01/94/180/332/AM15/PC4]

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CHAPTER 3

EXPORTS FROM INDIA SCHEMES

3.00 Objective

The objective of schemes under this chapter is to provide rewards to exporters to offset infrastructural inefficiencies and associated costs involved and to provide exporters a level playing field.

3.01 Exports from India Schemes

There shall be following two schemes for exports of Merchandise and Services respectively:

- (i) Merchandise Exports from India Scheme (MEIS).
- (ii) Service Exports from India Scheme (SEIS).

3.02 Nature of Rewards

Duty Credit Scrips shall be granted as rewards under MEIS and SEIS. The Duty Credit Scrips and goods imported / domestically procured against them shall be freely transferable. The Duty Credit Scrips can be used for :

- (i) Payment of Customs Duties for import of inputs or goods, including capital goods, as per DOR notification, except items listed in Appendix 3A. (Amended vide Notification No 8/2015-20 dated 4th June, 2015)
- (ii) Payment of excise duties on domestic procurement of inputs or goods, including capital goods as per DoR notification.

(iii) Payment of service tax on procurement of services as per DoR notification.

(iv) Payment of Customs Duty and fee as per paragraph 3.18 of this Policy.

3. MEIS项目--印度出口商品项目

Merchandise Exports from India Scheme (MEIS)

3.03 Objective

3.03 项目宗旨--降低印度本土生产的出口产品的成本，以提升印度出口的竞争力。

Objective of Merchandise Exports from India Scheme (MEIS) is to offset infrastructural inefficiencies and associated costs involved in export of goods/products, which are produced/manufactured in India, especially those having high export intensity, employment potential and thereby enhancing India's export competitiveness.

3.04 Entitlement under MEIS

Exports of notified goods/products with ITC[HS] code, to notified markets as listed in Appendix 3B, shall be rewarded under MEIS. Appendix 3B also lists the rate(s) of rewards on various notified products [ITC (HS) code wise]. The basis of calculation of reward would be on realised FOB value of exports in free foreign exchange, or on FOB value of exports as given in the Shipping Bills in free foreign exchange, whichever is less, unless otherwise specified.

3.05 Export of goods through courier or foreign post offices using e-Commerce

(i) Exports of goods through courier or foreign post office using e-commerce, as notified in Appendix 3C, of FOB value upto Rs. 25000 per consignment shall be entitled for rewards under MEIS.

CHAPTER 4

DUTY EXEMPTION / REMISSION SCHEMES

4.00 Objective

Schemes under this Chapter enable duty free import of inputs for export production, including replenishment of input or duty remission.

4.01 Schemes

(a) Duty Exemption Schemes.

The Duty Exemption schemes consist of the following:

- (i) Advance Authorisation (AA) (which will include Advance Authorisation for Annual Requirement).
- (ii) Duty Free Import Authorisation (DFIA).

(b) Duty Remission Scheme.

Duty Drawback (DBK) Scheme, administered by Department of Revenue.

4.02 Applicability of Policy & Procedures

Authorisation under this Chapter shall be issued in accordance with the Policy and Procedures in force on the date of issue of the Authorisation.

4.03 Advance Authorisation

- (a) Advance Authorisation is issued to allow duty free import of input, which is physically incorporated in export product (making normal allowance for wastage). In addition, fuel, oil, catalyst which is consumed / utilised in the process of production of export product, may also be allowed.
- (b) Advance Authorisation is issued for inputs in relation to resultant product, on the following basis:
 - (i) As per Standard Input Output Norms (SION) notified (available in Hand Book of Procedures);
OR
 - (ii) On the basis of self declaration as per paragraph 4.07 of Handbook of Procedures.

4.04 Advance Authorisation for Spices

Duty free import of spices covered under Chapter-9 of ITC (HS) shall be permitted only for activities like crushing / grinding / sterilization / manufacture of oils or oleoresins. Authorisation shall not be available for simply cleaning, grading, re-packing etc.

4.05 Eligible Applicant / Export / Supply

- (a) Advance Authorisation can be issued either to a manufacturer exporter or merchant exporter tied to supporting manufacturer.
- (b) Advance Authorisation for pharmaceutical products manufactured through Non-Infringing (NI) process (as indicated in paragraph 4.18 of Handbook of Procedures) shall be issued to manufacturer exporter only.

- (c) Advance Authorisation shall be issued for:
- (i) Physical export (including export to SEZ);
 - (ii) Intermediate supply; and/or
 - (iii) Supply of goods to the categories mentioned in paragraph 7.02 (b), (c), (e), (f), (g) and (h) of this FTP.
 - (iv) Supply of 'stores' on board of foreign going vessel / aircraft, subject to condition that there is specific Standard Input Output Norms in respect of item supplied.

4.06 Advance Authorisation for Annual Requirement

- (i) Advance Authorisation for Annual Requirement shall only be issued for items notified in Standard Input Output Norms (SION), and it shall not be available in case of adhoc norms under paragraph 4.03 (b)(ii) of FTP.
- (ii) Advance Authorisation for Annual Requirement shall also not be available in respect of SION where any item of input appears in Appendix 4-J.

4.07 Eligibility Condition to obtain Advance Authorisation for Annual Requirement

- 获得预先授权的企业至少有两年的出口实绩。
- (i) Exporters having past export performance (in at least preceding two financial years) shall be entitled for Advance Authorisation for Annual requirement.

- 预先授权金额为实际出口FOB金额的3倍，或1千万印度卢比（取更高者）。
- (ii) Entitlement in terms of CIF value of imports shall be upto 300% of the FOB value of physical export and / or FOR value of deemed export in preceding financial year or Rs 1 crore, whichever is higher.

4.08 Value Addition

Value Addition for the purpose of this Chapter (except for Gems and Jewellery sector for which value addition is prescribed in paragraph 4.38 of FTP) shall be:-

$$VA = \frac{A - B}{B} \times 100, \text{ where}$$

A = FOB value of export realized / FOR value of supply received.

B = CIF value of inputs covered by Authorisation, plus value of any other input used on which benefit of DBK is claimed or intended to be claimed.

4.09 Minimum Value Addition

增值比例最低为
15%

- (i) **Minimum value addition required to be achieved under Advance Authorisation is 15%.**
- (ii) Export Products where value addition could be less than 15% are given in Appendix 4D.
- (iii) For physical exports for which payments are not received in freely convertible currency, value addition shall be as specified in Appendix 4C.
- (iv) Minimum value addition for Gems & Jewellery Sector is given in paragraph 4.61 of Handbook of Procedures.
- (v) In case of Tea, minimum value addition shall be 50%.

rehabilitation package prepared by operating agency and approved by BIFR / Rehabilitation Department of State Government. If time-period upto which EO extension is to be granted is not specifically mentioned in the BIFR order, EO extension of two years from the date of expiry of EOP (including extended period) or the date of BIFR order, whichever is later, shall be granted without payment of composition fee.

4.24 Re-import of exported goods under Duty Exemption / Remission Scheme

Goods exported under Advance Authorisation / Duty Free Import Authorisation may be re-imported in same or substantially same form subject to such conditions as may be specified by Department of Revenue. Authorisation holder shall also inform about such re-importation to the Regional Authority which had issued the Authorisation within one month from date of re-import.

DUTY FREE IMPORT AUTHORISATION SCHEME (DFIA)

4.25 DFIA Scheme

DFIA项目免征进口原料的关税

- (a) Duty Free Import Authorisation is issued to allow duty free import of inputs. In addition, import of oil and catalyst which is consumed / utilised in the process of production of export product, may also be allowed.
- (b) Provisions of paragraphs 4.12, 4.18, 4.20, 4.21 and 4.24 of FTP shall be applicable to DFIA also.
- (c) Duty Free Import Authorisation Scheme shall not be available for import of raw sugar. [\(sub para \(c\) inserted vide Notification No 5 / 2015-20 dated 1st May, 2015\)](#)

4.26 Duties Exempted and Admissibility of Cenvat and Drawback

- (i) **Duty Free Import Authorisation shall be exempted only from payment of Basic Customs Duty.**
- (ii) Additional customs duty/excise duty, being not exempt, shall be adjusted as CENVAT credit as per DoR rules.
- (iii) Drawback as per rate determined and fixed by Central Excise authority shall be available for duty paid inputs, whether imported or indigenous, used in the export product. However, in case such drawback is claimed for inputs not specified in SION, the applicant should have indicated clearly details of such duty paid inputs also in the application for Duty Free Import Authorization, and as per the details mentioned in the application, the Regional Authority should also have clearly endorsed details of such duty paid inputs in the condition sheet of the Duty Free Import Authorization. (Amended vide Notification No 8/2015-20 dated 4th June, 2015)

4.27 Eligibility

- (i) Duty Free Import Authorisation shall be issued on post export basis for products for which Standard Input Output Norms have been notified.
- (ii) Merchant Exporter shall be required to mention name and address of supporting manufacturer of the export product on the export document viz. Shipping Bill / Airway Bill / Bill of Export / ARE-1 / ARE-3.

- (iii) Application is to be filed with concerned Regional Authority before effecting export under Duty Free Import Authorisation.

4.28 Minimum Value Addition

20%增值要求

Minimum value addition of 20% shall be required to be achieved. For items where higher value addition has been prescribed under Advance Authorisation in Appendix 4C, the same value addition shall be applicable for Duty Free Import Authorisation also.

4.29 Validity & Transferability of DFIA

- (i) Applicant shall file online application to Regional Authority concerned before starting export under DFIA.
- (ii) Export shall be completed within 12 months from the date of online filing of application and generation of file number.
- (iii) While doing export/supply, applicant shall indicate file number on the export documents viz. Shipping Bill / Airway Bill/ Bill of Export / ARE-1 / ARE-3, Central Excise certified Invoice.
- (iv) After completion of exports and realization of proceeds, request for issuance of transferable Duty Free Import Authorisation may be made to concerned Regional Authority within a period of twelve months from the date of export or six months (or additional time allowed by RBI for realization) from the date of realization of export proceeds, whichever is later.
- (v) Applicant shall be allowed to file application beyond 24 months from the date of generation of file number as per paragraph 9.03 of Hand Book of Procedures.

CHAPTER 5

EXPORT PROMOTION CAPITAL GOODS (EPCG) SCHEME

5.00 EPCG项目宗旨：
为提高印度的出口竞争力，对用于生产优质产品和服务的资本货物的进口提供便利

5.00 Objective

The objective of the EPCG Scheme is to facilitate import of capital goods for producing quality goods and services to enhance India's export competitiveness.

5.01 EPCG Scheme

5.01 EPCG项目
(a) 用于生产的进口资本货物免征关税

(a) EPCG Scheme allows import of capital goods for pre-production, production and post-production at Zero customs duty. Alternatively, the Authorisation holder may also procure Capital Goods from indigenous sources in accordance with provisions of paragraph 5.07 of FTP. Capital goods for the purpose of the EPCG scheme shall include:

- (i) Capital Goods as defined in Chapter 9 including in CKD/SKD condition thereof;
- (ii) Computer software systems;
- (iii) Spares, moulds, dies, jigs, fixtures, tools & refractories for initial lining and spare refractories; and
- (iv) catalysts for initial charge plus one subsequent charge.

(b) Import of capital goods for Project Imports notified by Central Board of Excise and Customs is also permitted under EPCG Scheme.

5.01 EPCG项目
(c) 获得免税授权的六年内，出口额要达到进口货物资本免税额的六倍。

(c) Import under EPCG Scheme shall be subject to an export obligation equivalent to 6 times of duty saved on capital goods, to be fulfilled in 6 years reckoned from date of issue of Authorisation.

CHAPTER 6

EXPORT ORIENTED UNITS (EOUs), ELECTRONICS HARDWARE TECHNOLOGY PARKS (EHTPs), SOFTWARE TECHNOLOGY PARKS (STPs) AND BIO-TECHNOLOGY PARKS (BTPs)

6.00 Introduction and Objective

承诺所有产品都
用于出口的，可
以申请设立出口
导向企业

- (a) Units undertaking to export their entire production of goods and services (except permissible sales in DTA), may be set up under the Export Oriented Unit (EOU) Scheme, Electronics Hardware Technology Park (EHTP) Scheme, Software Technology Park (STP) Scheme or Bio-Technology Park (BTP) Scheme for manufacture of goods, including repair, re-making, reconditioning, re-engineering, rendering of services, development of software, agriculture including agro-processing, aquaculture, animal husbandry, bio-technology, floriculture, horticulture, pisciculture, viticulture, poultry and sericulture. Trading units are not covered under these schemes.

项目宗旨：
促进出口，增
加外汇，吸引
对出口生产的
投资，并促进
就业

- (b) Objectives of these schemes are to promote exports, enhance foreign exchange earnings, attract investment for export production and employment generation.

6.01 Export and Import of Goods

- (a) An EOU / EHTP / STP / BTP unit may export all kinds of goods and services except items that are prohibited in ITC (HS).
- (b) Export of Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) shall be subject to fulfilment of the conditions indicated in ITC (HS). In respect of an EOU, permission to export a prohibited

item may be considered, by BOA, on a case to case basis, provided such raw materials are imported and there is no procurement of such raw material from DTA.

- (c) Procurement and supply of export promotion material like brochure / literature, pamphlets, hoardings, catalogues, posters etc up to a maximum value limit of 1.5% of FOB value of previous years exports shall also be allowed.

EOU企业进口、或从国内关税区或保税仓、在印度举行的国际展会购买任何物资都无需支付关税。

- (d) An EOU / EHTP / STP / BTP unit may import and / or procure, from DTA or bonded warehouses in DTA / international exhibition held in India, without payment of duty, all types of goods, including capital goods, required for its activities, provided they are not prohibited items of import in the ITC (HS). Any permission required for import under any other law shall be applicable. Units shall also be permitted to import goods including capital goods required for approved activity, free of cost or on loan / lease from clients. Import of capital goods will be on a self-certification basis. Goods imported by a unit shall be with actual user condition and shall be utilized for export production.

- (e) State Trading regime shall not apply to EOU manufacturing units. However, in respect of Chrome Ore / Chrome concentrate, State Trading Regime as stipulated in export policy of these items, will be applicable to EOUs.

- (f) EOU / EHTP / STP / BTP units may import / procure from DTA, without payment of duty, certain specified goods for creating a central facility. Software EOU / DTA units may use such facility for export of software.

entitlement. Such procured / imported goods shall not be allowed to be sold in DTA. BOA may also specify any other conditions.

6.02 Secondhand Capital goods

在进口二手的进
本货物时，出口
导向企业可以免
除进口关税。

Second hand capital goods, without any age limit, may also be imported duty free.

6.03 Leasing of Capital Goods

- (a) An EOU / EHTP / STP / BTP unit may, on the basis of a firm contract between parties, source capital goods from a domestic / foreign leasing company without payment of customs / excise duty. In such a case, EOU / EHTP / STP / BTP unit and domestic / foreign leasing company shall jointly file documents to enable import / procurement of capital goods without payment of duty.
- (b) An EOU / EHTP / BTP / STP unit may sell capital goods and lease back the same from a Non Banking Financial Company (NBFC), subject to the following conditions:
 - (i) The unit should obtain permission from the jurisdictional Deputy / Assistant Commissioner of Customs or Central Excise, for entering into transaction of 'Sale and Lease Back of Assets', and submit full details of the goods to be sold and leased back and the details of NBFC;
 - (ii) The goods sold and leased back shall not be removed from the unit's premises;
 - (iii) The unit should be NFE positive at the time when it enters into sale and lease back transaction with NBFC;

- (iv) A joint undertaking by the unit and NBFC should be given to pay duty on goods in case of violation or contravention of any provision of the notification under which these goods were imported or procured, read with Customs Act, 1962 or Central Excise Act, 1944, and that the lien on the goods shall remain with the Customs / Central Excise Department, which will have first charge over the said goods for recovery of sum due from the unit to Government under provision of Section 142(b) of the Customs Act, 1962 read with the Customs (Attachment of Property of Defaulters for Recovery of Govt. Dues) Rules, 1995.

6.04 Net Foreign Exchange Earnings

投产后的5年内累计实现净创汇。

EOU / EHTP / STP / BTP unit shall be a positive net foreign exchange earner except for sector specific provision of Appendix 6 B of Appendices & ANFs, where a higher value addition shall be required. NFE Earnings shall be calculated cumulatively in blocks of five years, starting from commencement of production. Whenever a unit is unable to achieve NFE due to prohibition / restriction imposed on export of any product mentioned in LoP, the five year block period for calculation of NFE earnings may be suitably extended by BoA. Further, wherever a unit is unable to achieve NFE due to adverse market condition or any grounds of genuine hardship having adverse impact on functioning of the unit, the five year block period for calculation of NFE earnings may be extended by BOA for a period of upto one year, on a case to case basis.

6.06 Investment Criteria

出口导向企业的设立标准是不少于1千万印度卢比的投资，但手工业、农业、园艺业、水产业、畜牧业、信息技术、服务业、五金配件和手工珠宝除外。

Only projects having a minimum investment of Rs. 1 Crore in plant & machinery shall be considered for establishment as EOUs. However, this shall not apply to existing units, units in EHTP / STP / BTP, and EOUs in Handicrafts / Agriculture / Floriculture / Aquaculture / Animal Husbandry / Information Technology, Services, Brass Hardware and Handmade jewellery sectors. BOA may allow establishment of EOUs with a lower investment criteria.

6.07 Applications & Approvals

- (a) Applications for setting up of units under EOU scheme shall be approved or rejected by the Units Approval Committee within 15 days as per criteria indicated in Handbook of Procedures (HBP).
- (b) In other cases, approval may be granted by BOA set up for this purpose as indicated in HBP.
- (c) Proposals for setting up EOU requiring industrial licence may be granted approval by DC after clearance of proposal by BOA and DIPP within 45 days.
- (d) Applications for conversion into an EOU / EHTP / STP / BTP unit from existing DTA units, having an investment of Rs. 50 crores and above in plant and machinery or exporting Rs. 50 crores and above annually, shall be placed before BOA for a decision.

6.08 DTA Sale of Finished Products / Rejects / Waste/ Scrap / Remnants and By-products

Entire production of EOU / EHTP / STP / BTP units shall be exported subject to following:

notification No. E-20029/18/2001-PP dated 28.01.2003 (hereinafter referred to as PDS Scheme) subject to the following conditions:-

- (i) Only supply of such quantity of LPG would be eligible for which Ministry of Petroleum and Natural Gas declines permission for export and requires the LPG to be cleared in DTA; and
- (ii) The Ministry of Finance by a notification has permitted duty free imports of LPG for supply under the aforesaid PDS Scheme.

6.10 Export through others

An EOU / EHTP / STP / BTP unit may export goods manufactured / software developed by it through another exporter or any other EOU / EHTP / STP / SEZ unit subject to conditions mentioned in Para 6.19 of HBP.

6.11 Entitlement for Supplies from the DTA

- (a) Supplies from DTA to EOU / EHTP / STP / BTP units will be regarded as “deemed exports” and DTA supplier shall be eligible for relevant entitlements under chapter 7 of FTP, besides discharge of export obligation, if any, on the supplier. Notwithstanding the above, EOU / EHTP / STP / BTP units shall, on production of a suitable disclaimer from DTA supplier, be eligible for obtaining entitlements specified in chapter 7 of FTP. For claiming deemed export duty drawback, they shall get brand rates fixed by DC wherever All Industry Rates of Drawback are not available.
- (b) Suppliers of precious and semi-precious stones, synthetic stones and processed pearls from DTA to EOU

shall be eligible for grant of Replenishment Authorisations at rates and for items mentioned in HBP.

- (c) In addition, EOU / EHTP / STP / BTP units shall be entitled to following:-

返还中央销售
税

- (i) Reimbursement of Central Sales Tax (CST) on goods manufactured in India. Simple interest @ 6% per annum will be payable on delay in refund of CST, if the case is not settled within 30 days of receipt of complete application (as in Para 9.10 (b) of HBP).

免征中央消费
税

- (ii) Exemption from payment of Central Excise Duty on goods procured from DTA on goods manufactured in India.

- (iii) Reimbursement of duty paid on fuel procured from Domestic Oil Companies / Depots of Domestic Oil Public Sector Undertakings as per drawback rate notified by DGFT from time to time. Reimbursement of additional duty of excise levied on fuel under the Finance Acts would also be admissible.

- (iv) CENVAT Credit on service tax paid.

6.12 Other Entitlements

Other entitlements of EOU / EHTP / STP / BTP units are as under:

整个出口过程承诺在九个月内完成

- (a) Exemption from industrial licensing for manufacture of items reserved for SSI sector.
- (b) **Export proceeds will be realized within nine months.**
- (c) Units will be allowed to retain 100% of its export earnings in the EEFC account.
- (d) Unit will not be required to furnish bank guarantee at the time of import or going for job work in DTA, where:
 - (i) the unit has turnover of Rs. 5 crore or above;
 - (ii) the unit is in existence for at least three years; and
 - (iii) the unit:
 - (1) has achieved positive NFE / export obligation wherever applicable;
 - (2) has not been issued a show cause notice or a confirmed demand, during the preceding 3 years, on grounds other than procedural violations, under the penal provision of the Customs Act, the Central Excise Act, the Foreign Trade (Development & Regulation) Act, the Foreign Exchange Management Act, the Finance Act, 1994 covering Service Tax or any allied Acts or the rules made thereunder, on account of fraud / collusion / wilful misstatement / suppression of facts or contravention of any of the provisions thereof;
- (e) **100% FDI investment permitted through automatic route similar to SEZ units.**

允许100%的外商投资

印度商务部《2015-2020 外贸政策》。

P.58:

3.02 奖励性质

在 MEIS 和 SEIS 下,关税免税凭证应当作为奖励。... 关税免税凭证可以被用于:

- (i) 支付进口投入物或货物的关税...
- (ii) 支付国内采购投入物或货物(包括资本货物)的消费税。
- (iii) 支付服务税。

P.59:

“MEIS”印度出口商品项目 (Merchandise Exports from India Scheme)

3.04 MEIS 下的权利

...除非另有说明,否则计算奖励的基础将是自由外汇下出口的 FOB 价格,或自由外汇下船舶票据中出口的 FOB 价格,以较低者为准。...

P.98:

EPCG 资本货物出口促进项目 (Export Promotion Capital Goods):

5.00 目标

EPCG项目的目标是促进进口资本货物,生产优质产品和服务,提高印度的出口竞争力

5.01 EPCG项目

(a) EPCG 项目允许免税进口用于预生产,生产和后期生产的资本货物。或者,授权持有人也可以根据 FTP 第5.07 段的规定从本土来源采购资本货物。EPCG 项目的资本货物应包括:

.....

- (c) 根据EPCG 项目进口,企业在6年内的出口额必须不低于免税额的6倍。

P106:

第6章

出口导向单位 (EOU), 电子硬件技术园 (EHTP), 软件技术园 (STP) 和生物技术园 (BTP)

6.00 介绍和目的

.....

(b) 这些项目的目标是促进出口,增加外汇收入,吸引投资用于出口生产和创造就业。

P110:

6.04 净创汇

出口导向单位（EOU），电子硬件技术园（EHTP），软件技术园（STP）和生物技术园（BTP）单位应为净创汇者，但附录6B 规定的需要更高附加值的行业除外。净创汇从投入生产开始，以五年为一个整体计算。

附件十一：美国商务部——2017年9月《原产于
印度的冷拔机械管（Certain Cold-
Drawn Mechanical Tubing of
Carbon and Alloy Steel）反补贴初
裁备忘录》



C-533-874
Investigation
Public Document
E&C/V: CMB/RMM

September 18, 2017

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Senior Director
for Antidumping and Countervailing Duty Operations
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Countervailing Duty Investigation of Certain Cold-Drawn
Mechanical Tubing of Carbon and Alloy Steel from India

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain cold-drawn mechanical tubing of carbon and alloy steel products (cold-drawn mechanical tubing) from India, as provided in section 703 of the Tariff Act of 1930, as amended (Act).

II. BACKGROUND

A. Initiation and Case History

On April 19, 2017, the Department received a petition from ArcelorMittal Tubular Products, Michigan Seamless Tube, LLC, PTC Alliance Corp., Webco Industries, Inc., and Zekelman Industries, Inc. (collectively, the petitioners) seeking the imposition of countervailing duties (CVDs) on cold-drawn mechanical tubing from India.¹ Supplements to the petition and our consultations with the Government of India (GOI) are described in the *Initiation Notice* and

¹ See Letter to the Secretary from the Petitioners, re: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland, dated April 19, 2017 (the petition).



accompanying Initiation Checklist.² On May 9, 2017, the Department initiated a CVD investigation on cold-drawn mechanical tubing from India.³

We stated in the *Initiation Notice* that we intended to base our selection of mandatory respondents on United States Customs and Border Protection (CBP) entry data for the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.⁴ On May 11, 2017, the Department released the CBP entry data under administrative protective order.⁵

On May 18, 2017, Tube Products of India, Ltd., a unit of Tube Investments of India Limited (Tube Investments) submitted respondent selection comments.⁶ On May 23, 2017, Goodluck Industries, a division of Goodluck India Limited (Goodluck) and the petitioners submitted respondent selection comments.⁷ On May 31, 2017, we selected Goodluck and Tube Investments as the mandatory respondents for this investigation.⁸ We issued our countervailing duty questionnaire to the GOI on June 1, 2017, seeking information regarding the alleged subsidies.⁹ The Department instructed the GOI to forward the questionnaire to the selected mandatory respondents.¹⁰

Between June 15, 2017 and July 19, 2017, we received timely questionnaire responses from Tube Investments and Goodluck.¹¹ Between July 19, 2017 and September 6, 2017, we received timely responses from Tube Investments and Goodluck to our supplemental questionnaires.¹²

² See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India and the People's Republic of China: Initiation of Countervailing Duty Investigations*, 82 FR 22486 (May 16, 2017) (*Initiation Notice*); see also Memorandum, "Countervailing Duty Investigation Initiation Checklist: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India," dated May 9, 2017 (Initiation Checklist).

³ See *Initiation Notice*.

⁴ *Id.* at 22488-89.

⁵ See Memorandum regarding: Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy from India: Customs Data for Respondent Selection Purposes, dated May 11, 2017.

⁶ Letter to the Secretary from Tube Investments, re: Respondent Selection Comments, dated May 18, 2017.

⁷ Letter to the Secretary from Goodluck, re: Comments on CBP Data, dated May 23, 2017; Letter to the Secretary from the Petitioners, re: Petitioners' Respondent Selection Comments, dated May 23, 2017.

⁸ See Memorandum, "Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from India," dated May 31, 2017.

⁹ See Department Letter re: Countervailing Duty Questionnaire, dated June 1, 2017 (Countervailing Duty Questionnaire).

¹⁰ *Id.*

¹¹ See Letter to the Secretary from Tube Investments, re: Section III Affiliated Companies Response, dated June 15, 2017 (Tube Investment Affiliation Response); Letter to the Secretary from Goodluck, re: Goodluck's Affiliation Response, dated June 19, 2017 (Goodluck Affiliation Response); Letter to the Secretary from Tube Investments, re: Section III Initial Questionnaire Response, dated July 10, 2017 (Tube Investments Questionnaire Response); Letter to the Secretary from Goodluck, re: Goodluck's Initial CVD Questionnaire Response, dated July 19, 2017 (Goodluck Questionnaire Response).

¹² See Letter to the Secretary from Goodluck, re: Goodluck's First Supplemental Affiliation Response, dated July 19, 2017 (Goodluck Supplemental Affiliation Response); Letter to the Secretary from Tube Investments, re: CVD Supplemental Questionnaire Response, dated August 18, 2017 (Tube Investments Supplemental Questionnaire Response); Letter to the Secretary from Goodluck, re: Goodluck's Second Supplemental Response, dated August 18, 2017 (Goodluck Supplemental Questionnaire Response); Letter to the Secretary from Tube Investments, re: CVD 2nd Supplemental Questionnaire Response, dated September 6, 2017.

The GOI initially improperly filed its questionnaire response, which the Department rejected.¹³ However, the Department allowed the GOI to remedy the deficiencies with its filing,¹⁴ and the GOI subsequently properly submitted its questionnaire response to the Department on July 17, 2017.¹⁵ The GOI timely responded to our supplemental questionnaires between August 18, 2017 and September 5, 2017.¹⁶

B. Postponement of Preliminary Determination

On June 19, 2017, based on a request from the petitioners, the Department postponed the deadline for the preliminary determination until September 18, 2017, in accordance with sections 703(c)(1) and (2) of the Act and 19 CFR 351.205(f)(1).¹⁷

C. Period of Investigation

The period of investigation (POI) was originally defined as January 1, 2016, through December 31, 2016. On June 7, 2017, Goodluck and Tube Investments submitted comments to the Department requesting that the Department change the POI to correspond with the most recently completed fiscal year, April 1, 2016 through March 31, 2017, as opposed to the calendar year.¹⁸ No other parties submitted comments regarding the POI. On June 14, 2017, the Department determined April 1, 2016 through March 31, 2017 to be the appropriate POI for this proceeding, reflecting the most recently completed Indian fiscal year and in accordance with 19 CFR 351.204(b)(2).¹⁹

III. SCOPE COMMENTS

In accordance with the Preamble to the Department's regulations, and as noted in the *Initiation Notice*, the Department notified parties of an opportunity to comment on the scope of the investigation.²⁰

¹³ See Department Letter re: Section II Questionnaire Response Filing Deficiencies, dated July 11, 2017.

¹⁴ *Id.*

¹⁵ See Letter to the Secretary from the GOI, re: Response to Section II of the CVD Questionnaire, dated July 17, 2017 (GOI Questionnaire Response).

¹⁶ See Letter to the Secretary from the GOI, re: Response to Supplemental Questionnaire, dated August 18, 2017 (GOI Supplemental Questionnaire Response); Letter to the Secretary from the GOI, re: Response to Supplemental Questionnaire Issued by USDOC on August 22, 2017, dated August 28, 2017 (GOI Second Supplemental Questionnaire Response); Letter to the Secretary from the GOI, re: Response to Supplemental Questionnaire Issued by USDOC on August 30, 2017 (GOI Third Supplemental Questionnaire Response).

¹⁷ See *Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from India and the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigations*, 82 FR 28641 (June 23, 2017).

¹⁸ See Letter to the Secretary from Goodluck, re: Goodluck Request for Change in POI to Fiscal Year, dated June 7, 2017; Letter to the Secretary from Tube Investments, re: Request to Change POI to Fiscal Year, dated June 7, 2017.

¹⁹ Memorandum regarding: Period of Investigation, dated June 14, 2017.

²⁰ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)(Preamble); see also *Initiation Notice*, 82 FR at 22486-87.

We received several comments concerning the scope of the antidumping duty (AD) and CVD investigations of cold-drawn mechanical tubing from, *inter alia*, India.²¹ We are currently evaluating the scope comments filed by the interested parties. We intend to issue our preliminary decision regarding the scope of the AD and CVD investigations in the preliminary determination of the companion AD investigations, which are currently due November 11, 2017. We will incorporate the scope decisions from the AD investigations into the scope of the final CVD determinations after considering any relevant comments submitted in case and rebuttal briefs.

IV. SCOPE OF THE INVESTIGATION

The product covered by this investigation is cold-drawn mechanical tubing from India. For a full description of the scope of this investigation, see Appendix I to the accompanying preliminary determination *Federal Register* notice.

V. INJURY TEST

Because India is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the U.S. 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 June 9, 2017, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of cold-drawn mechanical tubing from India that are allegedly subsidized by the GOI.²²

VI. SUBSIDIES VALUATION

A. Allocation Period

The Department normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise. The Department finds the AUL in this proceeding to be 15 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service’s 1977 Class Life Asset Depreciation Range System.²³ The Department notified the respondents of the 15-year AUL in the initial questionnaire and requested data accordingly. No party in this proceeding has disputed the allocation period.

Furthermore, for non-recurring subsidies, we have applied the “0.5 percent test,” as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for

²¹ See, *e.g.*, Letter to the Secretary from the Petitioners, re: Petitioners’ Scope Clarification, dated, May 30, 2017.

²² See *Cold-Drawn Mechanical Tubing from China, Germany, India, Italy, Korea, and Switzerland; Determinations*, 82 FR 26812 (June 9, 2017) (ITC Preliminary Determination).

²³ See U.S. Internal Revenue Service Publication 946 (2015), “How to Depreciate Property,” at Table B-2: Table of Class Lives and Recovery Periods.

the same year. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL.

B. Attribution of Subsidies

In accordance with 19 CFR 351.525(b)(6)(i), the Department normally attributes a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of another corporation in essentially the same ways it can use its own assets. This section of the Department's regulations states that this standard will normally be met where there is a majority of voting ownership interest between two corporations or through common ownership of two (or more) corporations. The *CVD Preamble* to the Department's regulations further clarifies the Department's cross-ownership standard. According to the *CVD Preamble*, relationships captured by the cross-ownership definition include those where:

{T}he interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a "golden share" may also result in cross-ownership.²⁴

Thus, the Department's regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists. The U.S. Court of International Trade (CIT) upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same ways it could use its own subsidy benefits.²⁵

Goodluck

Goodluck responded to the Department's questionnaire on behalf of itself, reporting that it did not have any affiliated companies involved or engaged in the sale, purchase, marketing and

²⁴ See *Countervailing Duties*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).

²⁵ See *Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-04 (CIT 2001).

production of subject merchandise.²⁶ While Goodluck has several subsidiaries, these companies are not involved in the production or sale of subject merchandise or the production of inputs used in subject merchandise.²⁷ Therefore, we will attribute subsidies received by Goodluck to its own sales, in accordance with 19 CFR 351.525(b)(6)(i).

Tube Investments

Tube Investments responded to the Department's questionnaire on behalf of itself, reporting that it did not have any affiliated companies involved or engaged in the sale, purchase, marketing and production of subject merchandise.²⁸ While Tube Investments has several subsidiaries, these companies are not involved in the production or sale of subject merchandise or the production of inputs used in subject merchandise.²⁹ Therefore, we will attribute subsidies received by Tube Investments to its own sales, in accordance with 19 CFR 351.525(b)(6)(i).

C. Denominators

In accordance with 19 CFR 351.525(b)(1) – (5), the Department considers the basis for the respondent's receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondent's export or total sales. The denominators we used to calculate the countervailable subsidy rate for the various subsidy programs in this investigation are the respondent's export sales, including deemed exports,³⁰ or total sales as appropriate as described below, and which are also explained in further detail in the preliminary calculations memoranda prepared for this preliminary determination.³¹

VII. BENCHMARKS AND DISCOUNT RATES

Section 771(5)(E)(ii) of the Act provides that the benefit for loans is the “difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market,” indicating that a benchmark must be a market-based rate. In addition, 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 loans obtained by the firm. However, when there are no comparable commercial loans during the period, the Department “may use a national average interest rate for comparable commercial loans,” 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. Also, in the absence of reported long-term loan interest rates, we

²⁶ See generally Goodluck Affiliation Response; Goodluck Supplemental Affiliation Response.

²⁷ *Id.*

²⁸ See generally Tube Investments Affiliation Response.

²⁹ *Id.*

³⁰ See 19 CFR 351.535(b)(2).

³¹ See Memorandum, “Preliminary Determination Calculations for Tube Investments,” dated concurrently with this memorandum at 2 (Tube Investments Preliminary Calculation Memo); Memorandum, “Preliminary Determination Calculations for Goodluck,” dated concurrently with this memorandum at 2 (Goodluck Preliminary Calculation Memo).

use the above-discussed interest rates as discount rates for purposes of allocating non-recurring benefits over time pursuant to 19 CFR 351.524(d)(3)(i)(B).

A. Short-Term and Long-Term Rupee Denominated Loans

Based on Goodluck's and Tube Investments' responses, we preliminarily determine that both companies did not take out comparable rupee-denominated long-term loans from commercial banks in the years for which we must calculate benchmark and discount rates.³² Therefore, pursuant to 19 CFR 351.505(a)(3)(ii), we are preliminarily using national average interest rates. Specifically, we used national average interest rates from the International Monetary Fund's International Financial Statistics ("IFS") as benchmark rates for rupee-denominated short-term and long-term loans. We preliminarily find that the IFS rates provide a reasonable representation of both short-term and long-term interest rates for rupee-denominated loans.

B. Discount Rates

For allocating the benefit from non-recurring grants, we have used the discount rates described above for the year in which the government agreed to provide the subsidy, consistent with 19 CFR 351.524(d)(3)(i)(A).³³ The interest-rate benchmarks and discount rates used in our preliminary calculations are provided in the preliminary calculation memoranda.³⁴

VII. USE OF FACTS OTHERWISE AVAILABLE

Sections 776(a)(1) and (2) of the Act provide that the Department shall, subject to section 782(d) of the Act, apply "facts otherwise available" if necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.³⁵

Section 776(b) of the Act further provides that the Department may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Further, section 776(b)(2) states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an adverse facts available (AFA) rate from among the possible sources of information, the Department's practice is to ensure that the rate is

³² See Goodluck Questionnaire Response at Exhibit 14; Tube Investments Questionnaire Response at Exhibit 32.

³³ See Goodluck Preliminary Calculation Memo at 2; Tube Investments Preliminary Calculation Memo at 2.

³⁴ *Id.*

³⁵ Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD law were made, including amendments to sections 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act, as summarized below. See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362, dated June 29, 2015. See also *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015).

sufficiently adverse “as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.”³⁶ The Department’s practice also ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”³⁷

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.³⁸ Secondary information is “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”³⁹ It is the Department’s practice to consider information to be corroborated if it has probative value.⁴⁰ In analyzing whether information has probative value, it is the Department’s practice to examine the reliability and relevance of the information to be used.⁴¹ However, the SAA emphasizes that the Department need not prove that the selected facts available are the best alternative information.⁴²

Finally, under section 776(d) of the Act, when applying an adverse inference, the Department may use any countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, the Department may use a CVD rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates. Specifically, the Department applies the highest calculated rate for the identical subsidy program in the investigation if a responding company used the identical program, even if the rate is *de minimis*, and the rate is not zero. If there is no identical program match within the investigation, or if the rate is zero, the Department uses the highest non-*de minimis* rate calculated for the identical program in a CVD proceeding involving the same country. If no such rate is available, the Department will use the highest non-*de minimis* rate for a similar program (based on treatment of the benefit) in another CVD proceeding involving the same country. Absent an above-*de minimis* subsidy rate calculated for a similar program, the Department applies the highest calculated subsidy rate for any program otherwise identified in a CVD case involving the same country that could conceivably be used by the non-cooperating companies.⁴³ Additionally, when selecting an AFA rate, the Department is not required for purposes of section 776(c) of the Act, or any other purpose, to estimate what the countervailable subsidy rate would have been if the interested party had cooperated or to

³⁶ See, e.g., *Drill Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011) (*Drill Pipe from the PRC*); see also *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

³⁷ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. I at 870 (1994), reprinted at 1994 U.S.C.C.A.N. 4040, 4199 (SAA) at 870.

³⁸ See also 19 CFR 351.308(d).

³⁹ See, e.g., SAA at 870.

⁴⁰ *Id.*

⁴¹ See, e.g., SAA at 869.

⁴² See SAA at 869-870.

⁴³ See *Lightweight Thermal Paper from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008), and accompanying IDM at “Selection of the Adverse Facts Available Rate.”

demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.⁴⁴

For the reasons explained below, the Department preliminarily determines that application of facts otherwise available, with an adverse inference, to the financial contribution and specificity aspects of the countervailability determination of several programs is warranted pursuant to section 776(b) of the Act because, by not responding to our requests for information, the GOI failed to provide information within the time limits and in the manner requested, and therefore failed to cooperate by not acting to the best of its ability.

Government of India

As discussed, in part, above, on August 4, 2017, and August 22, 2017, the Department issued the GOI supplemental questionnaires in response to certain deficiencies that we identified in its initial questionnaire response, submitted on July 17, 2017.⁴⁵ In these supplemental questionnaires, for a second time, we requested information that had been previously requested and which the GOI had failed to provide. This information included key program procedures and guidelines necessary to conduct our analysis regarding financial contribution and specificity. Specifically, in both its initial response and supplemental response, the GOI provided partial information for the following programs: Export Promotion of Capital Goods Scheme (EPCG Scheme); the Status Holders Incentive Scrip Scheme (SHIS); the Interest Equalization Scheme for Export Financing (IES); Duty Drawback Program (DDB); Section 80-IC Tax Deduction for Assessment Year 2016 to 2017; Deduction under Section 32-AC of the Income Tax Act; and the Provision of Steel Inputs by the Steel Authority of India Ltd. (SAIL) for less than adequate remuneration (LTAR).⁴⁶ The GOI did not provide any substantive response for the following programs in either the initial or supplemental questionnaire responses: Exemption from Entry Tax for the Iron and Steel Industry, Investment Promotion Scheme, Electric Duty Exemption in the State of Uttar Pradesh, and Stamp Duty Exemption in the State of Uttar Pradesh.⁴⁷

With regard to the EPCG Scheme, as part of the Standard Questions Appendix, we asked for information about all India companies using the program. However, the GOI failed to provide information for any companies other than the mandatory respondents.⁴⁸ In addition, because we treat this program as non-recurring, the GOI was asked to provide the necessary information regarding the companies for the entire period of the AUL (*i.e.*, 2001-2016); however, the government failed to provide any information prior to 2006.⁴⁹ The GOI also failed to provide a program application completed by each mandatory respondent.⁵⁰

⁴⁴ See section 776(d)(3) of the Act.

⁴⁵ See Department Letter, re: Supplemental Questionnaire for Section III Questionnaire Response, dated August 4, 2017; Department Letter, re: Supplemental Questionnaire on Duty Drawback, dated August 22, 2017; *see also* GOI Questionnaire Response.

⁴⁶ See *generally* Letter to the Department from the GOI, re: Response to Supplemental Questionnaire, dated August 18, 2017 (GOI Supplemental Questionnaire Response); GOI Questionnaire Response.

⁴⁷ *Id.*

⁴⁸ See GOI Supplemental Questionnaire Response at 13-15.

⁴⁹ *Id.*

⁵⁰ *Id.*

For the SHIS Scheme, the GOI failed to respond to any appendices, and instead only stated that the program had been discontinued.⁵¹ However, the GOI failed to provide any supporting documentation and because the program involves the importation of capital goods and is thus a non-recurring subsidy, the GOI should have provided the information as residual benefits that could still be received.⁵²

For the IES program, the GOI failed to provide eligibility information, including terms and conditions of the program.⁵³ As mentioned above, this information is a necessary component of our analysis in determining whether a program is specific. Additionally, while the GOI maintained that the program is operated by the GOI's Reserve Bank of India through Scheduled Banks of India, the GOI stated it has no records concerning the branches of the scheduled banks involved in the distribution of the program.⁵⁴ As such, the Department lacks information necessary for our financial contribution determination regarding the IES program.

For the DDB Program, although we requested that the GOI provide information regarding all Indian companies using the DDB program, the GOI failed to provide information for any company other than the mandatory respondents.⁵⁵ Further, that information which the GOI did provide for the mandatory respondents was insufficient to determine the accuracy of the information related to the function of the DDB system, *i.e.* to confirm which inputs are consumed in the production of the exported products.⁵⁶ Specifically, the GOI failed to provide a copy of necessary information, such as the shipping bills or any other application forms filed by the respondents for the DDB program.⁵⁷

For the Section 80-IC Tax Deduction for Assessment Year 2016 to 2017 and Deduction under Section 32-AC of the Income Tax Act programs, we requested that the GOI describe the assistance under these programs in detail, including the amounts, dates of receipt, purpose and terms. We also instructed the GOI to answer all questions in the Standard Questions Appendix and all other appropriate appendices. In response, the GOI submitted only a single page exhibit

purporting to show the amounts deducted by the respondents.⁵⁸ In addition, the GOI failed to complete any of the requested appendices.⁵⁹

Regarding the Provision of Steel Inputs by SAIL for LTAR, the GOI failed to provide a variety of necessary information. In its initial response, the GOI provided only a brief statement that it was not involved in the decisions of SAIL, and did not submit any of the requested appendices.⁶⁰

⁵¹ *Id.* at 15-16.

⁵² *Id.*

⁵³ *Id.* at 17-29.

⁵⁴ *Id.* at 16.

⁵⁵ See GOI Questionnaire Response at 81.

⁵⁶ See GOI Supplemental Questionnaire Response at 18-20.

⁵⁷ *Id.*

⁵⁸ *Id.* at Exhibit I.

⁵⁹ *Id.* at 35.

⁶⁰ See GOI Questionnaire Response at 89.

When the Department requested the information a second time, the GOI again failed to fully respond to the Department's request for information.⁶¹ Specifically, the GOI failed to respond to the Department's questionnaire by making only a general statement that SAIL is not a governmental authority and failed to complete the Input Supplier Appendix as requested by the Department's questionnaire, despite admitting that it holds a majority shareholding interest in SAIL.⁶² Without this information, the Department lacks the evidence necessary to analyze SAIL's operations and evaluate the GOI's argument that the Provision of Steel Inputs by SAIL for LTAR is not a program that confers a benefit from the GOI because SAIL neither possesses governmental authority nor discharges any government function.⁶³ Additionally, the GOI failed to provide complete information related to domestic production and consumption of steel inputs, the industries that purchase such inputs, or trade publications specifying the price of such inputs.⁶⁴

Finally, as noted above, the GOI failed to provide necessary information in response to questions pertaining to the Exemption from Entry Tax for the Iron and Steel Industry, Investment Promotion Scheme, Electric Duty Exemption in the State of Uttar Pradesh, and Stamp Duty Exemption in the State of Uttar Pradesh. Given that such necessary information has been withheld by the GOI, the Department's ability to investigate those programs is significantly impeded.

Therefore, we preliminarily determine that necessary information is not available on the record and that the GOI withheld information that was requested of it in the time and manner requested, thereby significantly impeding the conduct of the investigation. Thus, the Department must rely on "facts available" in making our preliminary determination in accordance with sections 776(a)(1) and 776(a)(2)(A), (B) and (C) of the Act. Moreover, we preliminarily determine that the GOI failed to cooperate by not acting to the best of its ability in failing to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available, pursuant to section 776(b) of the Act. In drawing an adverse inference, we find that the programs outlined above constitute a financial contribution within the meaning of section 771(5)(D) of the Act and are specific within the meaning of section 771(5A)(B) and 771(5A)(D) of the Act. Similarly, we are using an adverse inference to determine that SAIL is a governmental authority providing a financial contribution. We note that while certain of these programs have been countervailed in prior cases, in this instance we are preliminarily relying on adverse inferences as the GOI has not cooperated to the best of its ability. As respondents reported their respective usage of the aforementioned programs, we are relying on the respondents' reported usage data to calculate the benefit for the aforementioned programs, within the meaning of section 771(5)(E) of the Act.

IX. ANALYSIS OF PROGRAMS

Based upon our analysis of the record and the responses to our questionnaires, we preliminarily determine the following.

⁶¹ See GOI Supplemental Questionnaire Response at 29-34.

⁶² *Id.* at 30.

⁶³ See GOI Supplemental Questionnaire Response at 30.

⁶⁴ *Id.* at 30-34.

A. Programs Preliminarily Determined to Be Countervailable

1. Advance Authorization Program (AAP), aka, Advance License Program (ALP)

Under the AAP, aka ALP, exporters may import, duty free, specified quantities of materials required to manufacture products that are subsequently exported.⁶⁵ The exporting companies, however, remain contingently liable for the unpaid duties until they have fulfilled the export requirement.⁶⁶ The quantities of imported materials and exported finished products are linked through standard input-output norms (SIONs) established by the GOI.⁶⁷ During the POI, Goodluck used advance licenses to import certain materials duty free.⁶⁸

Import duty exemptions on inputs for exported products are not countervailable so long as the exemption extends only to inputs consumed in the production of the exported product, making normal allowances for waste.⁶⁹ However, the government in question must have in place and apply a system to confirm which inputs are consumed in the production of the exported products, and in what amounts.⁷⁰ This system must be reasonable, effective for the purposes intended, and based on generally accepted commercial practices in the country of export.⁷¹ If such a system does not exist, or if it is not applied effectively, and the government in question does not carry out an examination of actual inputs involved to confirm which inputs are consumed in the production of the exported product, the entire amount of any exemption, deferral, remission or drawback is countervailable.⁷²

In the 2003 administrative review of countervailing duties on Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India, the GOI indicated that it had revised its Foreign Trade Policy and Handbook of Procedures for the AAP/ALP during 2005. The Department acknowledged that certain improvements to the AAP/ALP system were made. However, the Department found that, based on the information submitted by the GOI and examined during previous reviews of that proceeding, and no information having been submitted for that review demonstrating that the GOI had revised its laws or procedures governing this program since those earlier reviews, systemic issues continued to exist in the AAP/ALP system during that POR.⁷³ Specifically, in the 2003 review, the Department stated that it continued to find the AAP/ALP countervailable based on:

⁶⁵ See GOI Questionnaire Response at 11-22.

⁶⁶ *Id.*

⁶⁷ See Goodluck Questionnaire Response at 15-26 and Exhibit 8(c); see also GOI Supplemental Questionnaire Response at 11-22.

⁶⁸ *Id.*

⁶⁹ See 19 CFR 351.519(a)(1)(ii).

⁷⁰ See *Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination*, 78 FR 50385 (August 19, 2013) (*Shrimp from India Final Determination*), and accompanying Issues and Decision Memorandum (IDM) at “Duty Drawback (DDB).”

⁷¹ *Id.*

⁷² See 19 CFR 351.519(a)(4)(i)-(ii).

⁷³ See *Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 71 FR 7534 (February 13, 2006) (*2003 Review of PET Film from India*), and accompanying IDM at 3-5.

the GOI's lack of a system or procedure to confirm which inputs are consumed in the production of the exported products and in what amounts that is reasonable and effective for the purposes intended, as required under 19 CFR 351.519. Specifically, we still have concerns with regard to several aspects of the ALP including (1) the GOI's inability to provide the SION calculations that reflect the production experience of the PET Film industry as a whole; (2) the lack of evidence regarding the implementation of penalties for companies not meeting the export requirements under the ALP or for claiming excessive credits; and, (3) the availability of ALP benefits for a broad category of "deemed" exports.⁷⁴

Since the 2003 PET Film review, the Department has in several other proceedings made determinations consistent with this treatment of the AAP/ALP.⁷⁵ In the current investigation, record evidence shows⁷⁶ there has been no change to the AAP/ALP program and therefore we preliminarily find that the program confers a countervailable subsidy because: (1) a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided under the program, as the GOI exempts the respondents from payment of import duties that would otherwise be due; (2) 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), to confirm which inputs, and in what amounts, are consumed in the production of the exported products, making normal allowance for waste, nor did the GOI carry out an examination of actual inputs involved to confirm which inputs are consumed in the production of the exported product, and in what amounts; thus, the entire amount of the import duty deferral or exemption provided to the respondent constitutes a benefit under section 771(5)(E) of the Act; and (3) this program is specific under section 771(5A) (B) of the Act because it is contingent upon exportation.

Pursuant to 19 CFR 351.524(c)(1), the exemption of import duties on raw material inputs normally provides a recurring benefit.⁷⁷ Under this program, during the POI, Goodluck did not have to pay certain import duties for inputs that were used in the production of subject merchandise.⁷⁸ Thus, we are treating the benefit provided under the AAP as a recurring benefit.

Goodluck imported inputs under the AAP for the production of subject merchandise duty free during the POI. In response to the Department's questionnaire, Goodluck provided supporting documentation regarding its AAP license.⁷⁹ The information provided affirmatively demonstrates that the licenses provided to Goodluck were tied to the production and export of subject merchandise within the meaning of 19 CFR 351.525(b)(5).

⁷⁴ *Id.*

⁷⁵ See, e.g., *Certain Oil Country Tubular Goods from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 41967 (July 18, 2014) (*Oil Country Tubular Goods from India Final*), and accompanying IDM; see also *Certain Lined Paper Products from India: Final Results of Countervailing Duty Administrative Review; Calendar Year 2012*, 80 FR 19637 (April 13, 2015), and accompanying IDM.

⁷⁶ See GOI Questionnaire Response at 11-22 and Exhibits C-F.

⁷⁷ See, e.g., *Oil Country Tubular Goods from India Final*, and accompanying IDM.

⁷⁸ See Goodluck Questionnaire Response at 20.

⁷⁹ *Id.* at Exhibit 8.

To calculate the subsidy rate, we first determined the total value of import duties exempted during the POI for Goodluck under licenses tied to subject merchandise. We then divided the resulting benefit by the total value of Goodluck's export sales. On this basis, we determine the countervailable subsidy provided to Goodluck under the AAP to be 1.35 percent *ad valorem*.⁸⁰

2. Duty Drawback (DDB)

Goodluck and Tube Investments reported receiving duty rebates under this program.⁸¹ The GOI explained that the DDB Program provides rebates for duty or tax chargeable on any (a) imported or excisable materials and (b) input services used in the manufacture of export goods.⁸² Specifically, the duties and tax "neutralized" under the program are the (i) Customs and Union Excise Duties in respect of inputs and (ii) Service Tax in respect of input services.⁸³ The duty drawback is generally fixed as a percentage of the free on board (FOB) price of the exported product.⁸⁴

Import duty exemptions on inputs for exported products are not countervailable so long as the exemption extends only to inputs consumed in the production of the exported product, making normal allowances for waste.⁸⁵ However, the government in question must have in place and apply a system to confirm which inputs are consumed in the production of the exported products, and in what amounts.⁸⁶ This system must be reasonable, effective for the purposes intended, and based on generally accepted commercial practices in the country of export.⁸⁷ If such a system does not exist, or if it is not applied effectively, and the government in question does not carry out an examination of actual inputs involved to confirm which inputs are consumed in the production of the exported product, the entire amount of any exemption, deferral, remission or drawback is countervailable.⁸⁸

Regarding its establishment of applicable duty drawback rates, the GOI explained that a committee is established to review data and recommend duty drawback rates. Specifically, the GOI stated the following:

The rates are determined following a specified procedure that is undertaken by an independent committee appointed by GOI. The committee makes its recommendations after discussions with all stake holders including Export Promotion Councils, Trade Associations, and individual exporters to solicit relevant data, which includes the data on procurement prices of inputs, indigenous as well as imported, applicable duty rates,

⁸⁰ See Goodluck Preliminary Calculation Memo at 2.

⁸¹ See Goodluck Questionnaire Response at 26-30; Tube Investments Questionnaire Response at 18-26; Goodluck Supplemental Questionnaire Response at 9-10; Tube Investments Supplemental Questionnaire Response at 9-13.

⁸² See GOI Supplemental Questionnaire Response at 18.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ See 19 CFR 351.519(a)(1)(ii).

⁸⁶ See *Shrimp from India Final Determination*, and accompanying IDM at "Duty Drawback (DDB)."

⁸⁷ *Id.*

⁸⁸ See 19 CFR 351.519(a)(4)(i)-(ii).

consumption ratios and FOB values of exports products. Corroborating data is also collected from Central Excise and Customs field formations. This data is analyzed and this information is used to form the basis for the rate of DDB.⁸⁹

As submitted by the GOI, Rule 3(2) of the Drawback Rules 1995, states that in determining the amount of drawback, “the Central Government shall have regard to” the average quantity and value of an input, component or intermediate product, whether produced in India or imported, the import duties or excise duties paid thereon, as well as account for waste, re-use or sale of a by-product, and packing and input services rendered.⁹⁰

We requested that the GOI provide a copy of the recommendations and supporting documents (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) for the drawback rates in effect during the POI.⁹¹ As discussed above, the GOI did not provide documentation enabling the Department to determine whether the GOI has a system in place.⁹² Thus, consistent with the *Shrimp from India Final Determination*, based on the GOI’s questionnaire response that lacks the documentation to support that the GOI has a system in place to confirm which inputs are consumed in the production of the exported products, we preliminarily conclude that the GOI has not supported its claim that its system is reasonable or effective for the purposes intended.⁹³

Accordingly, we preliminarily determine that the DDB confers a countervailable subsidy. Under the DDB, a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided because rebated duties represent revenue foregone by the GOI. Moreover, as explained above, the GOI has not supported its claim that the DDB system is reasonable and effective in confirming which inputs, and in what amounts, are consumed in the production of the exported product. Therefore, under 19 CFR 351.519(a)(4), the entire amount of the import duty rebate earned during the POI constitutes a benefit. Finally, this program is only available to exporters; therefore, it is specific under sections 771(5A) (B) of the Act.

Pursuant to 19 CFR 351.519(b)(1), we find that benefits from the DDB program are conferred as of the date of exportation of the shipment for which the pertinent drawbacks are earned. We calculated the benefit on an as-earned basis upon export because drawback under the program is provided as a percentage of the value of the exported merchandise on a shipment-by-shipment basis. As such, it is at this point that recipients know the exact amount of the benefit (i.e., the value of the drawback).

We calculated the subsidy rate using the value of all DDB duty rebates that Goodluck and Tube Investments earned on U.S. sales. We divided the total amount of the benefit received by Goodluck and Tube Investments by the companies’ total U.S. exports during the POI. On this basis, we preliminarily determine a countervailable subsidy rate of 1.43 percent *ad valorem* for

⁸⁹ See GOI Questionnaire Response at 75.

⁹⁰ See GOI Supplemental Questionnaire Response at Exhibit E.

⁹¹ See Countervailing Duty Questionnaire.

⁹² See GOI Questionnaire Response at 81; GOI Supplemental Questionnaire Response at 18-20.

⁹³ See *Shrimp from India Final Determination*, and accompanying IDM at 12-14.

Goodluck, and a rate of 2.07 percent *ad valorem* for Tube Investments.⁹⁴

3. *Merchandise Export from India Scheme (MEIS)*

Goodluck and Tube Investments reported receiving benefits from the MEIS during the POI.⁹⁵ The GOI explained that the MEIS was introduced in the Foreign Trade Policy (FTP) 2015-2020.⁹⁶ Its purpose is to “offset infrastructural inefficiencies and associated costs involved in export of goods/products, which are produced/manufactured in India, especially those having high export intensity, employment potential and thereby enhancing India’s export competitiveness.”⁹⁷ Under this program, the GOI issues a scrip worth either two, three, or five percent of the FOB value of the of “exports in free foreign exchange, or on the FOB value of exports, as given on the shipping bills in free foreign exchange, whichever is less.”⁹⁸ To receive the scrip, a recipient must file an electronic application and supporting shipping documentation for each port of export with Director General of Foreign Trade (DGFT).⁹⁹ After a recipient receives and registers the scrip, it may use it for either the payment of future customs duties for importing goods or transfer it to another company.¹⁰⁰

In the *Steel Flanges from India Preliminary Determination*, the Department found the MEIS program to be countervailable based on its similarities to India’s Status Holder Incentive Scheme (SHIS) which the Department has also found countervailable.¹⁰¹ For that program, similar to the MEIS program, the GOI provides scrips to exporters worth a certain percentage of the FOB value of exports. The scrip could then be used as a credit for future import duties or could be transferred to other “Status Holders” to be used as a credit for future import duties.¹⁰²

The program is specific within sections 771(5A)(B) of the Act because, as the GOI, Goodluck, and Tube Investments admit, eligibility to receive the scrips is contingent upon export.¹⁰³ As the Department determined in the *Steel Flanges from India Preliminary Determination*, similar to the SHIS program, this program provides a financial contribution in the form of revenue foregone under section 771(5)(D)(ii) of the Act because the scrips provide exemptions for paying duties associated with the import of goods which represents revenue foregone by the GOI.¹⁰⁴

⁹⁴ See Goodluck Preliminary Calculation Memo at 2-3; Tube Investments Preliminary Calculation Memo at 2-3.

⁹⁵ See Goodluck Questionnaire Response at 31; Tube Investments Questionnaire Response at 28.

⁹⁶ See GOI Questionnaire Response at 44.

⁹⁷ *Id.* at 47.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ See Goodluck Questionnaire Response at 34.

¹⁰¹ See *Finished Carbon Steel Flanges from India: Preliminary Affirmative Countervailing Duty Determination*, 81 FR 85928 (November 29, 2016), and accompanying Preliminary Decision Memorandum (PDM) at 16 (*Steel Flanges from India Preliminary Determination*) (unchanged in *Finished Carbon Steel Flanges from India: Final Affirmative Countervailing Duty Determination*, 82 FR 29479 (June 29, 2017), and accompanying IDM); see also “Status Holder Incentive Scheme (SHIS)” section, below.

¹⁰² *Id.*

¹⁰³ See, e.g., GOI Questionnaire Response at 47.

¹⁰⁴ See *Steel Flanges from India Preliminary Determination*, and accompanying PDM at 16.

Goodluck and Tube Investments reported that they submitted applications and received approval under the MEIS program upon the export of qualified goods.¹⁰⁵ Goodluck indicated that it sold all of its scrips, or licenses, in the market and accounted for these sales in its receivables using the “exact license value.”¹⁰⁶ Tube Investments reported that it retains its scrips in its records which it later uses to pay the import duties owed on raw materials or capital goods.¹⁰⁷

In the *Steel Flanges from India Preliminary Determination*, the Department found the MEIS program is continuous and thus, recurring, in nature.¹⁰⁸ This program provides a recurring benefit because, unlike the scrips in the SHIS scheme, the scrips provided under this program are not tied to capital assets.¹⁰⁹ Furthermore, recipients can expect to receive additional subsidies under this same program on an ongoing basis from year to year under 19 CFR 351.524(c)(2)(i).¹¹⁰ We calculated the benefit to Goodluck and Tube Investments to be the total value of scrips granted during the POI. Normally, in cases where the benefits are granted based on a percentage value of a shipment, the Department calculates benefits as having been received as of the date of exportation.¹¹¹ However, because the MEIS benefit, *i.e.* the scrip amount, is not automatic and is not known to the exporter until well after the exports are made, the MEIS licenses, which contain the date of validity and the duty exemption amount as issued by the GOI, are the best method to determine and account for when the benefit is received.¹¹² On this basis, we preliminarily determine a countervailable subsidy of 1.48 percent *ad valorem* for Goodluck, and a countervailable subsidy rate of 0.12 percent *ad valorem* for Tube Investments.¹¹³

4. Status Holders Incentive Scrip Scheme (SHIS)

Goodluck self-reported use of the SHIS in its questionnaire response and provided certain supporting documentation.¹¹⁴ It is the Department’s practice to rely on governments to provide financial contribution and specificity information. In this instance, while Goodluck did provide documentation demonstrating operation of this program in accordance with the Reserve Bank of India (RBI) and other banking rules, we were not able to confirm this information with the GOI

¹⁰⁵ See Goodluck Questionnaire Response at 34; Tube Investments Questionnaire Response at 29.

¹⁰⁶ See Goodluck Questionnaire Response at 34.

¹⁰⁷ See Tube Investments Questionnaire Response at 28-29.

¹⁰⁸ See *Steel Flanges from India Preliminary Determination*, and accompanying PDM at 16.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ See 19 CFR 351.519(b)(1).

¹¹² See *Polyethylene Terephthalate Film, Sheet and Strip from India: Preliminary Results And Partial Rescission of Countervailing Duty Administrative Review*; 2012, 79 FR 50616, (August 25, 2014) (*PET Film from India Preliminary Results 2012*), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*; 2012, 80 FR 11160 (March 2, 2015) (*PET Film from India Final Results 2012*); *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*; 2013, 81 FR 7753 (February 16, 2016) (*PET Film from India Final Results 2013*), and accompanying IDM at Comment 2.

¹¹³ See Goodluck Preliminary Calculation Memo at 3-4; Tube Investments Preliminary Calculation Memo at 3-4.

¹¹⁴ See Goodluck Questionnaire Response at 37.

and its official documents, as discussed under the section “Use of Facts Otherwise Available,” above. As discussed above, we are therefore finding that an adverse inference is warranted in determining whether the GOI provided a financial contribution through the SHIS program, and whether the SHIS is specific. Consequently, as AFA, we preliminarily determine that the GOI conferred a financial contribution and we find the SHIS program specific within the meaning of sections 771(5)(D) and 771(5A)(B) of the Act, respectively.

As explained in the *Steel Flanges from India Preliminary Determination* which relied on *Steel Threaded Rod from India*, a benefit is also provided under the SHIS program under 771(5)(E) of the Act and 19 CFR 351.519 in the amount of exempted duties on imported capital equipment.¹¹⁵ As discussed at “Use of Facts Otherwise Available,” section above, we are using information on the record provided by respondents to calculate the benefit received by the companies.

Goodluck reported that import duty exemptions under this program are provided solely for the purchase of capital equipment.¹¹⁶ The *CVD Preamble* 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... .”¹¹⁷ In accordance with 19 CFR 351.524(c)(2)(iii) and past practice, we are treating these import duty exemptions on capital equipment as non-recurring benefits.¹¹⁸

Goodluck reported that it received SHIS license scrips to import capital goods duty-free during the AUL. Information provided by Goodluck indicates that its SHIS license scrips were issued for the purchase of capital goods used for the production of exported goods, so we are attributing the SHIS benefits received by Goodluck to its total exports.¹¹⁹

The SHIS scrip represents a non-recurring benefit that is not automatically received, and the amount of said benefit is not known to the recipient at the time of receipt of the scrip.¹²⁰ Although the Department’s regulations stipulate that we will normally consider the benefit as having been received as of the date of exportation, see 19 CFR 351.519(b)(1), because the SHIS benefit amount is not automatic and is not known to the exporter until well after the exports are made, the SHIS licenses, which contain the date of validity and the duty exemption amount, as issued by the GOI, are the best method to determine and account for when the benefit is received.¹²¹

¹¹⁵ See *Steel Flanges from India Preliminary Determination*, and accompanying PDM at 18 (citing *Steel Threaded Rod from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 40712 (July 14, 2014) (*Steel Threaded Rod from India*), and accompanying IDM, at “Status Holder Incentive Scrip”).

¹¹⁶ See Goodluck Questionnaire Response at 39.

¹¹⁷ See *Countervailing Duties*, 63 FR at 65393.

¹¹⁸ See *Steel Threaded Rod from India*, and accompanying IDM at “Status Holder Incentive Scrip.”

¹¹⁹ See generally Goodluck Questionnaire Response at 37-49.

¹²⁰ See *Steel Threaded Rod from India*, and accompanying IDM at “Status Holder Incentive Scrip.”

¹²¹ The Department determined, and was upheld by the CIT in *Essar Steel v. United States*, 395 F. Supp. 2d 1275, 1278 (CIT 2005) (*Essar Steel*) with respect to a similar, but discontinued, GOI program, the Duty Entitlement Passbook Scheme (DEPS), that benefits were conferred when earned, rather than when the credits were used.

We performed the “0.5 percent test,” as prescribed under 19 CFR 351.524(b)(2), for the total value of the exempted customs duties for the year in which Goodluck received the SHIS scrip and allocated the benefits across the AUL.¹²² We then calculated the benefits according to the calculation provided for in 19 CFR 351.524(d)(1). On this basis, we determine a countervailable subsidy of 0.39 percent *ad valorem* for Goodluck.¹²³

5. Incremental Exports Incentive Scheme (IEIS)

Goodluck and Tube Investments reported use of the IEIS and provided certain supporting documentation.¹²⁴ It is the Department’s practice to rely on governments to provide financial contribution and specificity information. According to the GOI, the IEIS program entitles companies to a scrip equivalent to two percent of the incremental realized FOB value of exports in free foreign exchange for the period January 1, 2013 to March 31, 2013 over January 1, 2012 to March 31, 2012 to specified markets, *i.e.*, the United States, Europe, and Asia.¹²⁵

The program is specific within sections 771(5A)(B) of the Act because, as the GOI, Goodluck, and Tube Investments admit, eligibility to receive the scrips is contingent upon export.¹²⁶ Similar to the SHIS program, this program provides a financial contribution in the form of revenue foregone under section 771(5)(D)(ii) of the Act because the scrips provide exemptions for paying duties associated with the import of goods which represents revenue foregone by the GOI.¹²⁷

As the GOI reported that the scrips are based on the value of exports, we are therefore attributing the license value received by Goodluck and Tube Investments to their total exports. However, Goodluck reported that it did not use its IEIS scrip during the POI or prior to the POI.¹²⁸ Rather, Goodluck indicated and provided supporting documentation that it received and sold its scrip to an unaffiliated party prior to the POI. Thus, we find that Goodluck did not receive a benefit from this program during the POI.¹²⁹ On the other hand, Tube Investments utilized its license during the POI in a manner similar to the IEIS program, to offset future import duty, and the Department therefore determines that it did receive a benefit during the POI.¹³⁰

Normally, in cases where the benefits are granted based on a percentage value of a shipment, the Department calculates benefit as having been received as of the date of exportation;¹³¹ however,

¹²² See Goodluck Preliminary Calculation Memo at 4.

¹²³ *Id.*

¹²⁴ See Goodluck Questionnaire Response at 51; Tube Investments Supplemental Questionnaire Response at 18 and Exhibit 54.

¹²⁵ See Goodluck Questionnaire Response at 37.

¹²⁶ See, *e.g.*, GOI Questionnaire Response at 37; Tube Investments Supplemental Questionnaire Response at 19.

¹²⁷ See *Steel Flanges from India Preliminary Determination*, and accompanying PDM at 16.

¹²⁸ See Goodluck Questionnaire Response at 53.

¹²⁹ *Id.*

¹³⁰ See Tube Investments Supplemental Questionnaire Response at 19.

¹³¹ See 19 CFR 351.519(b)(1).

because the IEIS benefit, *i.e.* the scrip, amount is not automatic and is not known to the exporter until well after the exports are made, the IEIS licenses, which contain the date of validity and the duty exemption amount as issued by the GOI, are the best method to determine and account for when the benefit is received.¹³²

Thus, with regard to Tube Investments, to determine the subsidy rate, we divided the amount of the benefits provided to Tube Investments under section 771(5)(E) the Act during the POI and divided it by Tube Investment's total export sales during the POI. On this basis, we preliminarily determine a countervailable subsidy rate of 0.10 percent *ad valorem* for Tube Investments.¹³³

6. *Export Promotion of Capital Goods Scheme (EPCG)*

The GOI reported that the EPCG program provides for a reduction of or exemption from customs duties and excise taxes on imports of capital goods used in the production of exported products.¹³⁴ Under this program, producers pay reduced duty rates on imported capital equipment by committing to earn convertible foreign currency equal to a multiple of the duty saved within a period of a certain number of years.¹³⁵ If the company fails to meet the export obligation, the company is subject to payment of all or part of the duty reduction, depending on the extent of the shortfall in foreign currency earnings, in addition to an interest penalty.¹³⁶

The Department has previously determined that import duty reductions or exemptions provided under the EPCG program are countervailable export subsidies because the scheme: (1) provides a financial contribution pursuant to section 771(5)(D)(ii) of the Act; (2) provides two different benefits (*see below*) under section 771(5)(E) of the Act; and (3) is specific pursuant to sections 771(5A)(A) and (B) of the Act because the program is contingent upon export performance.¹³⁷ However, as described above, because the GOI did not act to the best of its ability, we are relying on our adverse inference in determining whether the GOI provided a financial contribution through the EPCG program, and whether the EPCG program is specific.

Under the EPCG program, the exempted import duties would have to be paid to the GOI if the accompanying export obligations are not met. It is the Department's practice to treat any balance on an unpaid liability that may be waived in the future as a contingent-liability interest-free loan pursuant to 19 CFR 351.505(d)(1).¹³⁸ Since the unpaid duties are a liability contingent on subsequent events, these interest-free contingent-liability loans constitute the first benefit under the EPCG program. The second benefit arises when the GOI waives the duty on imports of

¹³² See *PET Film Preliminary Results 2012, unchanged in PET Film Final Results 2012; PET Film from India Final Results 2013* at Comment 2.

¹³³ See Tube Investments Preliminary Calculation Memo at 4.

¹³⁴ See GOI Questionnaire Response at 24-37.

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ 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) (*PET Film Final Determination*), and accompanying IDM at "EPCGS" section; see also *Shrimp from India Final Determination*, and accompanying IDM at 14.

¹³⁸ *Id.*

capital equipment covered by those EPCG licenses for which the export requirement has already been met. For those licenses for which the GOI has acknowledged that the company has completed its export obligation, 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 pursuant to 19 CFR 351.505(d)(2).

Import duty exemptions under this program are approved for the purchase of capital equipment. The *CVD Preamble* 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....”¹³⁹ In accordance with 19 CFR 351.524(c)(2)(iii) and past practice, we are treating these import duty exemptions on capital equipment as non-recurring benefits.¹⁴⁰ Goodluck reported that they imported capital goods at reduced import duty rates under the EPCG program.¹⁴¹ Based on record information, Goodluck received various licenses which it reported were for the manufacture of non-subject merchandise.¹⁴² Goodluck provided complete license documentation on the record of this investigation, including copies of the original licenses issued by the GOI.¹⁴³ Specifically, Goodluck demonstrated that its non-transferable licenses were issued for use in a plant which does not produce subject merchandise.¹⁴⁴ Furthermore, the licenses submitted by Goodluck established that they were issued solely for the production of non-subject merchandise.¹⁴⁵ Thus, based on the information and documentation submitted by Goodluck, we were able to determine that the EPCG licenses are tied to the production of a particular product within the meaning of 19 CFR 351.525(b)(5). We further determine that Goodluck’s licenses are tied to the production of non-subject merchandise, and as such, Goodluck’s EPCG licenses do not benefit the company’s exports of subject merchandise.

Tube Investments reported that it imported capital goods at reduced import duty rates under the EPCG program.¹⁴⁶ Tube Investments received various EPCGS licenses, which it reported were for the production of subject merchandise and non-subject merchandise. Tube Investments provided complete license documentation on the record of this investigation, including copies of the original licenses issued by the GOI.¹⁴⁷ Specifically, Tube Investments demonstrated that certain of its licenses were issued for the purchase of capital goods and raw materials to be used in the production of subject merchandise. Tube Investments was also able to demonstrate that

¹³⁹ See *CVD Preamble*, 63 FR at 65393.

¹⁴⁰ See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 75 FR 6634 (February 10, 2010), and accompanying IDM at Comment 9; see also *Certain Frozen Warmwater Shrimp from India: Preliminary Countervailing Duty Determination*, 78 FR 33344 (June 4, 2013) (*Shrimp from India Preliminary Determination*), and accompanying PDM at “Duty Incentives under the Export Promotion Capital Goods (“EPCG”) Program,” unchanged in *Shrimp from India Final Determination*.

¹⁴¹ See Goodluck Questionnaire Response at 55.

¹⁴² *Id.*; see also Goodluck Supplemental Questionnaire Response at 11-12.

¹⁴³ See Goodluck Questionnaire Response at Exhibit 17(d); Goodluck Supplemental Questionnaire Response at Exhibit S-8(b).

¹⁴⁴ *Id.*; see also Goodluck Supplemental Questionnaire Response at 11.

¹⁴⁵ See Goodluck Questionnaire Response at Exhibits 17(c) and 17(d); see also Goodluck Supplemental Questionnaire Response at Exhibit S-8(b).

¹⁴⁶ See Tube Investments Questionnaire Response at 43.

¹⁴⁷ *Id.* at 44 and Exhibit 25.

certain other licenses were for the purchase of capital goods and raw materials for production of non-subject merchandise. Specifically, Tube Investments provided copies of the original licenses and condition sheets issued by the GOI. Thus, based on the information and documentation submitted by Tube Investments, we were able to determine that the EPCG licenses are tied to the production of a particular product within the meaning of 19 CFR 351.525(b)(5). We further determine that certain of Tube Investments' license(s) are tied to the production of non-subject merchandise and certain others to the production subject merchandise. As such, we find that certain Tube Investments' EPCG licenses benefit the company's exports of subject merchandise.

Tube Investments met the export requirements for certain EPCG licenses prior to March 31, 2017 (the last day of the POI), and the GOI has formally waived the relevant import duties.¹⁴⁸ For a number of its licenses, however, Tube Investments had not yet met their export obligation as required under the program.¹⁴⁹ Therefore, although Tube Investments received a deferral from paying import duties for the capital goods that were imported, the final waiver of the obligation to pay the duties was not demonstrated for a number of these imports.¹⁵⁰

To calculate the benefit received from the GOI's formal waiver of import duties of Tube Investments' capital equipment, where the export obligations were met prior to March 31, 2017 (the last day of the POI), we used the total amounts of duties waived. We treated these amounts as grants pursuant to 19 CFR 351.504. Further, consistent with the approach followed in the *PET Film Final Determination*, we preliminarily determined the year of receipt of the benefit to be the year in which the GOI formally waived the respondents' outstanding import duties.¹⁵¹ Next, we performed the "0.5 percent test," as prescribed under 19 CFR 351.524(b)(2), for the total value of duties waived, for each year in which the GOI granted these companies an import duty waiver. For any years in which the value of the waived import duties was less than 0.5 percent of the respondent's total export sales, we expensed the amount of the waived duties to the year of receipt. For years in which the value of the waivers exceeded 0.5 percent of the respondent's total export sales in that year, we allocated the waived duty amount using the allocation period of 15 years for nonrecurring subsidies, in accordance with 19 CFR 351.524(d)(2). See the "Allocation Period" section, above. For purposes of allocating the value of the waived duties over time, we used the appropriate discount rate for the year in which the GOI officially waived the import duties. See "Benchmarks and Discount Rates" section, above.

As noted above, import duty reductions or exemptions that the respondents received on the imports of capital equipment for which they had not yet met export obligations may have to be repaid to the GOI if the obligations under the licenses are not met. Consistent with our practice and prior determinations, we are treating the unpaid import duty liability as an interest-free loan.¹⁵²

¹⁴⁸ See Goodluck Questionnaire Response at 59; Tube Investments Supplemental Questionnaire Response at Exhibit 55.

¹⁴⁹ See Tube Investments Supplemental Questionnaire Response at Exhibit 55.

¹⁵⁰ *Id.*

¹⁵¹ See *PET Film Final Determination*, and accompanying IDM at Comment 5.

¹⁵² See 19 CFR 351.505(d)(1); see also *Shrimp from India Preliminary Determination*, and accompanying Decision Memorandum at EPCG Program (unchanged in *Shrimp from India Final Determination*).

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 was not officially waived by the GOI, as of the end of the POI. Accordingly, we find the benefit to be the interest that the respondent would have paid during the POI, had it borrowed the full amount of the duty reduction or exemption at the time of importation.¹⁵³

As noted above, the time period for fulfilling the export requirement expires a certain number of years after importation of the capital good. As such, pursuant to 19 CFR 351.505(d)(1), the benchmark for measuring the benefit is a long-term interest rate because the event upon which repayment of the duties depends (*i.e.*, the date of expiration of the time period 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 goods. As the benchmark interest rate, we used the long-term interest rates as discussed in the “Benchmarks and Discount Rates” section, above.¹⁵⁴ We multiplied the total amount of unpaid duties under each license by the long-term benchmark interest rate for the year in which the capital good was imported and then summed these amounts to determine the total benefit from these contingent liability loans.

The benefit received under the EPCG program is the sum of: (1) the benefit attributable to the POI from the formally waived duties for imports of capital equipment for which the respondents met export requirements by the end of the POI; and (2) interest due on the contingent-liability loans for imports of capital equipment that have unmet export requirements during the POI. We then divided the total benefit received by Tube Investments under the EPCG program by the company’s total exports during the POI. On this basis, we preliminarily determine a countervailable subsidy rate of 0.42 percent *ad valorem* for Tube Investments.¹⁵⁵

7. Interest Equalization Scheme (IES) for Export Financing

The GOI introduced the IES program effective April 1, 2015, which centers on rupee export financing, or pre-shipment and post-shipment export financing in rupee denomination. Under this program, the RBI provides a refund of three percent of interest charged by the bank on “pre-shipment and post-shipment export finance in Rupees.”¹⁵⁶ According to Goodluck, this scheme is available to certain products that are exported under specific tariff codes, as identified by the RBI for exports made by Micros, Small & Medium (MSMEs) across all “ITC (HS) codes.”¹⁵⁷ Goodluck states that the three percent interest equalization, as charged by the bank, is specific to the merchandise under investigation and is contingent upon exports.¹⁵⁸

In order to avail itself of benefits under this program, Goodluck explains that it must first submit a formal application to its local commercial bank identifying the “ITC HS code” of the product

¹⁵³ *Id.*

¹⁵⁴ See the Preliminary Calculation Memoranda for further details.

¹⁵⁵ See Tube Investments Preliminary Calculation Memo at 4-5.

¹⁵⁶ See Goodluck Questionnaire Response at 68.

¹⁵⁷ *Id.*

¹⁵⁸ *Id.* at 68-69.

to be exported or that has been exported and for which it is requesting a refund under the IES. Goodluck further explained that once the bank is satisfied with the information submitted in the company's application, the bank issues a credit to the company's bank account equivalent to the three percent refund under this scheme. According to Goodluck, thereafter, the bank credits the interest refund on a monthly basis.¹⁵⁹

While Goodluck reported the use of the IES program in its questionnaire response and provided documentation, it is the Department's practice to rely on governments to provide financial contribution and specificity information. In this instance, while Goodluck did provide documentation demonstrating operation of this program in accordance with the RBI and other banking rules, we were unable to confirm this information with the GOI and its official documents, as discussed above under "Use of Facts Otherwise Available." Therefore, we are determining that an adverse inference is warranted in determining whether the GOI provided a financial contribution to Goodluck under the IES program, and in determining whether this program is specific. Accordingly, we preliminarily determine that the GOI conferred a financial contribution and we find that the IES program is specific within the meaning of 771(5)(D) and 771(5A)(B) of the Act, respectively.

Based on the information provided on the record of this investigation, we find that a benefit was conferred under section 771(5)(E)(ii) of the Act in as much as the interest rates, which are determined by the RBI, provided under these programs are lower than commercially available interest rates. As discussed above under the section in this memorandum entitled, "Use of Facts Otherwise Available," we are using information on the record as provided by Goodluck to calculate the benefit received. Because the IES program is contingent upon exports, and is a recurring benefit, we divided the total benefit received for each year in which this benefit was reported by the value of Goodluck's total exports during the POI. On this basis, we determine the countervailable subsidy provided to Goodluck under the IES program to be 0.27 percent *ad valorem*.¹⁶⁰

8. Income Tax Deductions for Research and Development Expenses

The GOI's response stated that Section 35(2AB) of the Income Tax Act of 1961 provides a tax deduction to cover expenses related to scientific research for Indian companies engaged in the bio-technology sector or in a business not involved in sectors listed in the Eleventh Schedule of the Income Tax Act of 1961.¹⁶¹ Tube Investments claimed a benefit under this program by disclosing a deduction under this program from 2015 through 2017.¹⁶²

The tax deductions provide a financial contribution in the form of revenue foregone under section 771(5)(D)(ii) of the Act. Furthermore, under 771(5A)(D)(i) of the Act, the program is

¹⁵⁹ *Id.* at 69-70.

¹⁶⁰ See Goodluck Preliminary Calculation Memo at 4.

¹⁶¹ See Tube Investments Questionnaire Response at 59.

¹⁶² *Id.* at Exhibit 33.

specific because it is limited to certain enterprises or industries or certain groups of enterprises or industries.

Tube Investments reported receiving a benefit within the meaning of 771(5)(E) of the Act and 19 CFR 351.509 and 19 CFR 351.519 in the amount of tax payments that are exempted. To determine the subsidy rate, we divided the amount of the benefits provided to Tube Investments under section 771(5)(E) the Act during the POI and divided it by the Tube Investment's total sales. On this basis, we preliminarily determine a countervailable subsidy rate of 0.29 percent *ad valorem* for Tube Investments.¹⁶³

9. Section 80-IC Tax Deduction for Assessment Year 2016-2017 (Fiscal Year 2015-2016)

Tube Investments reported that it received an income tax deduction based on the location of one of its production facilities.¹⁶⁴ While Tube Investments did provide documentation demonstrating operation of this program, we were unable to confirm this information with the GOI and its official documents, as discussed under section "Use of Facts Otherwise Available," above. As discussed above, we are therefore finding that an adverse inference is warranted in determining whether the GOI provided a financial contribution through this program. Consequently, as AFA, we preliminarily determine that the GOI conferred a financial contribution and we find this program is specific within the meaning of section 771(5)(D) and 771(5A)(D) of the Act, respectively.

This income tax deduction constitutes a benefit pursuant to 771(5)(E) of the Act, 19 CFR 351.509, and 19 CFR 351.519 in the amount of tax payments that are exempted. To calculate the subsidy rate, we divided the benefit by the total value of sales during the POI. On this basis, we preliminarily determined the a countervailable subsidy rate of 0.05 percent *ad valorem* for Tube Investments.¹⁶⁵

10. Deduction Under 32-AC of the Income Tax Act

Goodluck reported use of this program related to the payment of income tax. While Goodluck did provide documentation demonstrating operation of this program, we were unable to confirm this information with the GOI and its official documents, as discussed under section "Use of Facts Otherwise Available," above. As discussed above, we are therefore finding that an adverse inference is warranted in determining whether the GOI provided a financial contribution through this program. Consequently, as AFA, we preliminarily determine that the GOI conferred a financial contribution and we find this program is specific within the meaning of section 771(5)(D) and 771(5A)(D) of the Act, respectively.

¹⁶³ See Tube Investments Preliminary Calculation Memo at 5-6.

¹⁶⁴ See Tube Investments Questionnaire Response at 69-70.

¹⁶⁵ See Tube Investments Preliminary Calculation Memo at 6.

Goodluck reported that it received a deduction in taxable income for investment in a new plant and machinery during financial year 2015-2016 (assessment year 2016-2017, the POI), thus conferring a benefit pursuant to section 771(5)(E) of the Act.¹⁶⁶ To calculate the subsidy rate, we divided the benefit by the total sales during the POI. On this basis, we preliminarily determined the a countervailable subsidy rate of 0.08 percent *ad valorem* for Goodluck.¹⁶⁷

11. Provision of Steel Inputs by SAIL for LTAR

Goodluck reported purchases of hot rolled coil from SAIL.¹⁶⁸ As discussed above in the section “Use of Facts Otherwise Available,” based on AFA, we find that the GOI conferred a financial contribution through the provision of hot rolled steel coil under section 771(5)(D) of the Act, and we find that the program is specific within the meaning of section 771(5A)(B) and 771(5A)(D) of the Act, respectively.

In its submission, Goodluck argues that the Department should not subject the hot rolled coil that it purchased from SAIL to our LTAR subsidy analysis because the inputs were not subsequently used to make subject merchandise.¹⁶⁹ For purposes of this preliminary determination, we disagree with Goodluck. We note that Goodluck is not arguing that these inputs cannot be used in the production process. In fact, Goodluck admits that the various grades of hot rolled coil purchased from SAIL are inputs used in the production of subject merchandise.¹⁷⁰ Instead, the company argues only that it did not happen to use these particular purchases of hot rolled coil to product subject merchandise.¹⁷¹ The Department’s regulations at 19 CFR 351.525(b)(5)(i) state that, “(i)f a subsidy is tied to the production or sale of a particular product, the Secretary will attribute the subsidy only to that product.” In making this determination, the Department analyzes the purpose of the subsidy based on information available at the time of bestowal.¹⁷² A subsidy is tied only when the intended use is known to the subsidy giver (in this case, the GOI) and so acknowledged prior to or concurrent with the bestowal of the subsidy.¹⁷³ For example, in determining whether a loan is tied to a particular product, the Department examines the loan approval documents; to determine whether a grant is “tied” at the time of bestowal to a particular product, the Department examines the grant approval documents. Therefore, in accordance with our regulations, we do not consider the manner in which Goodluck used its inputs as a factor that is germane to the Department’s subsidy analysis and, thus, for purposes of this preliminary determination we have included Goodluck’s purchases of hot rolled coil from SAIL to our LTAR subsidy analysis.

Under 19 CFR 351.511(a)(2), the Department sets forth the basis for identifying appropriate

¹⁶⁶ See Goodluck Questionnaire Response at 83-85.

¹⁶⁷ See Goodluck Preliminary Calculation Memo at 6.

¹⁶⁸ See Goodluck Questionnaire Response at 72-74.

¹⁶⁹ *Id.*

¹⁷⁰ See Goodluck Supplemental Questionnaire Response at 14.

¹⁷¹ *Id.*

¹⁷² See *CVD Preamble*, 63 FR at 65,403; see also *Supercalendered Paper from Canada: Final Affirmative Countervailing Duty Determination*, 80 FR 63535 (October 20, 2015) (*Supercalendered Paper from Canada*), and accompanying IDM at 26-27.

¹⁷³ *Id.*

market-determined benchmarks for measuring the adequacy of remuneration for government provided goods or services. These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions of the good within the country under investigation (*e.g.*, actual sales, actual imports, or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three). As provided in the regulations, the preferred benchmark in the hierarchy is an observed market price for the good at issue from actual transactions within the country under investigation.¹⁷⁴ As Goodluck provided invoices with actual sales transactions of purchases of hot rolled steel coil from unaffiliated, non-government suppliers in India, we will rely on this information as tier one benchmark prices pursuant to 19 CFR 351.511(a)(2).

To calculate the program benefit, we compared the corresponding monthly benchmark unit prices to the unit prices that Goodluck paid SAIL for hot rolled coil purchased from SAIL during the POI. To calculate the benefit for Goodluck purchases from SAIL, we used an average of the prices Goodluck paid for hot rolled coil from private sources, *i.e.*, sources other than SAIL or state-owned enterprises, during the relevant month for the benchmark. Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under tier one or tier two, the Department will adjust the benchmark price that a firm actually paid for the product, including delivery charges and import duties. Where the benchmark unit price was greater than the price paid to SAIL, we multiplied the difference by the quantity of hot rolled coil purchased from SAIL to derive the benefit. We next summed these amounts and divided the total by Goodluck's total sales for the POI. On this basis, we preliminarily determine a *de minimis* subsidy rate for Goodluck.

12. State Government of Uttar Pradesh (SGUP) Subsidy Programs

The Department is examining three separate programs administered by the SGUP. In this instance, while Goodluck and Tube Investments did provide documentation demonstrating operation of these state government administered programs, we were unable to confirm this information with the GOI and its official documents, as discussed under section "Use of Facts Otherwise Available," above. As discussed above, we are therefore finding that an adverse inference is warranted in determining whether the GOI provided a financial contribution through these programs. Consequently, as AFA, we preliminarily determine that the GOI conferred a financial contribution and we find these programs are specific within the meaning of sections 771(5)(D) and 771(5A)(D) of the Act, respectively.

a. Exemption from Entry Tax for the Iron and Steel Industry

Goodluck reported a benefit under this program based on the exemption of entry taxes of its

¹⁷⁴ See, *e.g.*, Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products from Canada, 67 FR 15545 (April 2, 2003) and accompanying IDM at "Provincial Stumpage Programs Determined to Confer Subsidies: Market-Based Benchmark" ("Thus, the preferred benchmark in the hierarchy is an observed market price for the good, in the country under investigation, from a private supplier").

imports of hot rolled coil and steel ingots for use in its production processes; however, Goodluck indicated that steel ingots cannot be used in the production of subject merchandise.¹⁷⁵ There is no contradictory information on the record and thus we did not consider steel ingots in our benefit calculation.

Goodluck reports that it received licenses for the production of hot rolled coil which were for the manufacture of both subject and non-subject merchandise.¹⁷⁶ There is no application or approval process, and Goodluck only retains invoices which reflect that no entry tax was paid on a good.¹⁷⁷ Based on this information, we cannot reliably determine that the exemption from entry taxes are tied to the production of a particular product within the meaning of 19 CFR 351.525(b)(5). Therefore, we find that all of Goodluck's exemptions benefit the company's total sales. Furthermore, Goodluck's exemption from entry taxes on hot rolled coil constitutes a benefit pursuant to section 771(5)(E) of the Act. To calculate the subsidy rate, we divided the benefit by the total value of sales during the POI. On this basis, we preliminarily determined a countervailable subsidy rate of 3.04 percent *ad valorem* for Goodluck.¹⁷⁸

b. *Electric Duty Exemption in the State of Uttar Pradesh*

Goodluck reported that one of its manufacturing facilities was exempted from the payment of electricity duty during the POI, thus conferring a benefit pursuant to section 771(5)(E) of the Act.¹⁷⁹ The SGUP has exempted electricity duties from new industrial units in the state.¹⁸⁰ To calculate the subsidy rate, we divided the benefit by the total sales during the POI. On this basis, we preliminarily determined a countervailable subsidy rate of 0.03 percent *ad valorem* for Goodluck.¹⁸¹

c. *Stamp Duty Exemption in the State of Uttar Pradesh*

Goodluck stated they benefited from a one-time stamp duty exemption associated with the purchase of land in Uttar Pradesh.¹⁸² Because these exemptions are tied to the purchase of land, we applied the "0.5 percent test," for non-recurring subsidies, as described in 19 CFR 351.524(b)(2). To determine whether to allocate these grants over the AUL, we divided the total amount of the exemptions received during each respective year of the AUL by the total export sales values of each respective year of Goodluck. On this basis, because these benefits were received before the POI, and did not pass "0.5 percent test," in each year they were received, we find that all of the benefits Goodluck received from this program were expensed prior to the POI.

¹⁷⁵ See Goodluck Questionnaire Response at 77-81.

¹⁷⁶ *Id.* at 81; see also Goodluck Supplemental Questionnaire response at 15.

¹⁷⁷ *Id.*

¹⁷⁸ See Goodluck Preliminary Calculation Memo at 5.

¹⁷⁹ See Goodluck Questionnaire Response at 83-85.

¹⁸⁰ *Id.*

¹⁸¹ See Goodluck Preliminary Calculation Memo at 5-6.

¹⁸² See Goodluck Questionnaire Response at 86.

B. Programs Preliminarily Determined Not to Be Used

Government of India Programs

- a) Duty Free Import Authorization Scheme
- b) Focus Product Scheme
- c) Duty Free Importation of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts, and Packing Material
- d) Exemption from Payment of Central Sales Tax on Purchases of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts, and Packing Material
- e) Exemption from Stamp Duty of all Transactions and Transfers of Immovable Property within the SEZ
- f) Exemption from Electric Duty and Cess (a tax or levy) Thereon on the Sale or Supply to the SEZ Unit
- g) SEZ Income Tax Exemption Scheme (Section 10A)
- h) Discounted Land Fees in an SEZ
- i) Duty Free Import of Goods, Including Capital Goods and Raw Materials
- j) Reimbursements of Central Sales Tax Paid on Goods Manufactured in India
- k) Duty Drawback on Fuel Procured from Domestic Oil Companies
- l) Exemption from Payment of Central Excise Duty on Goods Manufactured in India Procured from a DTA
- m) Market Access Initiative
- n) Market Development Assistance Scheme
- o) GOI Loan Guarantees
- p) Steel Development Fund Loans
- q) Provision of High-Grade Iron Ore for LTAR
- r) Industrial Promotion Subsidy/ Sales Tax Program
- s) Interest Subsidy
- t) Electric Duty Exemption
- u) Waiver of Stamp Duty
- v) Incentives to Strengthening Micro-, Small-, and Medium- Sized and Large Scale Industries

State Government Programs

- a) Investment Promotion Scheme
- b) Special Assistance for Mega Projection

X. CALCULATION OF THE ALL-OTHERS RATE

Sections 703(d) and 705(c)(5)(A) of the Act state that for companies not investigated, we will normally 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. However, in this investigation, we have not preliminarily calculated the all-others rate by weight-averaging the rates of the two individually investigated respondents, because doing so

risks disclosure of proprietary information. Consistent with the Department's practice, for the "all-others" rate, we have instead calculated a simple average of the two responding firms' rates, which avoids concerns about potentially disclosing such information.¹⁸³

XI. 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 Enforcement and Compliance. In accordance with section 705(b)(2) of the Act, the ITC will make its final determination before the later of 120 days after the date of this preliminary determination or 45 days after the Department makes its final affirmative determination.

XII. DISCLOSURE AND PUBLIC COMMENT

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.¹⁸⁴ Case briefs or other written comments for all non-scope issues may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹⁸⁵ Case briefs or other written comments on scope issues may be submitted no later than 30 days after the publication of this preliminary determination in the *Federal Register*, and rebuttal briefs, limited to issues raised in the case briefs, maybe submitted no later than five days after the deadline for the case briefs. For any briefs filed on scope issues, parties must file separate and identical documents on each of the records for the other concurrent countervailing duty and antidumping duty investigations.

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁸⁶ This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing, or to participate if one is requested, must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*.¹⁸⁷ Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made,

¹⁸³ See, e.g., *Countervailing Duty Investigation of Chlorinated Isocyanurates from the People's Republic of China: Preliminary Determination and Alignment of Final Determination with Final Antidumping Determination*, 79 FR 10097 (February 24, 2014).

¹⁸⁴ See 19 CFR 351.224(b).

¹⁸⁵ See 19 CFR 351.309(c)-(d); see also 19 CFR 351.303 (for general filing requirements).

¹⁸⁶ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁸⁷ See 19 CFR 351.310(c).

the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a date, time and location to be determined. Parties will be notified of the date, time and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using the Department's electronic records system, ACCESS.¹⁸⁸ Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,¹⁸⁹ on the due dates established above.

XIII. VERIFICATION

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted in response to the Department's questionnaires.

XIV. CONCLUSION

We recommend that you approve the preliminary findings described above.

☐

Agree

☐

Disagree

9/18/2017

X



Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

¹⁸⁸ See 19 CFR 351.303(b)(2)(i).

¹⁸⁹ See 19 CFR 351.303(b)(1).

附件十二：美国商务部——2017年10月《原产于
印度的细旦涤纶短纤（Fine Denier
Polyester Staple Fiber）反补贴初裁
备忘录》



C-533-876
Investigation
Public Document
E&C/IV: TT/EL

October 30, 2017

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Senior Director
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Countervailing Duty Investigation of Fine Denier Polyester Staple
Fiber from India

I. Summary

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of fine denier polyester staple fiber (fine denier PSF) from India, as provided in section 703 of the Tariff Act of 1930, as amended (Act).

II. Background

A. Initiation and Case History

On May 31, 2017, the Department received a petition from DAK Americas LLC, Nan Ya Plastics Corporation, America, and Auriga Polymers, Inc. (collectively, the petitioners) seeking the imposition of countervailing duties (CVDs) on fine denier PSF from India.¹ Supplements to the petition and our consultations with the Government of India (GOI) are described in the

¹ See Letter from petitioners, "Fine Denier Polyester Staple Fiber from the People's Republic of China, India, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam – Petition for the Imposition of Antidumping and Countervailing Duties," (May 31, 2017).

Initiation Notice and accompanying Initiation Checklist.² On June 20, 2017, the Department initiated a CVD investigation on fine denier PSF from India.³

We stated in the *Initiation Notice* that, if respondent selection became necessary, we intended to base our selection of mandatory respondents on the United States Customs and Border Protection (CBP) entry data for the Harmonized Tariff Schedule of the United States (HTSUS) subheading listed in the scope of the investigation. On June 23, 2017, the Department released the CBP entry data under administrative protective order.⁴

On July 5, 2017, the petitioners submitted respondent selection comments.⁵ On July 24, 2017, we selected Reliance Industries Limited (Reliance) and Bombay Dyeing & Manufacturing (Bombay Dyeing) as mandatory respondents.⁶ We issued our countervailing duty questionnaire to the GOI, seeking information regarding the alleged subsidies on July 24, 2017.⁷ The Department instructed the GOI to forward the questionnaire to the selected mandatory respondents.⁸ Between August 14, 2017, and October 16, 2017, we received timely questionnaire

² See Memorandum, “Countervailing Duty Investigation Initiation Checklist: Fine Denier Polyester Staple Fiber from India,” dated June 20, 2017 (Initiation Checklist); see also *Fine Denier Polyester Staple Fiber from India and the People’s Republic of China: Initiation of Countervailing Duty Investigations*, 82 FR 29028 (June 27, 2017) (*Initiation Notice*).

³ See *Initiation Notice*.

⁴ See Memorandum regarding Fine Denier Polyester Staple Fiber from India: Customs Data for Respondent Selection Purposes, dated June 23, 2017.

⁵ See Letter from the petitioners, “Fine Denier Polyester Staple Fiber from India: Petitioners’ Comments on CBP Data and Respondent Selection,” dated July 5, 2017.

⁶ See Memorandum, “Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from India,” dated July 24, 2017.

⁷ See Letter from the Department, “Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from India: Countervailing Duty Questionnaire,” dated July 24, 2017 (CVD Questionnaire).

⁸ *Id.*

and supplemental questionnaire responses from Bombay Dyeing,⁹ Reliance,¹⁰ and the GOI.¹¹ Bombay Dyeing and the GOI initially improperly filed its questionnaire response, which the Department rejected.¹² However, the Department allowed Bombay Dyeing and the GOI to remedy the deficiencies with its filing and both parties subsequently properly submitted their questionnaire responses to the Department.¹³

⁹ See Letter from Bombay Dyeing, “Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from India: Response to Section III Identifying Affiliated Companies,” dated August 24, 2017 (Bombay Dyeing’s AR); Letter from Bombay Dyeing, “Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from India: Supplemental Questionnaire for Bombay Dyeing’s Affiliation Response,” dated September 5, 2017 (Bombay Dyeing’s AR1); Letter from Bombay Dyeing, “Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from India: Supplemental Questionnaire for Bombay Dyeing’s Affiliation Response,” dated September 6, 2017 (Bombay Dyeing’s QR); Letter from Bombay Dyeing, “Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from India: Response to Supplemental Questionnaire,” dated October 5, 2017 (Bombay Dyeing’s SQR); Letter from Bombay Dyeing, “Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from India: Response to Second Supplemental Questionnaire,” dated October 16, 2017 (Bombay Dyeing’s Second SQR).

¹⁰ See Letter from Reliance, “Fine Denier Polyester Staple Fiber from India; Reliance Industries Limited’s Questionnaire Response to Section III Identifying Affiliated Companies, dated August 14, 2017 (Reliance’s AR); Letter from Reliance, “Fine Denier Polyester Staple Fiber from India; Reliance Industries Limited’s Questionnaire Response to Section III (General Questions),” dated September 6, 2017 (Reliance’s QR); Letter from Reliance, “Fine Denier Polyester Staple Fiber from India; Reliance Industries Limited’s Questionnaire Response to Section III (General Questions),” dated September 7, 2017 (Reliance’s AR1); Letter from Reliance, “Fine Denier Polyester Staple Fiber from India; Reliance Industries Limited’s Questionnaire Response to Section III (Program Specific Questions),” dated September 11, 2017 (Reliance’s QR1); Letter from Reliance, “Fine Denier Polyester Staple Fiber from India; Reliance Industries Limited’s Second Supplemental Questionnaire Response (EPCG Questions # 14-24),” dated October 5, 2017 (Reliance’s SQR1); Letter from Reliance, “Fine Denier Polyester Staple Fiber from India; Reliance Industries Limited’s Second Supplemental Questionnaire Response,” dated October 6, 2017 (Reliance’s SQR2); Letter from Reliance, “Fine Denier Polyester Staple Fiber from India; Reliance Industries Limited’s Second Supplemental Questionnaire Response,” dated October 10, 2017 (Reliance’s SQR3); Letter from Reliance, “Fine Denier Polyester Staple Fiber from India; Reliance Industries Limited’s Second Supplemental Questionnaire Response,” dated October 16, 2017 (Reliance’s Sales Information and SHIS information).

¹¹ See Letter from the GOI, “Fine Denier Polyester Staple Fiber (C-533-876)- Initial Questionnaire Response,” submitted September 6, 2017 (GQR); Letter from the GOI, “Fine Denier Polyester Staple Fiber (C-533-876)- Initial Questionnaire Response,” submitted September 28, 2017 (GSQR); Letter from the GOI, “Fine Denier Polyester Staple Fiber (C-533-876)- Initial Questionnaire Response,” submitted October 11, 2017 (G2SQR1); Letter from the GOI, “Fine Denier Polyester Staple Fiber (C-533-876)- Initial Questionnaire Response,” submitted October 13, 2017 (G2SQR2).

¹² See Memorandum to the File, “Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from India: Email Correspondence,” dated August 10, 2017; Memorandum, “Teleconference Regarding the Department of Commerce’s August 17, 2017 Letter to APJ-SLG Law Offices, Counsel for Bombay Dyeing & Manufacturing Company Limited,” dated August 18, 2017.

¹³ See Letter from the Department “Countervailing Duty Investigation of Certain Fine Denier Polyester Staple Fiber from India: Untimely Filed Questionnaire Response to the Department’s July 24, 2017, Countervailing Duty Initial Questionnaire,” dated August 23, 2017; *see also* Memorandum to the File, “Fine Denier Polyester Staple Fiber from India: Deadline for the Government of India to Refile its Section II Response,” dated September 5, 2017.

B. Postponement of Preliminary Determination

On August 8, 2017, based on a request from the petitioners, the Department postponed the deadline for the preliminary determination until October 30, 2017, in accordance with sections 703(c)(1) and (2) of the Act and 19 CFR 351.205(f)(1).¹⁴

C. Period of Investigation

The period of investigation (POI) is January 1, 2016, through December 31, 2016. This period corresponds to the most recently completed calendar year in accordance with 19 CFR 351.204(b)(2).

III. Scope Comments

In accordance with the Preamble to the Department's regulations, and as noted in the *Initiation Notice*, the Department notified parties of an opportunity to comment on the scope of the investigation.¹⁵

We received several comments and rebuttal comments concerning the scope of the antidumping duty (AD) and CVD investigations of fine denier PSF from, *inter alia*, India.¹⁶ We are currently evaluating the scope comments filed by the interested parties. We intend to issue our preliminary decision regarding the scope of the AD and CVD investigations in the preliminary determination of the companion AD investigations, which are currently due December 18, 2017. We will incorporate the scope decisions from the AD investigations into the scope of the final CVD determinations after considering any relevant comments submitted in case and rebuttal briefs.

IV. Scope of the Investigation

The merchandise covered by this investigation is fine denier PSF, not carded or combed, measuring less than 3.3 decitex (3 denier) in diameter. The scope covers all fine denier PSF, whether coated or uncoated. The following products are excluded from the scope:

¹⁴ See *Fine Denier Polyester Staple Fiber from the People's Republic of China and India: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 82 FR 37048 (August 8, 2017).

¹⁵ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (Preamble); see also *Initiation Notice*, 82 FR at 29030.

¹⁶ Letter from David C. Poole Company Inc., "Fine Denier Polyester Staple Fiber from the People's Republic of China, India, the Republic of Korea, Taiwan, and Vietnam; Scope Comments," dated July 10, 2017; Letter from Suominen Corporation, "Fine Denier Polyester Staple Fiber from the People's Republic of China, India, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam," dated July 10, 2017; Letter from Consolidated Fibers, Inc., "Fine Denier Polyester Staple Fiber from the People's Republic of China, India, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam – Scope Comments," dated July 10, 2017; Letter from Reliance, "Fine Denier Polyester Staple Fiber from the People's Republic of China, India, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Reliance Industries, Ltd.'s Comments Regarding the Scope of the Investigation," dated July 10, 2017; Letter from the petitioners, "Fine Denier Polyester Staple Fiber from the People's Republic of China, India, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam - Petitioners' Scope Comments," dated July 12, 2017; Letter from the petitioners, "Fine Denier Polyester Staple Fiber from the People's Republic of China, India, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam – Petitioners' Rebuttal Scope Comments to the Importers' Scope Exclusion Requests," dated July 12, 2017.

- (1) PSF equal to or greater than 3.3. decitex (more than 3 denier, inclusive) currently classifiable under HTSUS subheadings 5503.20.0045 and 5503.20.0065.
- (2) Low-melt PSF defined as a bi-component fiber with a polyester core and an outer, polyester sheath that melts at a significantly lower temperature than its inner polyester core currently classified under HTSUS subheading 5503.20.0015.

Fine denier PSF is classifiable under the HTSUS subheading 5503.20.0025. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

V. Injury Test

Because India is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the U.S. 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 July 21, 2017, the ITC determined that there is reasonable indication that an industry in the United States is materially injured by reason of imports of fine denier PSF from India that are allegedly subsidized by the GOI.¹⁷

VI. Subsidies Valuation

A. Allocation Period

The Department normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise. The Department finds the AUL in this proceeding to be 10 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service’s 1977 Class Life Asset Depreciation Range System.¹⁸ The Department notified the respondents of the 10-year AUL in the initial questionnaire and requested data accordingly.

Furthermore, for non-recurring subsidies, we have applied the “0.5 percent test,” as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for the same year. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL.

B. Attribution of Subsidies

In accordance with 19 CFR 351.525(b)(6)(i), the Department normally attributes a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is

¹⁷ See *Fine Denier Polyester Staple Fiber from China, India, Korea, and Taiwan*, 82 FR 33925 (July 21, 2017).

¹⁸ See U.S. Internal Revenue Service Publication 946 (2015), “How to Depreciate Property,” at Table B-2: Table of Class Lives and Recovery Periods.

primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of another corporation in essentially the same ways it can use its own assets. This section of the Department's regulations states that this standard will normally be met where there is a majority of voting ownership interest between two corporations or through common ownership of two (or more) corporations. The *CVD Preamble* to the Department's regulations further clarifies the Department's cross-ownership standard. According to the *CVD Preamble*, relationships captured by the cross-ownership definition include those where:

{T}he interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a "golden share" may also result in cross-ownership.¹⁹

Thus, the Department's regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists. The U.S. Court of International Trade (CIT) upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same ways it could use its own subsidy benefits.²⁰

Bombay Dyeing

Bombay Dyeing responded to the Department's questionnaire on behalf of itself, reporting that it did not have any affiliated companies involved or engaged in the sale, purchase, marketing and production of subject merchandise.²¹ While Bombay Dyeing has several subsidiaries, these companies are not involved in the production or sale of subject merchandise or the production of inputs used in subject merchandise. Therefore, we will attribute subsidies received by Bombay Dyeing to its own sales, in accordance with 19 CFR 351.525(b)(6)(i).

Reliance

Reliance responded to the Department's questionnaire on behalf of itself, reporting that it did not have any affiliated companies involved or engaged in the sale, purchase, marketing and production of subject merchandise.²² While Reliance has several subsidiaries, these companies are not involved in the production or sale of subject merchandise or the production of inputs used in subject merchandise. Therefore, we will attribute subsidies received by Reliance to its own sales, in accordance with 19 CFR 351.525(b)(6)(i).

¹⁹ See *Countervailing Duties*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).

²⁰ See *Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-04 (CIT 2001).

²¹ See generally Bombay Dyeing's AR, AR1, and QR.

²² See generally Reliance's AR and AR1, and QR.

C. Denominators

In accordance with 19 CFR 351.525(b)(1) – (5), the Department considers the basis for the respondent’s receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondent’s export or total sales. The denominators we used to calculate the countervailable subsidy rate for the various subsidy programs in this investigation are explained in further detail in the preliminary calculations memoranda prepared for this preliminary determination.²³

VII. Benchmarks and Discount Rates

Section 771(5)(E)(ii) of the Act provides that the benefit for loans is the “difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market,” indicating that a benchmark must be a market-based rate. In addition, 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 loans obtained by the firm. However, when there are no comparable commercial loans during the period, the Department “may use a national average interest rate for comparable commercial loans,” 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. The Department has previously determined that the Industrial Development Bank of India (IDBI), the Industrial Finance Corporation of India (IFCI), and the Export-Import Bank of India (EXIM) are government-owned special purpose banks. As such, the Department does not use loans from the IDBI, the IFCI, or the EXIM as a basis for a commercial loan benchmark.²⁴ Also, in the absence of reported long-term commercial loan interest rates, we use the national average interest rates from the International Monetary Fund’s International Financial Statistics (IFS) as discount rates for purposes of allocating non-recurring benefits over time pursuant to 19 CFR 351.524(d)(3)(i)(B).

In this investigation, Reliance and Bombay Dyeing did not report any comparable commercial long-term rupee-denominated loans from commercial banks for the required year. While Reliance reported long-term loans from the IDBI as a potential benchmark,²⁵ we did not use the loans as a basis for a commercial loan benchmark because we have determined that the IDBI is a government-owned special purpose bank.²⁶ Therefore, we are preliminarily using national

²³ See Memorandum, “Preliminary Determination Calculations for Bombay Dyeing,” dated concurrently with this memorandum (Bombay Dyeing Preliminary Calculation Memo); Memorandum, “Preliminary Determination Calculations for Reliance,” dated concurrently with this memorandum at 2 (Reliance Preliminary Calculation Memo).

²⁴ See *Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 71 FR 7534 (February 13, 2006) (*PET Film Final Results 2003 Review*), and accompanying Issues and Decision Memorandum (IDM) at Comment 3; see also *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 73 FR 7708 (February 11, 2008) (*PET Film Final Results 2005 Review*), and accompanying IDM at Benchmark Interest Rates and Discount Rates.

²⁵ See Reliance’s SQR3 at Exhibit 7.

²⁶ See Reliance Preliminary Calculation Memo.

average interest rates from the International Monetary Fund's International Financial Statistics (IMF Statistics) as benchmark rates for rupee-denominated long-term loans.²⁷

For allocating the benefit from non-recurring grants, we have used the yearly average long-term lending rate in India from the IMF Statistics for the year in which the government agreed to provide the subsidy, consistent with 19 CFR 351.524(d)(3)(i)(A). The interest-rate benchmarks and discount rates from the IMF Statistics used in our preliminary calculations are provided in the preliminary calculation memoranda.²⁸

VIII. Use of Facts Otherwise Available and Adverse Inferences

Sections 776(a)(1) and (2) of the Act provide that the Department shall, subject to section 782(d) of the Act, apply "facts otherwise available" if necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.²⁹

Section 776(b) of the Act further provides that the Department may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Further, section 776(b)(2) states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an adverse facts available (AFA) rate from among the possible sources of information, the Department's practice is to ensure that the rate is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner."³⁰ The Department's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."³¹

Section 776(c)(1) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. However, section 776(c)(1) does not require corroboration when the information

²⁷ *Id.*

²⁸ *Id.*

²⁹ Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD law were made, including amendments to sections 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act, as summarized below. See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362, dated June 29, 2015. See also *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015).

³⁰ See, e.g., *Drill Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011) (*Drill Pipe from the PRC*); see also *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

³¹ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. I at 870 (1994), reprinted at 1994 U.S.C.C.A.N. 4040, 4199 (SAA) at 870.

relied upon for adverse inferences is derived from the petition, a final determination in the investigation, any previous review under section 751 of the Act or determination under section 753 of the Act, or any other information placed on the record.

Finally, under the new section 776(d) of the Act, the Department may use any countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a CVD rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, the Department is not required for purposes of 776(c), or any other purpose, to estimate what the countervailable subsidy rate would have been if the non-cooperating interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.⁸⁹ With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. Additionally, as stated above, we are applying subsidy rates, which were calculated in this investigation or previous India CVD investigations or administrative reviews. Therefore, the corroboration exercise of section 776(c)(1) of the Act is inapplicable for purposes of this investigation.

For the reasons explained below, the Department preliminarily determines that application of facts otherwise available, with an adverse inference, to the financial contribution, specificity, and benefit aspects of the countervailability determination of several programs is warranted pursuant to section 776(b) of the Act because, by not responding to our requests for information, the GOI and the mandatory respondents failed to provide information within the time limits and in the manner requested, and therefore failed to cooperate by not acting to the best of its ability.

Special Economic Zone (SEZ) Programs

We preliminarily determine that the application of facts otherwise available, with an adverse inference, is warranted with respect to Reliance. We initiated on six programs under the SEZ Act of India because we have previously investigated these programs and found them countervailable and Petitioners provided certain evidence that one of Reliance’s plants is located in one of the SEZ.³² In the initial questionnaire, we indicated that Reliance is one of our mandatory respondents and that information contained in the initial questionnaire should be answered for Reliance.³³ We did not limit our request for responses to Reliance’s PSF plants. In its initial questionnaire response, Reliance stated that its “PSF plants are not situated in a SEZ;

³² See *Countervailing Duty Investigation Initiation Checklist: Fine Denier Polyester Staple Fiber from India*, dated June 20, 2017 (*Initiation Checklist*), at 13-16. The Department initiated on the following six SEZ programs: (1) Duty-Free Importation of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts, and Packing Material; (2) Exemption from Payment of Central Sales Tax on Purchases of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts, and Packing Material; (3) Exemption from Stamp Duty of All Transactions and Transfers of Immovable Property within the SEZ; (4) Exemption from Electricity Duty and Cess on the Sale or Supply of Electricity to the SEZ Unit; (5) SEZ Income Tax Exemption Scheme (10A); and (6) Discounted Land Fees in a SEZ.

³³ See CVD Questionnaire.

therefore, Reliance did not receive any benefit under this program.”³⁴ Reliance did not cite to any past cases where the Department has found these six SEZ programs tied to any particular merchandise and Reliance did not provide any evidence to support its claim that benefits under these six SEZ programs are tied to non-subject merchandise. As such, Reliance did not provide a complete response to our standard questions for the six SEZ programs.³⁵ We subsequently uncovered a reference in Reliance’s income tax return to the fact that Reliance appeared to receive an income tax deduction for a plant located in an SEZ.³⁶ We issued a supplemental questionnaire to Reliance requesting a detailed explanation of the deduction (i.e., “to provide a complete response to all relevant questions and appendices, as requested in the initial questionnaire.”)³⁷ Reliance responded with an unexplained statement that its “SEZ deduction reported in the income tax return pertains to export profit of Polypropylene” and did not provide a complete response to our standard questions.³⁸ As such, we preliminarily determine that Reliance failed to provide a complete response to our standard or supplemental questionnaires for all six SEZ programs.³⁹

Accordingly, we preliminarily determine that necessary information is not available on the record for us to determine whether a benefit exists for all six SEZ programs and that Reliance withheld information that was requested of it in the time and manner requested, thereby significantly impeding the conduct of the investigation. Thus, the Department must rely on “facts available” in making our preliminary determination in accordance with sections 776(a)(1) and 776(a)(2)(A), (B) and (C) of the Act. Moreover, we preliminarily determine that Reliance failed to cooperate by not acting to the best of its ability in failing to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available, pursuant to section 776(b) of the Act. In drawing an adverse inference, we find that this program constitutes a benefit under section 771(5)(E) of the Act.

We further note that the GOI stated that “none of the mandatories are located in a SEZ and therefore the question in the Standard Question Appendix is not being answered”⁴⁰ We also note that we have previously countervailed these programs in past cases.⁴¹ Thus, we preliminarily find that the current record information provides additional bases to infer, as AFA, that these

³⁴ See Reliance’s QR1 at 19.

³⁵ The Department initiated on the following six SEZ programs: (1) Duty-Free Importation of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts, and Packing Material; (2) Exemption from Payment of Central Sales Tax on Purchases of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts, and Packing Material; (3) Exemption from Stamp Duty of All Transactions and Transfers of Immovable Property within the SEZ; (4) Exemption from Electricity Duty and Cess on the Sale or Supply of Electricity to the SEZ Unit; (5) SEZ Income Tax Exemption Scheme (10A); and (6) Discounted Land Fees in an SEZ.

³⁶ See Reliance AR1 at Exhibit 7.

³⁷ See Reliance’s SQR2 at 28.

³⁸ *Id.*

³⁹ See Reliance AR1 at Exhibit 7.

⁴⁰ See GQR at 62 and GSQR at 31.

⁴¹ See *Countervailing Duty Investigation Initiation Checklist: Fine Denier Polyester Staple Fiber from India*, dated June 20, 2017 (Initiation Checklist), at 13-16; see also *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*; 2014, 81 FR 89056 (December 9, 2016), and accompanying IDM (PET Film 2014 IDM) at 3; See PET Film 2014 PDM at 12 and PET Film 2014 IDM at 4.

programs constitute financial contributions and meet the specificity requirements of the Act.

Section 35(1)(iv), Section 35 (1)(ii), and section 35 (1)(i) Income Tax Deduction for 2016-2017⁴²

The GOI reported that Reliance made deduction claims under Section 35(1)(iv), Section 35(1)(ii), and Section 35 (1)(i) of the Income Tax Act.⁴³ We preliminarily determine that application of facts available with adverse inference is warranted with respect to *de facto* specificity of these income tax deduction programs.

We provided the GOI with opportunities to provide full and complete responses with respect to *de facto* specificity in our supplemental questionnaire to the GOI regarding (1) the number of companies that received assistance,⁴⁴ (2) the total amount of assistance provided for the PSF industry and for every other industry in which companies were approved for assistance under this program,⁴⁵ (3) the total number of companies that applied for, but were denied assistance under the program;⁴⁶ and (4) the types of records maintained by the relevant government regarding the deduction.⁴⁷ As mentioned above, this information is a necessary component of our analysis in determining whether the programs are *de facto* specific. However, the GOI did not provide complete responses to these questionnaires. As such, we preliminarily determine AFA is warranted because the Department lacks information necessary for our specificity determination regarding these programs and that the GOI withheld information that was requested of it in the time and manner requested, thereby significantly impeding the conduct of the investigation. Thus, the Department must rely on “facts available” in making our preliminary determination in accordance with sections 776(a)(1) and 776(a)(2)(A), (B) and (C) of the Act. Moreover, we preliminarily determine that the GOI failed to cooperate by not acting to the best of its ability in failing to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available, pursuant to section 776(b) of the Act. In drawing

⁴² *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*; 2014, 81 FR 89056 (December 9, 2016), and accompanying IDM (*PET Film 2014 IDM*) at 3; See *PET Film 2014 PDM* at 12 and *PET Film 2014 IDM* at 4.

⁴³ See Reliance’s QR1 at 24.

⁴⁴ When reporting the number of companies that received assistance under the program, Reliance stated “{f}or financial year 2015-16 the deduction/weighted deduction claimed under section 35(1), 35(2AA) and 35(2AB) combined together is Rs.10107.4 crore for all corporate tax payers and Rs.11.8 crore for all noncorporate tax payers. (Source: Revenue Impact of Tax Incentive as per the Receipts Budget 2017-18).” See GSQR at 28.

⁴⁵ When reporting the total amount of assistance provided for the PSF industry and for every other industry in which companies were approved for assistance under this program, the GOI stated that “{n}o such list is maintained at the centralized level.” See GSQR at 29.

⁴⁶ When reporting the total number of companies that applied for, but were denied assistance under the program, the GOI stated “{t}he tax payer files its Income-tax Return furnishing the details of profits eligible for deduction/ expenditure claimed which can be verified by the Income Tax Officer during the course of assessment proceedings along with relevant forms duly filled. The deduction under this program cannot be availed or claimed unless the taxpayer satisfies all the conditions specified as per the provisions of the Income-tax Act, 1961 and Income-Tax Rules, 1962.” See GSQR at 29.

⁴⁷ When asked to identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the deduction received by Reliance under sections 35(1)(I), 35(1)(ii), 35(1)(iv), and 35(2AB), the GOI omitted a response. See GSQR at 30.

an adverse inference, we find that these programs are *de facto* specific within the meaning of section 771(5A)(D)(iii) of the Act.

Income Tax Deduction for Companies Located in a SEZ⁴⁸

In our initial and supplemental questionnaires, we requested information regarding whether the GOI provided, directly or indirectly, any forms of assistance to domestic manufacturers/exporters of PSF in the “Other Subsidies” section of the questionnaire.⁴⁹ The GOI omitted a response to the “Other Subsidies” question twice.⁵⁰ However, we discovered during this investigation that Reliance’s income tax return includes an income tax deduction for companies located in a SEZ.⁵¹ As such, we preliminarily determine that AFA is warranted with respect to GOI’s specificity and financial contribution because it was provided two opportunities to report complete responses for this program but failed to cooperate to the best of its ability when it completely omitted a response to the “Other Subsidies” question twice.⁵² Therefore, we preliminarily determine that necessary information is not available on the record for us to determine whether a financial contribution and specificity exists and that the GOI withheld information that was requested of it in the time and manner requested, thereby significantly impeding the conduct of the investigation. Thus, the Department must rely on “facts available” in making our preliminary determination in accordance with sections 776(a)(1) and 776(a)(2)(A), (B) and (C) of the Act. Moreover, we preliminarily determine that the GOI failed to cooperate by not acting to the best of its ability in failing to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available, pursuant to section 776(b) of the Act. In drawing an adverse inference, we find that this program constitutes a financial contribution within the meaning of section 771(5)(D) of the Act and are specific within the meaning of section 771(5A)(B) and 771(5A)(D) of the Act.

Status Holder Incentive Scheme (SHIS)

For the Status Holder Incentive Scheme (SHIS), Exhibit I of the GOI’s initial QR provided details (including IEC, certificate file, certificate number, certificate date, value from, and value up to) regarding three licenses provided to mandatory respondents with certificate dates from as early as 2013.⁵³ The list included a license provided to Bombay Dyeing, with a certificate date of November 28, 2014. However, in Bombay Dyeing’s initial QR, the company stated that the scheme had been withdrawn for exports “made with effect” from January 4, 2013.⁵⁴ Further, Bombay Dyeing failed to respond to the Department’s request to provide a detailed list of all SHIS credit scrips received on exports during the AUL stating that Bombay Dyeing “has not

⁴⁸ *Id.*

⁴⁹ See Letter from the Department, “Fine Denier Polyester Staple Fiber from India: Countervailing Duty Questionnaire,” dated July 24, 2017 at 14; see Letter from the Department, “Fine Denier Polyester Staple Fiber from India: Countervailing Duty Supplemental Questionnaire,” dated September 13, 2017 at 20.

⁵⁰ See GQR at 62 and GSQR at 31.

⁵¹ See Reliance QR1 at Exhibit 7.

⁵² See GQR at 62 and GSQR at 31.

⁵³ See GQR at Exhibit I.

⁵⁴ See Bombay Dyeing’s QR at 18.

availed any benefits under this scheme.”⁵⁵ Bombay Dyeing moreover failed to provide complete responses to all relevant questions, as requested in the initial questionnaire and the supplemental questionnaire.⁵⁶ As such, we preliminarily determine that AFA is warranted with respect to Bombay Dyeing’s benefit because it was provided two opportunities to report complete responses for this program but failed to cooperate to the best of its ability when it: (1) failed to provide a complete response to relevant questions, appendices, and templates in its initial questionnaire regarding the SHIS program; and (2) failed to provide a complete response to relevant questions, appendices, and templates in its supplemental questionnaire, as requested.

Therefore, we preliminarily determine that Bombay Dyeing withheld information that was requested of it in the time and manner requested, thereby significantly impeding the conduct of the investigation. Thus, the Department must rely on “facts available” in making our preliminary determination in accordance with sections 776(a)(1) and 776(a)(2)(A), (B) and (C) of the Act. Moreover, we preliminarily determine that Bombay Dyeing failed to cooperate by not acting to the best of its ability in failing to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available, pursuant to section 776(b) of the Act. In drawing an adverse inference, we find that the program outlined above constitutes a benefit within the meaning of 771(5)(E) of the Act.

Selection of an AFA Rate

When selecting AFA rates, section 776(d) of the Act provides that the Department may use any countervailable subsidy rate applied for the same or similar program in a countervailable duty proceeding involving the same country, or, if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates. Consistent with section 776(d) of the Act and our established practice, we selected the highest calculated rate for the same or similar program as AFA.⁵⁷ When selecting rates, if we have a cooperating respondent, we first determine if there is an identical program in the investigation and use the highest calculated rate for the identical program. If there is no identical program above zero, as is the case here, calculated for a cooperating respondent in the investigation, we then determine if an identical program was used in another CVD proceeding involving the same country, and apply the highest calculated rate for the identical program (excluding *de minimis* rates).⁵⁸ If no such rate exists, we then determine if there is a similar/comparable program (based on the treatment of the benefit) in another CVD proceeding involving the same country and apply the

⁵⁵ See Bombay Dyeing’s SQR at 17.

⁵⁶ *Id.* and Bombay Dyeing’s QR at 18.

⁵⁷ See, e.g., *Certain Frozen Warmwater Shrimp from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013) (*Shrimp from the PRC*), and accompanying Issues and Decision Memorandum (*Shrimp IDM*) at 13; see also *Essar Steel Ltd. v. United States*, 753 F.3d 1368, 1373-1374 (Fed. Cir. 2014) (upholding “hierarchical methodology for selecting an AFA rate”).

⁵⁸ For purposes of selecting AFA program rates, we normally treat rates less than 0.5% to be *de minimis*. See, e.g., *Pre-Stressed Concrete Steel Wire Strand from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010), and accompanying Issues and Decision Memorandum at “1. Grant Under the Tertiary Technological Renovation Grants for Discounts Program” and “2. Grant Under the Elimination of Backward Production Capacity Award Fund.”

highest calculated above-*de minimis* rate for the similar/comparable program. Finally, where no such rate is available, we apply the highest calculated above-*de minimis* rate from any non-company and non-industry specific program in a CVD case involving the same country.⁵⁹

In applying AFA to Bombay Dyeing and Reliance, we are guided by the Department's methodology detailed above. With respect to the application of AFA to Bombay Dyeing for SHIS, we first determined that there is an identical program in the investigation; however, the highest calculated rate for the identical program is zero. Following our methodology detailed above, for this preliminary determination, we are using the highest above-*de minimis* calculated subsidy rate for the identical program from another India CVD proceeding.⁶⁰ We are using the highest above *de minimis* calculated rate for SHIS program from another India CVD investigation.⁶¹

For Reliance, we first determined that there are no identical programs in the investigation with a rate above zero for the six SEZ programs. Following our methodology detailed above, we are relying on the highest above-*de minimis* calculated subsidy rate for the identical program from another India CVD proceeding. We are using the highest above *de minimis* calculated rate for the SEZ programs from another India CVD investigations.

Bombay Dyeing

Program	AFA Percent Subsidy Rate
Status Holder Incentive Scheme ⁶²	0.51

Reliance

Program	AFA Percent Subsidy Rate
Duty-Free Importation of Capital Goods and Raw Materials ⁶³ Components, Consumables, Intermediates, Spare Parts, and Packing Material	1.23

⁵⁹ See Shrimp IDM at 13-14.

⁶⁰ See *Finished Carbon Steel Flanges from India: Final Affirmative Countervailing Duty Determination*, 82 FR 29479 (June 29, 2017), and accompanying Issues and Decision Memorandum, where the Department calculated a rate for the identical program.

⁶¹ See *Finished Carbon Steel Flanges from India: Preliminary Affirmative Countervailing Duty Determination*, 81 FR 85928 (November 29, 2016) (*Steel Flanges from India Preliminary Determination*) and accompanying PDM affirmed in *Finished Carbon Steel Flanges from India: Final Affirmative Countervailing Duty Determination*, 82 FR 29479 (June 29, 2017) (*Steel Flanges from India Final Determination*), where the Department calculated a rate for the identical program.

⁶² *Id.*

⁶³ See *Countervailing Duty Investigation of Certain Polyethylene Terephthalate Resin from India: Final Affirmative Determination and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 13334 (March 14, 2016), and accompanying IDM.

Exemption from Payment of Central Sales Tax on Purchases of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts, and Packing Material ⁶⁴	0.53
Exemption from Stamp Duty of All Transactions and Transfers of Immovable Property within the SEZ ⁶⁵	3.09
Exemption from Electricity Duty and Cess on the Sale or Supply of Electricity to the SEZ Unit ⁶⁶	0.21
SEZ Income Tax Exemption Scheme (10A) ⁶⁷	2.74
Discounted Land Fees in an SEZ ⁶⁸	0.04

IX. Analysis of Programs

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

A. Programs Preliminarily Determined to Be Countervailable

1. Advance Authorization Program (AAP), aka, Advance License Program (ALP)

Under the AAP (aka ALP) exporters may import, duty free, specified quantities of materials required to manufacture products that are subsequently exported. The exporting companies, however, remain contingently liable for the unpaid duties until they have fulfilled their export requirement.⁶⁹ The quantities of imported materials and exported finished products are linked through standard input-output norms (SIONs) established by the GOI.⁷⁰ During the POI, Bombay Dyeing used advance licenses to import certain materials duty free.⁷¹

Import duty exemptions on inputs for exported products are not countervailable so long as the exemption extends only to inputs consumed in the production of the exported product, making normal allowances for waste.⁷² However, the government in question must have in place and apply a system to confirm which inputs are consumed in the production of the exported products,

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Certain Lined Paper Products from India: Preliminary Results of Countervailing Duty Administrative Review; Calendar Year 2010*, 77 FR 61742 (October 11, 2012) affirmed in *Certain Lined Paper Products from India: Final Results of Countervailing Duty Administrative Review; 2010*, 78 FR 22845 (April 17, 2013).

⁶⁸ See *Countervailing Duty Investigation of Certain Polyethylene Terephthalate Resin from India: Final Affirmative Determination and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 13334 (March 14, 2016), and accompanying IDM.

⁶⁹ See GQR at 4-16.

⁷⁰ See GQR at 7-9; see also SGQR at 6-8.

⁷¹ See GQR at 5; see also Bombay Dyeing QR at 14.

⁷² See 19 CFR 351.519(a)(1)(ii).

and in what amounts.⁷³ This system must be reasonable, effective for the purposes intended, and based on generally accepted commercial practices in the country of export.⁷⁴ If such a system does not exist, or if it is not applied effectively, and the government in question does not carry out an examination of actual inputs involved to confirm which inputs are consumed in the production of the exported product, the entire amount of any exemption, deferral, remission or drawback is countervailable.⁷⁵

In the 2005 administrative review of countervailing duties on Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India, the GOI indicated that it had revised its Foreign Trade Policy and Handbook of Procedures for the AAP/ALP during 2005. The Department acknowledged that certain improvements to the AAP/ALP system were made. However, the Department found that, based on the information submitted by the GOI and examined during previous reviews of that proceeding, and no information having been submitted for that review demonstrating that the GOI had revised its laws or procedures governing this program since those earlier reviews, systemic issues continued to exist in the AAP/ALP system during that period of review.⁷⁶ Specifically, in the 2005 review, the Department stated that it continued to find the AAP/ALP countervailable based on:

the GOI's lack of a system or procedure to confirm which inputs are consumed in the production of the exported products and in what amounts that is reasonable and effective for the purposes intended, as required under 19 CFR 351.519. Specifically, we still have concerns with regard to several aspects of the ALP including (1) the GOI's inability to provide the SION calculations that reflect the production experience of the PET Film industry as a whole; (2) the lack of evidence regarding the implementation of penalties for companies not meeting the export requirements under the ALP or for claiming excessive credits; and, (3) the availability of ALP benefits for a broad category of "deemed" exports.⁷⁷

Since that *2005 Review of PET Film from India*, the Department has in several other proceedings made determinations consistent with this treatment of the AAP/ALP.⁷⁸ In this investigation, record evidence shows⁷⁹ there has been no change to the AAP/ALP program and therefore we preliminarily find that the program confers a countervailable subsidy because: (1) a financial

⁷³ See, e.g., *Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination*, 78 FR 50385 (August 19, 2013) (*Shrimp from India Final Determination*), and accompanying IDM at "Duty Drawback (DDB)."

⁷⁴ *Id.*

⁷⁵ See 19 CFR 351.519(a)(4)(i)-(ii).

⁷⁶ See *Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 73 FR 7708 (February 11, 2008) (*2005 Review of PET Film from India*), and accompanying IDM at Comment 3.

⁷⁷ *Id.*

⁷⁸ See, e.g., *Certain Oil Country Tubular Goods from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 41967 (July 18, 2014) (*Oil Country Tubular Goods from India Final*), and accompanying IDM; see also *Certain Lined Paper Products from India: Final Results of Countervailing Duty Administrative Review; Calendar Year 2012*, 80 FR 19637 (April 13, 2015), and accompanying IDM.

⁷⁹ See GQR at 11-22; see also SQR at 6-10.

contribution, as defined under section 771(5)(D)(ii) of the Act, is provided under the program, as the GOI exempts the respondents from payment of import duties that would otherwise be due; (2) 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), to confirm which inputs, and in what amounts, are consumed in the production of the exported product, and in what amounts, are consumed in the production of the exported products, making normal allowance for waste, nor did the GOI carry out an examination of actual inputs involved to confirm which inputs are consumed in the production of the exported product, and in what amounts; thus the entire amount of the import duty deferral or exemption provided to the respondent constitutes a benefit under section 771(5)(E) of the Act; and (3) this program is specific under section 771(5A)(B) of the Act because it is contingent upon exportation.

Pursuant to 19 CFR 351.524(c)(1), the exemption of import duties on raw material inputs normally provides a recurring benefit.⁸⁰ Bombay Dyeing imported inputs under the AAP for the production of subject merchandise and non-subject merchandise duty free during the POI.⁸¹ Although Bombay Dyeing provided a sample license,⁸² the single license alone was insufficient to determine which export licenses applied to the export of the subject merchandise or to determine which export license applied to export of merchandise to the United States. As such, we cannot reliably determine that the AAP licenses are tied to the production of a particular product within the meaning of 19 CFR 351.525(b)(5). Thus, for the preliminary determination, we find that all of Bombay Dyeing's licenses benefit all of the company's exports. To calculate the subsidy rate for Bombay Dyeing, we first determined the total value of import duties exempted during the POI for Bombay Dyeing under AAP licenses. We then divided the resulting benefit by the total value of Bombay Dyeing's export sales. On this basis, we determine the countervailable subsidy provided to Bombay Dyeing under the AAP to be 4.87 percent *ad valorem*.⁸³

Reliance reported that it made certain "deemed" exports of PSF in India under four AAP licenses but claims that Reliance has not received any benefits under these licenses because Reliance does not have any bills of entry for the imported products that are necessary to receive the benefit.⁸⁴ While Reliance believes that it did not receive any benefits under this program, Chapter 5.04 of the Indian Foreign Trade Policy 2015-2020 state that a firm operating under this program may fulfill its export obligation through deemed exports.⁸⁵ Further, we have found in the past that the timing of benefit under AAP is on the date license is issued, *i.e.* the date input is imported duty free.⁸⁶ Because Reliance did not believe it received any benefit, Reliance did not provide

⁸⁰ See, e.g., *Oil Country Tubular Goods from India Final*, and accompanying IDM.

⁸¹ *Id.*

⁸² See Bombay Dyeing QR at Annexure 12A.

⁸³ See Memorandum, "Preliminary Determination Calculations for Bombay Dyeing," dated concurrently with this memorandum (Bombay Dyeing Preliminary Calculation Memo).

⁸⁴ See Reliance QR1 at 5.

⁸⁵ See GQR at Exhibit B.

⁸⁶ See, e.g., *Certain Oil Country Tubular Goods from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 41967 (July 18, 2014) (*Oil Country Tubular Goods from India Final*), and accompanying IDM.

information to the standard questions and appendix.⁸⁷ Instead, Reliance provided an exhibit that lists the license number and the “duty import allowance” associated with the license number but Reliance did not specify the importer and the import duties exempted under the license on the list.⁸⁸ In order to determine the benefit, it is essential that Reliance provide the licenses, the corresponding condition sheets, supplier invoices, and a list of import duty details that specify that duties exempted. Because Reliance did not provide us with this information, we are resorting to the use of facts otherwise available within the meaning of section 776(a)(1) of the Act because the necessary information from Reliance concerning the importer and the amount of duties exempted under the license is not on the record. Thus, for the preliminary determination, we are relying on Reliance’s “duty-free import duty allowance” associated with the four AAP licenses to determine the benefit associated with this program.⁸⁹ We then divided the resulting benefit by the total value of Reliance’s export sales. On this basis, we determine the countervailable subsidy provided to Reliance under the AAP to be 0.002 percent *ad valorem*.⁹⁰ The resulting benefit, 0.002 percent, consistent with Department practice does not confer a measurable benefit and is not included in the calculation of the net countervailable rate.

2. Duty Drawback Program (DDB Program)

Reliance reported that it received duty rebates under this program.⁹¹ The GOI explained that the DDB Program provides rebates for duty or tax chargeable on any (a) imported or excisable materials and (b) input services used in the manufacture of export goods.⁹² Specifically, the duties and tax “neutralized” under the program are the (i) Customs and Union Excise Duties for inputs and (ii) Service Tax for services.⁹³ The duty drawback is generally fixed as a percentage of the free on board (FOB) price of the exported product.⁹⁴

Imported duty exemptions on inputs for exported products are not countervailable so long as the exemption extends only to inputs consumed in the production of the exported product, making normal allowances for waste.⁹⁵ However, the government in question must have in place and apply a system to confirm which inputs are consumed in the production of the exported products and in what amounts.⁹⁶ This system must be reasonable, effective for the purposes intended, and based on generally accepted commercial practices in the country of export.⁹⁷ If such a system does not exist, or if it is not applied effectively, and the government in question does not carry out an examination of actual inputs involved to confirm which inputs are consumed in the

⁸⁷ See Reliance QR1 at 5.

⁸⁸ *Id.* at Exhibit 5.

⁸⁹ *Id.*

⁹⁰ See Memorandum, “Preliminary Determination Calculations for Reliance,” dated concurrently with this memorandum at 2 (Reliance Preliminary Calculation Memo).

⁹¹ See Reliance QR1 at 9.

⁹² See GQR at 12-13.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ See 19 CFR 351.519(a)(1)(ii).

⁹⁶ See *Shrimp from India Final Determination*, and accompanying IDM at “Duty Drawback (DDB).”

⁹⁷ *Id.*

production of the exported product, the entire amount of any exemption, deferral, remission of drawback is countervailable.⁹⁸

Regarding its establishment of applicable duty drawback rates, the GOI explained that a committee is established to review data and recommend duty drawback rates. Specifically, the GOI stated the following:

The rates are determined following a specified procedure that is undertaken by an independent committee appointed by GOI. The committee makes its recommendations after discussions with all stake holders including Export Promotion Councils, Trade Associations, and individual exporters to solicit relevant data, which includes the data on procurement prices of inputs, indigenous as well as imported, applicable duty rates, consumption ratios and FOB values of exports products. Corroborating data is also collected from Central Excise and Customs field formations. This data is analyzed and this information is used to form the basis for the rate of DDB.⁹⁹

Rule 3(2) of the Drawback Rules 1995 states that in determining the amount of drawback, the “Central Government shall have regard to” the average quantity and value of an input, component or intermediate product, whether produced in India or imported, the import duties or excise duties paid thereon, as well as account for waste, re-use or sale of a by-product, and packing and input services rendered.¹⁰⁰

We requested that the GOI provide a copy of the recommendations and supporting documents (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) for the drawback rates in effect during the POI.¹⁰¹ The GOI did not provide documentation enabling the Department to determine whether the GOI has a system in place.¹⁰² Thus, consistent with *Shrimp from India*, we are determining that the GOI’s response lacks the documentation to support that the GOI has a system in place to confirm which inputs are consumed in the production of the exported products, and in what amounts. Therefore, we preliminarily determine that the GOI has not supported its claim that its system is reasonable or effective for the purposes intended.¹⁰³

Accordingly, we preliminarily determine that the DDB Program confers a countervailable subsidy. Under the DDB Program, a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided because rebated duties represent revenue forgone by the GOI. Moreover, as explained above, the GOI has not supported its claim that the DDB Program system is reasonable and effective in confirming which inputs, and in what amounts, are consumed in the production of the exported product. Therefore, under 19 CFR 351.519(a)(4), the entire amount of the import duty rebate earned during the POI constitutes a benefit. Finally, this program is only available to exporters: therefore, it is specific under sections 771(5A)(A) and (B) of the Act.

⁹⁸ See 19 CFR 351.519(a)(4)(i)-(ii).

⁹⁹ See GQR at 22.

¹⁰⁰ *Id.*

¹⁰¹ See CVD Questionnaire. Letter from the Department, “See Letter from Department, “Fine Denier Polyester Staple Fiber from India: Countervailing Duty Supplemental Questionnaire,” dated September 13, 2017 at 7.

¹⁰² See GQR at 19; see also GSQR at 14.

¹⁰³ See *Shrimp from India Final Determination*, and accompanying IDM at “Duty Drawback (DDB).”

Pursuant to 19 CFR 351.519(b)(1), we find that benefits from the DDB Program are conferred as of the date of exportation of the shipment for which the pertinent drawbacks are earned. We calculated the benefit on an as-earned basis upon export because drawback under the program is provided as a percentage of the value of the exported merchandise on a shipment-by-shipment basis. As such, it is at this point that recipients know the exact amount of the benefit (*i.e.*, the value of the drawback).

Reliance reported the benefits earned on exports of subject merchandise to the United States under this program on a transaction-basis. In accordance with 19 CFR 351.525(b)(4) and (5), when a subsidy is tied to a certain product or market, we will attribute that subsidy to only that product or market.¹⁰⁴ Therefore, we divided the DDB rebates earned on exports of subject merchandise to the United States during the POI by Reliance's POI exports of subject merchandise to the United States.

On this basis, we preliminarily determine a countervailable subsidy rate of 1.84 percent *ad valorem* for Reliance.¹⁰⁵

3. *Export Promotion of Capital Goods Scheme (EPCG)*

The GOI reported that the EPCG program provides for a reduction of or exemption from customs duties and excise taxes on imports of capital goods used in the production of exported products.¹⁰⁶ Under this program, producers pay reduced duty rates on imported capital equipment by committing to earn convertible foreign currency equal to a multiple of the duty saved within a period of a certain number of years.¹⁰⁷ If the company fails to meet the export obligation, the company is subject to payment of all or part of the duty reduction, depending on the extent of the shortfall in foreign currency earnings, in addition to an interest penalty.¹⁰⁸

The Department has previously determined that import duty reductions or exemptions provided under the EPCG program are countervailable export subsidies because the scheme: (1) provides a financial contribution pursuant to section 771(5)(D)(ii) of the Act; (2) provides two different benefits (*see below*) under section 771(5)(E) of the Act; and (3) is specific pursuant to sections 771(5A)(A) and (B) of the Act because the program is contingent upon export performance.¹⁰⁹ Because the evidence on the record with respect to this program has not changed from previous findings, we preliminarily determine that this program is countervailable.¹¹⁰

¹⁰⁴ *Id.*

¹⁰⁵ *See* Reliance Preliminary Calculation Memo.

¹⁰⁶ *See* GQR at 31-42.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *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) (*PET Film Final Determination*), and accompanying IDM at "EPCGS" section; *see also Shrimp from India Final Determination*, and accompanying IDM at 14.

¹¹⁰ *See Steel Flanges from India Preliminary Determination* and accompanying PDM at 13, affirmed in *Steel Flanges from India Final Determination*.

Under the EPCG program, the exempted import duties would have to be paid to the GOI if the accompanying export obligations are not met. It is the Department's practice to treat any balance on an unpaid liability that may be waived in the future as a contingent-liability interest-free loan pursuant to 19 CFR 351.505(d)(1).¹¹¹ Since the unpaid duties constitute a liability contingent on subsequent events, we treat the amount of unpaid duty liabilities as an interest-free contingent-liability loans. We find the amount respondents would have paid during the POI had it borrowed the full amount of the duty reduction or exemption at the time of importation to constitute the first benefit under the EPCG program. The second benefit arises based on the amount of duty waived by the GOI on imports of capital equipment covered by those EPCG licenses for which the export requirement had already been met. With regard to licenses for which the GOI and Reliance have acknowledged that the company has completed its export obligation, 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 pursuant to 19 CFR 351.505(d)(2).

Import duty exemptions under this program are approved for the purchase of capital equipment. The *CVD Preamble* 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..."¹¹² In accordance with 19 CFR 351.524(c)(2)(iii) and past practice, we are treating these import duty exemptions on capital equipment as non-recurring benefits.

Reliance reported that it imported capital goods with waived import-duty rates under the EPCG program.¹¹³ Based on the information and the documentation submitted by Reliance, we cannot reliably determine that the EPCGS licenses are tied to the production of a particular product within the meaning of 19 CFR 351.525(b)(5). As such, we preliminarily find that all of Reliance's EPCGS licenses benefit all of the company's exports.¹¹⁴ Reliance reported that it met several export requirements for EPCG since December 31, 2016 (the last day of the POI). Reliance also reported that it did not meet the export requirements for many EPCG licenses prior to the last day of the POI. Therefore, Reliance received final waivers of the obligation to pay duties for some imports of capital goods while receiving deferrals from paying import duties for other imports of capital goods. For those deferrals, the final waiver of the obligation to pay the duties has not yet been granted.

To calculate the benefit received from Reliance's formal waiver of import duties on capital equipment imports where its export obligations were met prior to the end of the POI, we considered the total amount of duties waived, *i.e.*, the calculated duties payable less the duties actually paid in the year, net of required application fees, in accordance with section 771(6) of the Act, to be the benefit and treated these amounts as grants pursuant to 19 CFR 351.504. Further, consistent with the approach followed in previous investigations, we preliminarily determine the year of receipt of the benefit to be the year in which the GOI formally waived respondents' outstanding import duties.¹¹⁵ Next, we performed the "0.5 percent test," as

¹¹¹ *Id.*

¹¹² See *CVD Preamble*, 63 FR at 65393.

¹¹³ See Reliance QR1 at 11.

¹¹⁴ See Reliance SQR1 at Exhibits SUPP2-EPCG5 to Exhibits SUPP2-EPCG18.

¹¹⁵ See *PET Film Final Determination*, and accompanying IDM at Comment 5.

prescribed under 19 CFR 351.524(b)(2), for the total value of duties waived, for each year in which the GOI granted respondents an import duty waiver. For any years in which the value of the waived import duties was less than 0.5 percent of respondents' total export sales, we expensed the value of the duty waived to the year of receipt. For each year of the AUL, Reliance's licenses had values of less than 0.5 percent of Reliance's total export sales (and deemed exports) and were expensed in the year of receipt. For Reliance's benefit that was received during the POI, because the benefit was received during the POI, we divided the benefit by the total exports (and deemed exports) during the POI.

As noted above, import duty reductions that Reliance received on the imports of capital equipment for which it had not yet met export obligations may have to be repaid to the GOI if the obligations under the license are not met. Consistent with our practice and prior determinations, we are treating the unpaid import duty liability as an interest-free loan.¹¹⁶

The amount of unpaid duty liabilities to be treated as an interest-free loan is the amount of import duty reduction or exemption for which the respondent applied, but had not been officially waived by the GOI, as of the end of the POI. Accordingly, we find the benefit to be the interest that the respondent would have paid during the POI had it borrowed the full amount of the duty reduction or exemption at the time of importation.

As discussed above, the time period for fulfilling the export requirement expires a certain number of years after importation of the capital good. As such, pursuant to 19 CFR 351.505(d)(1), the benchmark for measuring the benefit is a long-term interest rate because the event upon which repayment of 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 goods. As the benchmark interest rate, we used the long-term interest rate as discussed in the "Loan Benchmark and Interest Rates" section, above. We then multiplied the total amount of unpaid duties under each license by the long-term benchmark interest rate for the year in which the capital good was imported and summed these amounts to determine the total benefit. For EPCG licenses with duty free imports made during the POI, we calculated a daily interest rate based on a long-term interest rate and the number of days the loan was outstanding during the POI, to arrive at a prorated contingent liability for those imports.

The benefit received under the EPCG program is the sum of: (1) the benefit attributable to the POI from the formally-waived duties for imports of capital equipment for which the respondents met export requirements by the end of the POI; and (2) the interest that would have been due had the respondents borrowed the full amount of the duty reduction or exemption at the time of the importation for imports of capital equipment that have unmet export requirements during the POI. We then divided the total benefit received by Reliance under the EPCG program by the combined total exports sales of Reliance during the POI, as described above. On this basis, we preliminarily determine a countervailable subsidy rate of 0.08 percent *ad valorem* for Reliance.¹¹⁷

¹¹⁶ See, *e.g.*, *Steel Flanges from India Preliminary Determination*, and accompanying PDM at 15, affirmed in *Steel Flanges from India Final Determination*.

¹¹⁷ See Reliance Preliminary Calculation Memo.

4. Status Holders Incentive Scrip Scheme (SHIS)

The SHIS was introduced in 2009 with the objective of promoting investment in upgrading technology in specific sectors.¹¹⁸ “Status Holders” under the GOI’s listing of specified exported products receive incentive scrip (or credit) equal to one percent of the FOB value of the exports in the form of a duty credit. The SHIS license can only be used for imports of capital goods and it can be transferred to another Status Holder for the import of capital goods.¹¹⁹

This program is countervailable because it provides a financial contribution in the form of revenue forgone under section 771(5)(D)(ii) of the Act because duty free import of goods represents revenue forgone by the GOI.¹²⁰ Further, it is specific under section 771(5A)(A) and (B) of the Act because it is limited to exporters.¹²¹ A benefit is also provided under the SHIS program under 771(5)(E) of the Act and 19 CFR 351.519 in the amount of exempted duties on imported capital equipment.¹²²

The GOI reported that import duty exemptions under this program are provided for the purchase of capital equipment.¹²³ The *CVD Preamble* 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....”¹²⁴ In accordance with 19 CFR 351.524(c)(2)(iii) and past practice, we are treating these import duty exemptions on capital equipment as non-recurring benefits.¹²⁵

Reliance reported that it received SHIS license scrips to import capital goods duty-free during the AUL. Information provided by Reliance indicates that its SHIS license scrips were issued for the purchase of capital goods used for the production of exported goods, so we are attributing the SHIS benefits received by Reliance to its total exports.¹²⁶

The SHIS scrip represents a non-recurring benefit that is not automatically received, and the amount of said benefit is not known to the recipient at the time of receipt of the scrip.¹²⁷ Although the Department’s regulations stipulate that we will normally consider the benefit as having been received as of the date of exportation, see 19 CFR 351.519(b)(1), because the SHIS benefit amount is not automatic and is not known to the exporter until well after the exports are made, the SHIS licenses, which contain the date of validity and the duty exemption amount, as

¹¹⁸ See GSQR at 19-26 and Exhibit I.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² See *Steel Flanges from India Preliminary Determination*, and accompanying PDM at 18 (citing *Steel Threaded Rod from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 40712 (July 14, 2014) (*Steel Threaded Rod from India*), and accompanying IDM, at “Status Holder Incentive Scrip”).

¹²³ See GSQR at 19.

¹²⁴ See *Countervailing Duties*, 63 FR at 65393.

¹²⁵ See *Steel Threaded Rod from India*, and accompanying IDM at “Status Holder Incentive Scrip.”

¹²⁶ See Reliance’s SQR2 at 30.

¹²⁷ See *Steel Threaded Rod from India*, and accompanying IDM at “Status Holder Incentive Scrip.”

issued by the GOI, are the best method to determine and account for when the benefit is received.¹²⁸

We performed the “0.5 percent test,” as prescribed under 19 CFR 351.524(b)(2), for the total value of the exempted customs duties for the year in which Reliance received such SHIS licenses and determined to allocate the benefits across the AUL. However, Reliance’s licenses had values of less than 0.5 percent of Reliance’s total export sales and were therefore expensed in the year of receipt. On this basis, we determine that Reliance did not receive any benefits from this program during the POI. For Bombay Dyeing, as described in the above “Facts Available and Adverse Facts Available,” we preliminarily found that an adverse inference is warranted with respect to benefits Bombay Dyeing received under this program.

5. Incremental Exports Incentive Scheme (IEIS)

The GOI reported that while the IEIS program was terminated prior to the POI, Bombay Dyeing received pending entitlements under this program during the POI.¹²⁹ As reported by the GOI and Bombay Dyeing, the IEIS program entitles companies to a scrip equivalent to two percent of the incremental realized FOB value of exports in free foreign exchange during the current year compared to the previous year.¹³⁰ Further, Bombay Dyeing provided the application, license, and license value for its license received during the POI.¹³¹ The program is specific within sections 771(5A)(B) of the Act because, as the GOI and Bombay Dyeing admit, eligibility to receive the scrips is contingent upon export.¹³² Similar to the SHIS program, this program provides a financial contribution in the form of revenue forgone under section 771(5)(D)(ii) of the Act because the scrips provide exemptions for paying duties associated with the import of goods which represents revenue forgone by the GOI.¹³³

Normally, in cases where the benefits are granted based on a percentage value of a shipment, the Department calculates benefit as having been received as of the date of exportation;¹³⁴ however, because the IEIS benefit, *i.e.* the scrip, amount is not automatic and is not known to the exporter until well after the exports are made, the IEIS licenses, which contain the date of validity and the duty exemption amount as issued by the GOI, are the best method to determine and account for when the benefit is received.¹³⁵

¹²⁸ See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 11163, (March 2, 2015) (*PET Film Final Results 2012 Review*), and accompanying IDM at 21 and Comment 3.

¹²⁹ See GOI QR at 44-45.

¹³⁰ *Id.* and Bombay Dyeing QR at 19 and Exhibit 18.

¹³¹ *Id.* at Exhibit 19A; Bombay Dyeing SQR at Annexure P.

¹³² *Id.* at Exhibit 18; and GOI QR at 44-45.

¹³³ See *Steel Flanges from India Preliminary Determination*, and accompanying PDM at 16, affirmed in *Steel Flanges from India Final Determination*.

¹³⁴ See 19 CFR 351.519(b)(1).

¹³⁵ The Department determined, and was upheld by the CIT in *Essar Steel v. United States*, 395 F. Supp. 2d 1275, 1278 (CIT 2005) (*Essar Steel*) with respect to a similar, but discontinued, GOI program, the Duty Entitlement Passbook Scheme (DEPS), that benefits were conferred when earned, rather than when the credits were used; see generally *PET Film Preliminary Results 2012*, affirmed in *PET Film Final Results 2012*; *PET Film from India Final Results 2013* at Comment 2.

Thus, with regard to Bombay Dyeing, to determine the subsidy rate, we divided the amount of the benefits provided to Bombay Dyeing under section 771(5)(E) the Act during the POI and divided it by Bombay Dyeing's total export sales during the POI. On this basis, we preliminarily determine a countervailable subsidy rate of 0.39 percent *ad valorem* for Bombay Dyeing.¹³⁶

6. Income Tax Deductions

A) Section 35 Income Tax Deductions

We initiated on Income Tax Deduction for Research and Development Expenses under Section 35(2AB) of the Income Tax Act.¹³⁷ Reliance reported that it received benefits under this income tax deduction program.¹³⁸ In responding to our questionnaire on section 35(2AB), the GOI also reported that Reliance made deduction claims under Section 35(i)(iv), Section 35(1)(ii), and Section 35 (1)(i) of the Income Tax Act.¹³⁹ The GOI's responses stated that Section 35 of Income Tax Act allows deduction for expenditure on scientific research.¹⁴⁰ Section 35(2AB) of the Income Tax Act of 1961 provides a tax deduction to cover expenses related to scientific research for Indian companies engaged in the bio-technology sector or in a business not involved in sectors listed in the Eleventh Schedule of the Income Tax Act of 1961.¹⁴¹

We preliminarily determine that the tax deductions provide a financial contribution in the form of revenue forgone under section 771(5)(D)(ii) of the Act. Further, we preliminarily determine that income tax deduction under Section 35(2AB) is *de jure* specific under 771(5A)(D)(i) because the law expressly limits the receipt of the benefit to certain enterprises or industries or a certain group of enterprises or industries.¹⁴² With respect to income tax deductions under Section 35(i)(iv), Section 35(1)(ii), and Section 35 (1)(i) of the Income Tax Act, we preliminarily determine that these programs are not *de jure* specific because according to the laws provided by the GOI, these programs are available to any entities that conduct scientific research in India.¹⁴³ With respect to *de facto* specificity, as stated above, in 'facts available and adverse facts available' section, in drawing an adverse inference, we find that these programs are *de facto* specific within the meaning of 771(5A)(D)(iii) of the Act.

With respect to benefit, there appears to be conflicting information on the record of this proceeding. Despite the fact that GOI and Reliance state that Reliance claimed deductions under these programs, our examination of Reliance's income tax return shows that its taxable income is derived from the greater of the "(1) Income Tax computed as per normal provisions of income tax act and 2) Income Tax computed as per provision of section 115JB of the income tax act" or

¹³⁶ See Bombay Dyeing Preliminary Calculation Memo.

¹³⁷ See *Countervailing Duty Investigation Initiation Checklist: Fine Denier Polyester Staple Fiber from India*, dated June 20, 2017 (Initiation Checklist) at 22.

¹³⁸ See Reliance SQR1 at 24.

¹³⁹ See GQR at 46 and Exhibit M.

¹⁴⁰ See GQR at 47; see also SGQR at 27 and Exhibit L.

¹⁴¹ *Id.*

¹⁴² See GQR at 46 and Exhibit M.

¹⁴³ *Id.*

the Minimum, Alternate Tax (MAT).”¹⁴⁴ Based on our review of the income tax return, it appears that Reliance has utilized profit under MAT to derive taxable income.¹⁴⁵ According to the tax return, the profit under the MAT calculation does not appear to include the following deductions:

- (1) 35(2AB) of the Income Tax Act of 1961;
- (2) 35(1)(iv) of the Income Tax Act of 1961,
- (3) 35(1)(ii) of the Income Tax Act of 1961;
- (4) 35 (1)(i) of the Income Tax Act of 1961;
- (5) Income Tax Deduction for Companies Located in a SEZ .¹⁴⁶

Because of the fact that the GOI and Reliance claim that Reliance made deductions under these income tax programs in their responses, for this preliminary determination, we preliminarily determine that Reliance received benefits under these income tax programs within the meaning of section 771(5)(E) of the Act and 19 CFR 351.509. After the preliminary determination, we will seek clarifications and examine this issue at verification. To determine the subsidy rate, we divided the amount of the benefits provided to Reliance under section 771(5)(E) the Act during the POI and divided it by Reliance’s total sales. On this basis, we preliminarily determine a countervailable subsidy rate of 0.03 percent *ad valorem* for Reliance for Section 35(2AB) of the Income Tax Act of 1961.¹⁴⁷

The resulting benefit for (1) 35(1)(iv) of the Income Tax Act of 1961 is 0.00 percent *ad valorem*, (2) 35(1)(ii) of the Income Tax Act of 1961 is 0.0001 percent *ad valorem*; and (3) 35(1)(i) of the Income Tax Act of 1961 is .001 percent *ad valorem*. Because the resulting benefits for these three programs are less than 0.005 percent, consistent with Department practice, we preliminarily determine that they do not confer a measurable benefit and is not included in the calculation of the net countervailable rate.

B) Income Tax Deduction for Companies Located in a SEZ

We discovered during this investigation that Reliance’s income tax return includes an income tax deduction amount for companies located in a SEZ. As described above in “Facts Available and Adverse Facts Available,” the GOI failed to cooperate by not acting to the best of its ability in failing to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available, pursuant to section 776(b) of the Act. In drawing an adverse inference, we find that this program constitutes a financial contribution within the meaning of section 771(5)(D) of the Act and is specific within the meaning of section 771(5A)(B) and 771(5A)(D) of the Act.

With respect to benefit, similar to the income tax programs under section 35 and as described above, there appears to be conflicting information on the record of this proceeding. However, Reliance’s income tax return shows that Reliance appears to claim deductions under this program. Thus, we preliminarily determine that Reliance received benefits this program within

¹⁴⁴ See Reliance QR1 at Exhibit 7.

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ See Reliance Preliminary Calculation Memo.

the meaning of section 771(5)(E) of the Act and 19 CFR 351.509. After the preliminary determination, we will seek clarification and examine this issue at verification. To determine the subsidy rate, we divided the amount of the benefits provided to Reliance under section 771(5)(E) of the Act during the POI and divided it by Reliance's total sales. On this basis, we preliminarily determine a countervailable subsidy rate of 0.08 percent *ad valorem* for Reliance.¹⁴⁸

7. *State Government of Maharashtra (SGOM) Package Scheme of Incentives (PSI) Subsidy Programs*

Under the PSI, incentives are offered to encourage dispersal of industries to the less industrially developed areas of the state of Maharashtra to achieve higher and sustainable economic development. Pursuant to this objective, Annexure I of the PSI-2007 places all "*talukas*," i.e., district subdivisions, into six different development zones: A, B, C, D, D+, and "no industry." The zones cover the entire state of Maharashtra. Benefits under the PSI-2007 vary by zone.¹⁴⁹ The Department previously determined this program to be countervailable.¹⁵⁰

Bombay Dyeing reported that it participated in the PSI under the provisions for "mega projects."¹⁵¹ Bombay Dyeing received benefits under the PSI for its production facilities in Patalganga and Ranjangoan. According to the GOI:

For claiming eligibility under the PSI-2013, and New/Expansion/Diversification, Eligible Unit shall commence the commercial production and also acquire the fixed assets at site... within the investment period... For Mega Projects / Ultra Mega projects, the investment period will be five years from the date of application or such greater period as may be approved by the "High power Committee" or the "Cabinet Sub Committee" on a case by case basis.¹⁵²

Under the PSI, Bombay Dyeing availed itself of benefits during the POI in the form of tax refunds from the Industrial Promotion Subsidy (IPS) and the Electricity Duty Exemption.¹⁵³ The scheme, initially valid for seven years, was extended by two years on October 1, 2014 until September 30, 2016.¹⁵⁴

¹⁴⁸ See Reliance Preliminary Calculation Memo.

¹⁴⁹ See GQR at 38.

¹⁵⁰ See *PET Film Final Results 2012 Review* at Comment 5; see also *See Certain Oil Country Tubular Goods from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 41967 (July 18, 2014) (*OCTG from India 2012*), and accompanying IDM at SGOM Subsidies Under the Package Scheme of Incentives of 2007.

¹⁵¹ See Bombay Dyeing QR at Annexure 20; see also Bombay Dyeing SQR at 20-24.

¹⁵² See GQR at 57 and Exhibits N and O; see also *OCTG from India 2012*, IDM at SGOM Subsidies Under the Package Scheme of Incentives of 2007.

¹⁵³ See Bombay Dyeing SQR at 20-24.

¹⁵⁴ *Id.* and Bombay Dyeing QR at 24.

a. *SGOM Industrial Promotion Subsidy (IPS)*

The IPS, at paragraph 5.1, is part of the PSI-2007 incentives offered for new or expanding projects.¹⁵⁵ The Department has previously determined this program to be countervailable.¹⁵⁶ The extent of the benefits is determined by the zone the project is located in or by whether the project qualifies as a “mega project.” The amount of the subsidy is also linked to the fixed capital investment.¹⁵⁷ As stated in *OCTG from India 2012*, the SGOM’s Modalities of Sanction and Disbursement of Industrial Promotion Subsidy to Mega Projects under the PSI 2001 and PSI 2007, at 1.1:

“Industrial Promotion Subsidy” in respect of Mega Projects under PSI 2001 & 2007 means an amount equivalent to the percentage of “Eligible Investments” which has been agreed to as a part of the customized package, or the amount of tax payable under Maharashtra Valued Added Tax Act (VAT) 2002 and Central Sales Tax (CST) Act, 1956 by the eligible Mega Projects in respect of sale of finished products eligible for incentives before adjustment of set off or other credit available for such period as may be sanctioned by the State Government, less the amount of benefits by way of Electricity Duty exemption, exemption from payment of Stamp Duty, refund of royalty and any other benefits (as may be specified by the Government) availed by the eligible Mega Projects under PSI 2001/2007, whichever is lower.¹⁵⁸

As noted above, Bombay Dyeing has been eligible for this benefit since 2007.¹⁵⁹ The annual amount of the benefit is determined by SGOM each year through an annual application. Because its project in Maharashtra meets the criterion of a “mega project,” Bombay Dyeing was allowed to propose the means through which it would receive its benefits. It chose exemption of state VAT and CST payments.¹⁶⁰ Thus, the amount of the benefit determined each year is based on the state VAT and CST Bombay Dyeing paid that year.

We find that this program provides a financial contribution in the form of revenue forgone by the SGOM pursuant to section 771(5)(D)(ii) of the Act.

Under the SGOM’s VAT system, taxpayers are required to remit VAT collected from customers (output VAT) to the SGOM.¹⁶¹ Before doing so, they reduce the amount of output VAT collected by the amount of VAT they have paid to their own suppliers (input VAT). Alternatively, instead of crediting output VAT with input VAT in this manner, they may receive a rebate of input VAT paid to their suppliers. Either way, the net amount of VAT the taxpayer pays to the SGOM equals the difference between output VAT and input VAT. Under the IPS

¹⁵⁵ See *OCTG from India 2012*, IDM at SGOM Subsidies Under the Package Scheme of Incentives of 2007.

¹⁵⁶ See *PET Film Final Results 2012 Review* at Comment 5; see also *OCTG from India 2012*, IDM at SGOM Subsidies Under the Package Scheme of Incentives of 2007.

¹⁵⁷ See Bombay Dyeing QR at 24-25; see also Bombay Dyeing SQR at 21.

¹⁵⁸ See *OCTG from India 2012*, IDM at SGOM Subsidies Under the Package Scheme of Incentives of 2007.

¹⁵⁹ See Bombay Dyeing QR at 24; see also Bombay Dyeing SQR at 20-24.

¹⁶⁰ *Id.*

¹⁶¹ See *OCTG from India 2012*, IDM at SGOM Subsidies Under the Package Scheme of Incentives of 2007 – c. Industrial Promotion Subsidy.

program as applied to Bombay Dyeing, however, that amount is refunded.¹⁶² A refund for this amount would not be available absent the IPS program.¹⁶³ Likewise, under the SGOM's CST system, the taxpayer pays to the SGOM the difference between the CST it collects from its customers and the CST it pays to its suppliers. The excessive refund of VAT provides a benefit under 19 CFR 351.510(a) (the refunded output VAT is only collected on domestic sales) and the remission of CST otherwise due provides a benefit under 19 CFR 351.509(a).

Pursuant to section 771(5A)(D)(iv) of the Act, the program is specific because it is limited to certain geographical regions within the state of Maharashtra. There is no new information or evidence of changed circumstances that would warrant reconsidering our determination that this program is countervailable.

In order to calculate the benefit, we divided the total amount of the refunds Bombay Dyeing received during the POI under the IPS by its total sales during the POI. On this basis, we determined a countervailable subsidy rate of 1.26 percent *ad valorem* for Bombay Dyeing.

b. SGOM Electricity Duty Exemption

The GOI and Bombay Dyeing reported that SGOM provides a PSI, which encourages investments in new units and/or the expansion of existing production capacity located in specified underdeveloped areas in the state of Maharashtra in accordance with the terms and conditions specified by SGOM.¹⁶⁴ The SGOM has exempted certain industries and enterprises from electricity duties in certain less developed industrial regions in the state of Maharashtra. In *Cold-Rolled Steel from India*, the Department found that this program constitutes a financial contribution, in the form of revenue forgone, and is regionally specific, under sections 71(5)(D)(ii) and 771(5A)(D)(iv) of the Act, respectively.¹⁶⁵ We preliminarily determine that the Electricity Duty Exemption is countervailable because this program confers a financial contribution by exempting Bombay Dyeing from paying the full amount of electricity duties that would otherwise be due. The program is specific because it is limited to certain geographical regions within the state of Maharashtra. Bombay Dyeing reported that their manufacturing facilities were exempted from the payment of electricity duties during most of the POI until September 2016, thus conferring a benefit pursuant to section 771(5)(E) of the Act in the amount of the exempted electricity duties.¹⁶⁶

In order to calculate the benefit, we divided the total amount of exemptions Bombay Dyeing received during the POI under the Electricity Duty Exemption by its total sales during the POI.

¹⁶² See Bombay Dyeing SQR at 21.

¹⁶³ *Id.* at Annexure 20.

¹⁶⁴ *Id.*; see also Bombay Dyeing SQR at 21.

¹⁶⁵ See *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from India: Preliminary Affirmative Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 80 FR 79562 (December 22, 2015) (*CRS Final from India Preliminary Determination*) affirmed in *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from India: Final Affirmative Determination*, 81 FR 49932 (July 29, 2016) (*CRS Final from Final Determination*).

¹⁶⁶ See Bombay Dyeing SQR at 24.

On this basis, we determined a countervailable subsidy rate of 0.16 percent *ad valorem* for Bombay Dyeing.¹⁶⁷

B. Programs Preliminarily Determined Not to Be Used Or to Confer a Measurable Benefit During the POI

Government of India Programs

- 1) Duty Free Import Authorization Scheme
- 2) Merchandise Export Incentive Scheme/Focus Product Scheme
- 3) Duty-Free Importation of Capital Goods and Raw Materials, Components,

As described in the “facts available and adverse facts available” section, we preliminarily determined that Reliance received a benefit under this program. Bombay Dyeing did not use this program.

- 4) Consumables, Intermediates, Spare Parts, and Packing Material

As described in the “facts available and adverse facts available” section, we preliminarily determined that Reliance received a benefit under this program. Bombay Dyeing did not use this program.

- 5) Exemption from Payment of Central Sales Tax on Purchases of Capital Goods and Raw Materials, Components, Consumables, Intermediates, Spare Parts, and Packing Material

As described in the “facts available and adverse facts available” section, we preliminarily determined that Reliance received a benefit under this program. Bombay Dyeing did not use this program.

- 6) Exemption from Stamp Duty of All Transactions and Transfers of Immovable Property within the SEZ

As described in the “facts available and adverse facts available” section, we preliminarily determine that Reliance received a benefit under this program. Bombay Dyeing did not use this program.

- 7) Exemption from Electricity Duty and Cess on the Sale or Supply of Electricity to the SEZ Unit

As described in the “facts available and adverse facts available” section, we preliminarily determined that Reliance received a benefit under this program. Bombay Dyeing did not use this program.

¹⁶⁷ See Bombay Dyeing Preliminary Calculation Memo.

8) SEZ Income Tax Exemption Scheme (10A)

9) As described in the “facts available and adverse facts available” section, we preliminarily determined that Reliance received a benefit under this program. Bombay Dyeing did not use this program.

10) Discounted Land Fees in an SEZ

As described in the “facts available and adverse facts available” section, we preliminarily determined that Reliance received a benefit under this program. Bombay Dyeing did not use this program.

11) Duty-Free Imports of Goods, Including Capital Goods and Raw Materials

12) Reimbursement of Central Sales Tax Paid on Goods Manufactured in India

13) Exemption from Payment of Central Excise Duty on Goods Manufactured in India and Procured through a Domestic Tariff Area

14) Duty Drawback on Furnace Oil Procured from Domestic Companies

15) Market Access Initiative

16) Market Development Program

17) GOI Loan Guarantees

18) Section 35(1)(i) of the Income Tax Act of 1961

19) Section 35(1)(ii) of the Income Tax Act of 1961

20) Section 35(1)(iv) of the Income Tax Act of 1961

21) AAP

As described above, while Bombay Dyeing received measurable benefits under this program, Reliance did not receive measurable benefits under this program.

22) SHIS

As described above, we preliminarily determine the Reliance did not receive any benefits from this program during the POI. For Bombay Dyeing, as described in the above “Facts Available and Adverse Facts Available”, we preliminarily found adverse inference is warranted with respect to benefits Bombay Dyeing received under this program

State Government Subsidy Programs

23) State and Union Territory Sales Tax Incentive

State Government of Maharashtra Subsidies Under the Packages Scheme of Incentives

24) Interest Subsidy

25) Waiver of Stamp Duty

26) Incentives to Strengthening Micro-, Small-, and Medium-Sized and Large Scale Industries

27) Incentives for Mega/Ultra Mega Projects

State Government of Gujarat Subsidies

- 28) Plastics Industry Scheme: Interest Subsidy
- 29) Plastics Industry Scheme: VAT Incentive
- 30) Industry Policy 2009: Financial Benefits for Mega Projects
- 31) Industry Policy 2009: Promotion for Textiles and Apparel
- 32) Industry Policy 2009: Promotion of Non-Conventional Energy
- 33) Industry Policy 2009: Reimbursement of Stamp Duty

State Government of Uttar Pradesh Subsidies

- 34) Investment Promotion Scheme
- 35) Special Assistance for Mega Projects

X. CALCULATION OF THE ALL-OTHERS RATE

Sections 703(d) and 705(c)(5)(A) of the Act state that for companies not individually 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, excluding any zero, *de minimis*, or facts available rates. In this investigation, the preliminary subsidy rates calculated for the two mandatory respondents are above *de minimis* and neither was determined based entirely on facts otherwise available pursuant to section 776 of the Act. However, calculating the all-others rate by using the respondents' actual weighted-average rates risks disclosure of proprietary information. Therefore, for this preliminary determination, we calculated the weighted-average all-others rate for non-selected companies using publicly-ranged information reported by Bombay Dyeing and Reliance. As a consequence, the all-others rate is 9.37 percent *ad valorem*.¹⁶⁸

XI. 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 Enforcement and Compliance. In accordance with section 705(b)(2) of the Act, the ITC will make its final determination before the later of 120 days after the date of this preliminary determination or 45 days after the Department makes its final affirmative determination.

¹⁶⁸ Memorandum, "Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from India: Preliminary Determination Margin Calculation for All-Others," dated concurrently with this memorandum.

XII. DISCLOSURE AND PUBLIC COMMENT

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.¹⁶⁹ Case briefs or other written comments for all non-scope issues may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹⁷⁰ Case briefs or other written comments on scope issues may be submitted no later than 30 days after the publication of this preliminary determination in the *Federal Register*, and rebuttal briefs, limited to issues raised in the case briefs, maybe submitted no later than five days after the deadline for the case briefs. For any briefs filed on scope issues, parties must file separate and identical documents on each of the records for the other concurrent countervailing duty and antidumping duty investigations.

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁷¹ This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing, or to participate if one is requested, must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*.¹⁷² Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a date, time and location to be determined. Parties will be notified of the date, time and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using the Department's electronic records system, ACCESS.¹⁷³ Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,¹⁷⁴ on the due dates established above.

XIII. VERIFICATION

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted in response to the Department's questionnaires.

¹⁶⁹ See 19 CFR 351.224(b).

¹⁷⁰ See 19 CFR 351.309(c)-(d); see also 19 CFR 351.303 (for general filing requirements).

¹⁷¹ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁷² See 19 CFR 351.310(c).

¹⁷³ See 19 CFR 351.303(b)(2)(i).

¹⁷⁴ See 19 CFR 351.303(b)(1).

XIV. CONCLUSION

We recommend that you approve the preliminary findings described above.



Agree



Disagree

10/30/2017

X



Signed by: GARY TAVERMAN

附件十三：中国商务部关于原产于印度的进口邻
氯对硝基苯胺反补贴调查的最终裁定

附件

中华人民共和国商务部关于原产于印度的进口 邻氯对硝基苯胺反补贴调查的最终裁定

根据《中华人民共和国反补贴条例》（以下称《反补贴条例》）的规定，2017年2月13日，商务部（以下称调查机关）发布公告，决定对原产于印度的进口邻氯对硝基苯胺（以下称被调查产品）进行反补贴立案调查。

调查机关对被调查产品是否存在补贴和补贴金额、被调查产品是否对国内邻氯对硝基苯胺产业造成损害及损害程度以及补贴与损害之间的因果关系进行了调查。根据调查结果和《反补贴条例》的规定，调查机关作出最终裁定如下：

一、立案前磋商

2016年12月16日，调查机关收到苏州市罗森助剂有限公司（以下称“申请人”）代表国内邻氯对硝基苯胺产业，向调查机关提起对原产于印度的进口邻氯对硝基苯胺进行补贴调查的申请。

调查机关收到申请材料后，根据《反补贴条例》第十六条的规定，2017年1月5日，调查机关就有关反补贴调查事项向印度政府发出磋商的邀请，并向印度驻华使馆转交了申请书的公开版本。中印两国政府代表于2017年2月10日进

行了磋商。磋商后，印度政府提交了《印度政府磋商概要》。

二、调查程序

（一）立案及通知。

1. 立案。

调查机关审查了申请人申请材料后，认为本案申请符合《反补贴条例》第十一条，第十三条和第十七条有关国内产业提出反补贴调查申请的规定。同时，申请书中包含了《反补贴条例》第十四条、第十五条规定的反补贴调查立案所要求的内容及有关的证据。

在完成上述审查及磋商后，根据《反补贴条例》第十六条的规定，调查机关于 2017 年 2 月 13 日发布立案公告，决定对原产于印度的进口邻氯对硝基苯胺进行反补贴立案调查。补贴调查期为 2015 年 10 月 1 日至 2016 年 9 月 30 日（以下称补贴调查期）。产业损害调查期为 2013 年 1 月 1 日至 2016 年 9 月 30 日（以下称损害调查期）。

2. 立案通知。

2017 年 2 月 13 日，调查机关发布立案公告，并向印度驻华使馆正式提供了立案公告和申请书的公开文本。同日，调查机关将立案情况通知了本案申请人及申请书中列明的外国企业。

3. 公开信息。

在立案公告中，调查机关告知利害关系方，可以通过商

务部贸易救济公开信息查阅室查阅本次反补贴调查相关信息的非保密版本及保密版本的非保密概要。

立案当天，调查机关通过商务部贸易救济公开信息查阅室公开了本案申请人提交的申请书的公开版本及保密版本的非保密概要。

（二）初裁前调查。

1. 登记参加调查。

在规定时间内，国内生产者苏州市罗森助剂有限公司、印度生产商阿迪工业有限公司（Aarti Industries Limited）向调查机关登记参加调查。

2. 发放和回收调查问卷。

2017年3月20日，调查机关向各利害关系方发放了《反补贴国内生产者调查问卷》、《反补贴国内进口商调查问卷》、《反补贴国外出口商或生产商调查问卷》、《反补贴政府调查问卷》，要求在规定时间内提交准确、完整的答卷。调查机关将发放问卷的通知和问卷电子版在商务部网站、贸易救济调查局子网站和中国贸易救济信息网公布，并告知印度驻华使馆。

在规定期限内，调查机关收到国内生产者答卷1份，国外出口商或生产商调查问卷1份。印度政府没有按照要求在规定的时间提交答卷。

8月4日，调查机关向阿迪工业有限公司发放补充问卷。

8月4日、23日和25日，调查机关分别向印度政府发放三次补充问卷。在规定的时间内，调查机关收到上述各方反补贴调查补充问卷的答卷。

3. 听取利害关系方意见。

2017年9月1日，本案申请人提交了《对印度政府和阿迪工业有限公司反补贴问卷及补充问卷答卷的评论意见》。在初裁前，调查机关未收到要求召开听证会的申请。

4. 初裁前实地核查。

根据《反补贴条例》第二十条的规定，调查机关于2017年5月10日至11日对国内生产者苏州市罗森助剂有限公司进行了初裁前实地核查。调查机关考察了被核查企业的生产现场，核对了企业提交材料中的相关信息。5月17日，被核查企业向调查机关提交了补充修正材料和相关证据。

5. 公开信息。

根据《反补贴条例》第二十三条的规定，调查机关已将调查过程中收到和制作的本案所有公开材料及时送交商务部贸易救济公开信息查阅室。各利害关系方可以查找、阅览、摘抄、复印有关公开信息。

（三）初裁决定及公告。

2017年10月20日，调查机关发布2017年第57号公告，公布了本案的初裁决定，初步认定原产于印度的进口邻氯对硝基苯胺存在补贴，中国邻氯对硝基苯胺产业受到实质损害，

并且补贴与实质损害之间存在因果关系。公告决定自 2017 年 10 月 20 日起，对被调查产品实施临时反补贴措施。

公告当日，调查机关通知了印度驻华大使馆和本案已知的涉案企业，并将公告登载在商务部网站上供各利害关系方和公众查阅。

（四）初裁后调查。

1. 初裁后信息披露。

本案初裁决定后，调查机关依据《反补贴条例》有关规定，向印度政府及调查企业披露并说明了初裁决定中计算公司从价补贴率时所依据的基本事实和理由，并给予其提出评论意见的机会。

2. 接收利害关系方书面评论意见及其他文件。

2017 年 10 月 30 日，印度驻华大使馆、阿迪工业有限公司提交了对初裁决定和披露的书面评论意见。

3. 初裁后听证会。

2017 年 10 月 30 日，阿迪工业有限公司提交召开听证会的申请，就部分补贴项目认定程序和计算基础问题进行听证。经审查，根据《反补贴调查听证会暂行规则》，调查机关决定召开本案听证会。2017 年 10 月 31 日和 2017 年 11 月 13 日，调查机关分别发布《关于召开邻氯对硝基苯胺反补贴案听证会的通知》和《关于召开邻氯对硝基苯胺反补贴案听证会的进一步通知》，向利害关系方通知了听证会的相关事项。

2017年11月15日，调查机关召开听证会，就补贴的计算和所依据的事实听取了各利害关系方的意见。阿迪工业有限公司、苏州市罗森助剂有限公司、浙江万丰化工有限公司、浙江德司达贸易有限公司、恒诚制药集团淮南有限公司、杭州可菲克化学有限公司、浙江闰土股份有限公司、上海安诺其集团股份有限公司、杭州吉华江东化工有限公司参加听证会。阿迪工业有限公司、苏州市罗森助剂有限公司、浙江万丰化工有限公司的代表在听证会上发言，并在会后规定时间内向调查机关提交了发言的书面材料。

2017年11月16日，浙江万丰化工有限公司、浙江德司达贸易有限公司、恒诚制药集团淮南有限公司、杭州可菲克化学有限公司、上海安诺其集团股份有限公司、杭州吉华江东化工有限公司向调查机关提出申请，就损害及公共利益问题进行听证。经审查，根据《产业损害听证规则》，听证申请中未包括听证事项所依据的事实和理由等内容，调查机关决定不举行损害和公共利益听证。

4. 实地核查。

为进一步核实本案申请人、印度政府和阿迪工业有限公司提交材料的真实性、准确性和完整性，调查机关实地核查小组于2017年11月7日对国内生产者苏州市罗森助剂有限公司进行了初裁后实地核查，进一步核对了企业提交材料中的相关信息。11月10日，被核查企业向调查机关提交核查

汇报材料。2017年11月21日至24日对印度联邦石油与化工产业部、印度国家银行、印度工业发展银行有限公司、印度马哈拉施特拉邦水资源监管局和电力监管委员会、马哈拉施特拉邦实业发展公司、马哈拉施特拉邦配电公司、阿迪工业有限公司进行了反补贴实地核查。

核查期间，核查小组询问了被核查政府部门及公司的相关人员，对有关补贴项目所涉及的法律和政策文件进行核查。依据《反补贴条例》和《反补贴调查实地核查暂行规则》有关规定，调查机关于核查后向印度政府及公司披露了实地核查的基本事实。

对上述调查中收集到的材料和信息以及有关评论意见，调查机关在最终裁定中依法予以了考虑。

5. 下游意见陈述会。

2017年11月15日，调查机关召开下游意见陈述会，听取本案申请人及部分下游用户的意见陈述。浙江德司达贸易有限公司在会后提交了书面材料。

6. 阿迪工业有限公司意见陈述会。

应阿迪工业有限公司申请，调查机关于2017年12月15日召开意见陈述会，听取部分补贴项目的解释和说明。阿迪工业有限公司在会后向调查机关提供了陈述会的书面材料。

7. 终裁前信息披露。

本案终裁前，调查机关依据《反补贴条例》第二十六条

规定，向印度驻华大使馆、阿迪工业有限公司及国内申请人披露并说明了本次反补贴调查终裁决定所依据的基本事实，并给予上述利害关系方提出评论意见的机会。在规定的时间内，印度使馆未按要求提交中文评论意见，调查机关在终裁中不予考虑，阿迪工业有限公司提交了对终裁披露的评论意见，调查机关在终裁中予以了考虑。

8. 公开信息。

根据《反补贴条例》的规定，调查机关将初裁后调查过程中收到和制作的本案所有公开材料送交商务部贸易救济公开信息查阅室，供各利害关系方查找、阅览、摘抄、复印有关公开信息。

三、被调查产品

调查范围：原产于印度的进口邻氯对硝基苯胺。

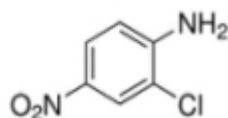
被调查产品名称：邻氯对硝基苯胺。

英文名称：Ortho Chloro Para Nitro Aniline。

分子结构：



化学结构式：



产品描述：黄色结晶粉末，在常温常压下稳定，溶于乙醇、乙醚及苯，微溶于水和强酸，不溶于粗汽油。

主要用途：用作合成分散染料、有机颜料和缓蚀剂的中间体，或用作生产防治血吸虫病的特效药氯硝柳胺，也用作医药中间体。

该产品归在《中华人民共和国进出口税则》：29214200。该税则号项下的其他产品不在本次申请调查范围之内。

四、补贴和补贴金额

调查机关以 10 年作为本案产品一次性补贴利益的调查和分摊期，即对补贴调查期内及之前 9 年中可能给企业带来利益的财政资助以及任何形式的收入或价格支持展开调查。

（一）关于印度政府答卷情况。

2017 年 3 月 20 日，调查机关发放政府补贴调查问卷，要求印度政府在问卷发出之日起 37 日提交答卷。在问卷第二部分“答卷具体要求”中，调查机关明确要求答卷必须使用“印刷体简体中文形式。调查机关只接受以中文形式提供的证据和材料，如果原件是外文的，应提供中文翻译件。任何用其他语言提供的信息，如果没有中文翻译，将不会在调查中考虑。调查机关还特别强调，如在规定的期限内不能按照本答卷要求提供答卷，或没有提供完整准确的答卷，则调查机关可依据《反补贴条例》的规定，根据可获得的事实作出裁定。4 月 17 日，印度政府提交延期申请，请求延期提交答卷。调查机关考虑到印度政府答卷存在的困难，同意印度政府延期 15 日答卷。5 月 11 日，印度政府提交了答卷。调

查机关审查发现，印度政府提交的答卷全部为英文，没有按照要求提交答卷。调查机关在调查期限内已经充分考虑印度政府答卷的困难，最大限度地给予印度政府答卷时间，印度政府没有按照要求在合理的时间提交答卷，严重阻碍调查。根据《反补贴条例》第二十一条的规定，对于原始问卷所涉及的补贴项目，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。

初裁后，印度政府提交评论认为，印度政府答卷出现延期是因为翻译文件需要相当长的时间，印度政府提前通知了调查机关，并及时提交英文版本的答复。调查机关并未对印度政府提交的信息进行验证，以获取相关信息。调查机关根据印度政府对原始问卷提交的信息发了补充问卷，就不能驳回原始答卷答复的信息。鉴于上述情况，调查机关不能将延误提交翻译版本视为严重阻碍调查。

调查机关审查认为：其一，如前所述，调查机关在问卷发放时明确告知答卷期限。印度政府对答卷期限和答卷要求是知悉的。在答卷截止日，印度政府申请延期递交答卷，调查机关考虑印度政府的困难，给予 15 日的延期，至 2017 年 5 月 11 日。然而，印度政府仍未按照要求提供答卷，仅在答卷说明中向调查机关表明中文翻译延后提交。在答卷截止后的 22 天即 2017 年 6 月 2 日，印度政府才向调查机关表示可以按照要求提供中文翻译。据此，调查机关认为，调查机关

在调查期限内已经充分考虑印度政府答卷的困难，最大限度给予印度政府答卷时间，印度政府没有按照要求在合理时间提交答卷，属于严重阻碍调查的行为。其二，调查机关审查应诉公司答卷信息，发现印度政府可能对被调查产品的生产、制造或出口授予依据《中华人民共和国反补贴条例》可被认定为补贴的项目。据此，调查机关向印度政府发放补充问卷。调查机关发放补充问卷不能说明调查机关接受了原始问卷的信息。其三，在初裁中，根据《反补贴条例》第二十一条的规定，对于原始问卷所涉及的补贴项目，调查机关认定申请人指控的信息和应诉公司答卷的相关信息是可获得事实，并据此作出裁定。据此，在终裁中，调查机关决定拒绝接受印度政府意见，维持初裁认定。

（二）关于阿迪工业有限公司答卷情况。

调查机关规定，应诉公司及其符合条件的关联公司均应回答问卷。在原始问卷中，调查机关特别指出：“在回答下列具体项目问题前，请仔细阅读问卷各部分内容（包括附件）。每个项目均涵盖你公司及其关联公司所有的生产经营活动，不限于直接与调查产品相关……如果曾被你公司兼并或购买的公司接受过下述任何补贴项目，你公司仍有责任回答相关问题。”

公司在原始答卷仅代表阿迪工业有限公司提交了答卷，其关联公司未提交答卷。调查机关据此向公司发放补充问卷，

给予公司解释说明的机会。在补充问卷中，调查机关特别指明：“在公司提供的财务报表显示，公司与关联公司存在多种形式的关联交易。调查机关认为公司的关联公司接受的补贴有可能通过关联交易转移至你公司，并从而有可能使被调查产品受益。请公司所有关联公司根据原始问卷的要求和本次补充问卷所涉及的补贴项目单独或合并逐项提交答卷。如关联公司为你公司提供任何产品、服务或存在任何交易行为，请提供调查期及其之前三个财年的详细交易信息。公司在补充答卷中，只提供了部分关联公司的信息。对于其他关联公司，公司称尽管其通过邮件向部分关联公司发送信函，请求他们配合答卷工作，但这些关联公司未有回复，无法提交相关信息。经进一步调查，上述未答卷关联公司或已经关停，或没有销售收入，或与被调查产品生产销售无关，在终裁中，调查机关不作认定。

初裁后，阿迪工业有限公司评论认为，关于 SHIS、FPS、MLPS、FMS 和 MEIS 项目，调查机关没有发放补充问卷对存疑的信息要求公司补充或解释，未给予应诉企业解释和说明的机会，而是根据可获得事实作出裁定，属于程序不当。调查机关审查认为，调查机关在向公司发放调查问卷中明确列明公司需要提供的信息。这些信息是明确和清晰的。调查机关指明，如公司在回答问卷时对调查问卷有疑问，可以及时向调查问卷所列明的案件调查人员咨询。此外，调查机关

还指明，公司应提供本问卷要求的全部信息，并在规定的时间内提交完整而准确的答卷，以便调查机关尽快对公司的答复做出分析和裁定。如公司在规定的期限内不能按照本问卷的要求提供答卷，或没有提供完整准确的答卷，调查机关可依据《中华人民共和国反补贴条例》的规定，根据可获得的事实做出裁定。在提交答卷，调查机关特别要求由公司法定代表人或其授权人签署，确认公司提供的信息是准确和完整的。调查机关还考虑公司的答卷困难，给予公司适当的延期，为公司提供充足的时间答复相关信息。然而，在具体项目答复中，公司或者没有答复相关问题，或没有对其主张提供证据支持，或提供的证明文件证据混乱或相互之间存在不一致等，调查机关认为，调查机关据此根据可获得的事实对相关补贴项目做出裁定符合《中华人民共和国反补贴条例》相关规定。此外，该公司称，调查机关未核查上述信息属于程序不当，调查机关认为，该公司未在规定时间内按要求提交相关信息，属于严重阻碍调查，调查机关对此不予核查，符合相关法律程序。在终裁中，调查机关决定维持初裁认定。

（三）各补贴项目认定。

1. “SHIS”绩优出口商激励项目(Status Holder Incentive Scrip)

申请人主张，根据《2009 年-2014 年外贸政策法案》，印度中央政府以税收抵免额度奖励出口，企业获得此项补贴的

资格与其出口业绩直接挂钩，即补贴额度相当于企业 FOB 出口额的 1%。根据此政策，出口企业可以获得相当于其 FOB 出口额 1% 的“关税免税凭证”（duty credit script），用以抵免进口“资本货物”的关税。出口企业可以转让“关税免税凭证”。申请人主张印度政府上述激励项目构成了《反补贴条例》第三条项下的补贴，并使邻氯对硝基苯胺生产和出口企业获得利益。

财政资助认定

印度政府没有按照要求在合理的时间提交答卷，严重阻碍调查。对于该补贴项目财政资助的认定，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。

本案申请书和阿迪公司答卷显示，印度中央政府以税收抵免额度奖励出口，政府认证的“绩优出口商”可以获得相当于其 FOB 出口额 1% 的“关税免税凭证”，用以抵免进口“资本货物”的关税。出口企业可以转让“关税免税凭证”。根据《反补贴条例》第三条的规定，出口国（地区）政府放弃或者不收缴应收收入是财政资助的一种方式。调查机关初步认定，印度政府以税收抵免额度奖励出口，符合上述规定，应认定为财政资助。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。

专向性认定

印度政府没有按照要求在合理的时间提交答卷，严重阻

碍调查。对于该补贴项目专向性认定，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。

现有证据表明，获得关税免税凭证的主体是出口商，且需要根据出口表现具备“绩优出口商”资格，关税免税额根据出口商 FOB 出口额的比例确定。根据《反补贴条例》第四条的规定，以出口实绩为条件获得的补贴，属于出口补贴，具有专向性。调查机关初步认定，印度政府在该项目下提供的补贴符合上述规定，具有专向性。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。

补贴利益确定

阿迪公司答卷报告，公司获得“绩优出口商”资格，在调查期及其此前的 9 年获得关税免税凭证。公司提供了绩优出口商资格证书和《2015 年-2020 年外贸政策法案》中对绩优出口商的规定。

公司主张该项目已经于 2015 年 3 月 31 日终止。由于印度政府没有配合本项目调查，调查机关无法获得项目终止的相关证据，公司也未对其主张提供证据支持。此外，调查机关发现，该公司在调查期获得了利益。因此，调查机关决定不接受公司主张。

公司主张该项目提供的是持续性资助，利益获得是可以预见的，因此该项目具有重复性补贴性质。公司提供了调查

期及其前 9 年在本项目下获益的金额，并认为获益产品众多，无法区分具体产品。调查机关要求公司提交申请和审批文件，并详细列明授权抵扣的金额和计算过程。公司附件 3-1-1-1 提供的证据除 2012 年获得的两笔免税凭证可以辨别外，其他证据材料形式混乱，调查机关无法了解其具体内容。公司也未提交调查期产品获益相关的证据。

由于印度政府没有配合本项目调查，公司对获益情况也未按照调查机关要求提供证明材料，因此调查机关无法获知公司在该项目下的申请、审批、获益金额、具体用途等方面的信息。在初裁中，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。现有证据表明，该补贴项目根据企业出口实绩设定，获得政府认证的“绩优出口商”可以获得相当于其 FOB 出口额 1%的“关税免税凭证”。关税减免凭证获得是稳定可预期的，公司可以不受限制自由转让这一凭证。该公司具有“绩优出口商”资格，被调查产品出口可以按照 FOB 出口额 1%获得“关税免税凭证”，并获得补贴利益。在初裁中，调查机关据此计算了该项目被调查产品从价补贴率为 0.94%。

初裁后，印度政府和阿迪公司提交评论意见认为，该计划自 2013 年 3 月 31 日终止。调查机关审查认为：如前所述，印度政府没有配合本项目调查，公司对其主张也未提供足够的证据证明。由于印度政府没有配合本项目调查，调查机关

无法得知该项目的实施条件、期限和授权金额，也无法得知该项目在调查期是否终止。即便项目可能终止，也无法得知在调查期公司是否有权继续申请该项目并获得利益。此外，调查机关发现，该公司在调查期获得了利益。据此，调查机关决定，在终裁中维持初裁认定。

2. “EPCG” 资本货物出口促进项目 (Export Promotion Capital Goods)

申请人主张，根据印度商务部《2009 年-2014 年外贸政策法案》和《2015 年-2020 年外贸政策法案》第 5 章，企业用于出口产品生产的“资本货物”进口可享受关税免除，要获得此项补贴，企业在 6 年内的出口额必须不低于免税额的 6 倍。申请人主张印度政府上述激励项目构成了《反补贴条例》第三条项下的补贴，并使邻氯对硝基苯胺生产和出口企业获得利益。

财政资助认定

印度政府没有配合本项目调查。对于该补贴项目财政资助的认定，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。

本案申请书和阿迪公司答卷显示，该项目旨在促进资本货物进口，提高印度出口竞争力，给予用于生产的资本货物的进口或本土资本货物采购以税收减免。根据《反补贴条例》第三条的规定，出口国（地区）政府放弃或者不收缴应收收

入是财政资助的一种方式。调查机关初步认定，印度政府在该项目下的税收减免，符合上述规定，应认定为财政资助。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。

专向性认定

印度政府没有配合本项目调查。对于该补贴项目专向性认定，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。

现有证据表明，该项目目的之一是增强印度出口竞争力，获得本项补贴的条件是出口商要在获得税收减免许可之日起6年内完成6倍于资本货物减免额的出口任务。根据《反补贴条例》第四条的规定，以出口实绩为条件获得的补贴，具有专向性。调查机关初步认定，印度政府在该项目下提供的补贴符合上述规定，属于出口补贴，具有专向性。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。

补贴利益确定

阿迪公司答卷称，该项目提供持续性资助，利益获得是可以预见的，因此是重复性补贴。此外，公司报告，在调查期前9年获得了该项目关税减免，但主张在调查期内公司未获得该项目利益。此外，公司认为，该项目获利产品众多，但不包括被调查产品，公司在该项目下获得进口关税免除的

设备与被调查产品生产无关。

调查机关调查发现：

其一，由于印度政府没有配合本项目调查，调查机关无法获得政府所保存应诉公司申请文件、政府批复文件和公司实际减免金额和减免用途等方面的信息。调查机关在原始问卷中要求公司指明公司生产的何种产品获得了该项目下利益，要求公司提供税收减免的具体用途及对公司生产经营的影响。公司在原始答卷中对其主张没有提供证据材料。在补充问卷中，调查机关进一步要求公司详细列明所采购资本货物的名称、采购金额、应缴纳税收金额、减免税收金额等，公司仍未能提供完整证据材料。在提交的一笔税收减免证据文件样本中，或用途信息栏为空白，或未按照要求翻译成中文，调查机关无法判断所采购设备是否与被调查产品相关。在调查问卷和补充问卷中，调查机关反复要求应诉公司如实反映情况，积极配合调查，按照要求提供有关材料，但公司未履行积极配合的义务。据此，根据《反补贴条例》第二十一条的规定，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。调查机关认定公司采购的资本性货物与被调查产品相关。

其二，本项目是公司进口或国内采购资本性货物发生的税收减免，且公司在获得税收减免日起6年内完成6倍于资本货物税收减免额的出口任务。因此，调查机关认为，该关

税减免不具有参与企业可以预见在同一项目下逐年获得资助的特征，而是对参与企业在采购资本性货物时提供的单次资助，且每次采购均需要向印度政府进行申请，印度政府审核后发放免税凭证。因此，调查机关认定该项补贴属于一次性补贴。

其三，对于一次性补贴，调查机关以 10 年作为本案一次性补贴利益的调查和分摊期。调查机关将公司报告的调查期及其前 9 年的税收减免金额分摊至本案调查期，并除以同期被调查产品出口额计算了该项目从价补贴率为 2.71%。

初裁后，公司提交评论认为，根据相关法律，EPCG 是给予相关资本货物进口以零关税，该项目不限于出口产品，也未规定该项目必须使用特定产品的资本货物采购，调查机关应该以公司所有产品的总销售额为基础进行计算。调查机关审查认为，如前所述，印度政府没有配合本项目调查，调查机关无法获得政府所保存应诉公司申请文件、政府批复文件和公司实际减免金额和减免用途等方面的信息。在调查问卷和补充问卷中，调查机关反复要求应诉公司如实反映情况，积极配合调查，按照要求提供有关材料，但公司未履行积极配合的义务。现有证明表明，该项目与出口实绩相关，且公司获得过该项目补贴，阿迪公司拒绝提供该项目税收减免的具体用途，据此，调查机关决定根据可获得的事实作出裁决符合《中华人民共和国反补贴条例》相关规定。在终裁中，

调查机关决定维持初裁认定。

3. “FPS” 重点产品项目 (Focus Product Scheme)

“MLFPS” 与市场挂钩的重点产品项目 (Market Linked Focus Products Scrip)

由于这两个项目具有相关性，调查机关决定对这两个项目一并作出裁决。

申请人主张，根据印度商务部《2009 年-2014 年外贸政策法案》第 3.15 节。印度政府将 1000 多种产品定为“重点产品”（其中包括多种化工产品），企业出口这些产品可以获得 FOB 出口额 2%—5% 的“关税免税凭证”，用以抵免进口商品时应缴纳的关税。企业向“非重点市场”出口“非重点产品”可获得 FOB 出口额 2% 的“关税免税凭证”。企业可以转让其获得的“关税免税凭证”。申请人主张印度政府上述激励项目构成了《反补贴条例》第三条项下的补贴，并使邻氯对硝基苯胺生产和出口企业获得利益。

财政资助认定

由于印度政府没有配合本项目调查，对于该补贴项目财政资助的认定，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。

现有证据表明，印度政府在《2009 年-2014 年外贸政策法案》中列明产品范围，企业出口这些产品可以获得相当于其 FOB 一定比例的关税减免凭证，用以抵免进口商品时应缴

纳的关税。根据《反补贴条例》第三条的规定，出口国（地区）政府放弃或者不收缴应收收入是财政资助的一种方式。调查机关初步认定，印度政府在该项目下的税收减免，符合上述规定，应认定为财政资助。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。

专向性认定

由于印度政府没有配合本项目调查，对于该补贴项目专向性的认定，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。

现有证据表明，企业获得关税减免凭证的前提是企业出口法律规定的产品。该补贴项目与出口实绩直接相关。根据《反补贴条例》第四条的规定，以出口实绩为条件获得的补贴，具有专向性。调查机关初步认定，印度政府在该项目下提供的补贴符合上述规定，属于出口补贴，具有专向性。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。

补贴利益确定

对于 FPS 项目，阿迪公司答卷称，公司出口产品不是该项目下重点产品，因此该项目不适用。

对于 MLFPS 项目，阿迪公司答卷称，该项目是规定 FPS 清单之外的对于高出口密度/高就业潜力行业或产品，当向未

列入 FMS 清单的关联国家/市场出口时，出口商可以享受 FOB 金额 2% 的奖励。公司主张该项目已经于 2015 年 3 月终止，可申请该项目的最后期限是终止后的两年。公司认为只有 2010 年 1 月 12 日发布的第 31 号公告中的内容才适用该公司，因此公司仅能在 2010 年 1 月 1 日至 2010 年 6 月 30 日期间才能申请该补贴。公司报告了调查期前 9 年获得的授权抵扣的金额。

调查机关调查发现：

其一，由于印度政府没有配合本项目调查，调查机关无法获得该项目的具体内容和实施要件。也无法获得政府所保存应诉公司申请文件、政府批复文件和公司实际减免金额等方面的信息。

其二，关于公司 FPS 项目的主张，公司没有提供任何证明文件。调查机关在原始问卷中强调，请公司对该项目进行简要描述、包括项目的内容、形式等，并请提供该项目的相关法律、法规、规章全文。公司也没有按照要求进行说明并提供相关法律文件。

其三，关于公司“MLFPS”实施期限和实施条件的主张，公司没有提供任何证明文件。由于印度政府没有配合本项目调查，调查机关无法得知该项目的实施条件、期限和授权金额，也无法得知该项目在调查期是否终止。即便项目已经终止，也无法得知在调查期公司是否有权继续申请该项目并获

得利益。事实上，公司承认该项目虽然于 2015 年 3 月终止，但公司可申请该项目的最后期限是终止后的两年。公司虽然提交了调查期前 9 年获得项目的列表和申请项目的样本。然而，由于印度政府没有配合本项目调查，调查机关无法从授予利益的主体即政府方面对公司提交的项目列表及其数额进行印证。此外，调查机关还发现，公司提交的样本显示的补贴项目是 FPS 项目，也不是 MLFPS 项目，从表面证据上看，样本与公司主张之间存在冲突。

综上，印度政府没有配合本项目调查，公司对其主张也未提供足够的证据证明。根据《反补贴条例》第二十一条的规定，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。现有证据表明，该两个项目都是激励具有高出口强度或就业潜力的产品出口，特别重点产品可获得相当于出口 FOB 价值的 5% 关税免税凭证。本案被调查产品出口销售收入占该产品销售收入的 90% 以上，属于高出口强度产品。调查机关根据最佳信息认定阿迪公司所生产的被调查产品在上述两个项目下可以获得其 FOB 出口额 5% 的关税减免凭证。调查机关据此计算了该项目被调查产品从价补贴率为 4.70%。

初裁后，印度政府提交评论意见认为，从印度政府的网站可以明显看出，印度政府从 2015 年 4 月 1 日撤销了该项目，不能据此实施反补贴措施。阿迪公司提交评论认为，FPS

不适用该公司，无法证明不存在的补贴。此外，MLFPS 终止时间为 2015 年 3 月 31 日，且该项目是 FPS 一个分支，不存在单独以 MLFPS 为名称的许可证。调查机关审查认为：如前所述，印度政府没有配合本项目调查。调查机关明确表明，调查机关不会接受仅援引网站作为的证据，调查机关无法获知网站的地址，无法验证网站发布信息的准确性和时效性。由于印度政府没有配合本项目调查，调查机关无法得知该项目的实施条件、期限和授权金额，也无法得知该项目在调查期是否终止。即便项目可能终止，也无法得知在调查期公司是否有权继续申请该项目并获得利益。此外，为调查该补贴项目，调查机关在原始问卷中强调，请公司对该项目进行简要描述、包括项目的内容、形式等，并请提供该项目的相关法律、法规、规章全文。这些信息能够帮助调查机关准确了解项目内容并及时准确作出裁定，公司也没有按照要求进行说明并提供相关法律文件。据此，调查机关决定根据可获得的事实作出裁决符合《中华人民共和国反补贴条例》相关规定。在终裁中，调查机关决定不接受印度政府和阿迪公司的主张，维持初裁认定。

4. “FMS” 重点市场项目（Focus Market Scheme）

申请人主张，根据印度商务部的《2009 年-2014 年外贸政策法案》第 3.14 节，印度政府将 100 多个国家定为“重点市场”，企业向这些市场出口可以获得相当于其 FOB 出口额

3%—4%的“关税免税凭证”，用以抵免进口商品时应缴纳的关税。出口企业可以转让其“关税免税凭证”。申请人主张印度政府上述激励项目构成了《反补贴条例》第三条项下的补贴，并使邻氯对硝基苯胺生产和出口企业获得利益。

财政资助认定

印度政府没有配合本项目调查，对于该补贴项目财政资助的认定，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。

本案申请书和 Aarti 公司答卷显示，印度政府《2009 年-2014 年外贸政策法案》规定，对向符合规定的国家或地区出口产品，出口商可以获得 FOB 金额一定比例关税减免凭证。根据《反补贴条例》第三条的规定，出口国（地区）政府放弃或者不收缴应收收入是财政资助的一种方式。调查机关初步认定，印度政府在该项目下的税收减免，符合上述规定，应认定为财政资助。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。

专向性认定

印度政府没有配合本项目调查，对于该补贴项目专向性的认定，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。

现有证据表明，企业获得关税减免凭证的前提是企业向符合规定的国家或地区出口产品。该补贴项目与出口实绩直

接相关。根据《反补贴条例》第四条的规定，以出口实绩为条件获得的补贴，具有专向性。调查机关初步认定，印度政府在该项目下提供的补贴符合上述规定，属于出口补贴，具有专向性。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。

补贴利益确定

阿迪公司答卷称，该项目到 2015 年 3 月已经终止，可申请该项目的最后期限是终止后的两年。公司在调查期前 9 年获得关税减免凭证，但在调查期未获得该项目下的利益。

调查机关调查发现：

其一，公司主张该项目在 2015 年 3 月已经终止。由于印度政府没有配合本项目调查，公司对其主张未提交证据材料，调查机关无法获得该项目的具体内容和实施要件。公司答卷显示即便项目在 2015 年 3 月终止，公司也可以在终止后的两年申请该项目。因此，在初裁中，调查机关不接受公司主张。

其二，公司主张在调查期内未获得该项目下的利益额。公司称该项目利益在公司财务系统和财务报告中不需要记录，公司在获得时在会计系统之外记录信息。公司提交了公司记录的获得的项目列表，提供了一份申请和审批文件的样本。由于印度政府没有配合本项目调查，调查机关无法获得政府所保存应诉公司申请文件、政府批复文件和公司实际减

免金额方面的数据，也无法从授予利益的主体即政府方面对公司提交的项目列表及其数额进行印证。从公司提交的表面证据上看，调查机关无法确认项目的金额和时间。据此，调查机关认定，公司对其主张未提供足够的证据证明。

综上，印度政府没有配合本项目调查，公司对其主张也未提供足够的证据证明。根据《反补贴条例》第二十一条的规定，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。现有证据表明，公司出口有权获得该项目关税减免凭证，印度政府对该项目提供的资助是持续性的，利益获得也是可以预见的。由于公司按照 FOB 出口额的 4% 获得过关税减免凭证，调查机关据此计算了被调查产品该项目从价补贴率为 3.76%。

初裁后，印度政府提交评论意见认为，从印度政府的网站可以明显看出，印度政府从 2015 年 4 月 1 日撤销了该项目，不能据此实施反补贴措施。阿迪公司提交评论认为，根据《2009 年-2014 年对外贸易法》，该项目已经终止，且该项目下关税免税凭证是按照 FOB 出口额的 3% 给予的。此外，FPS，FMS 和 MLFPS 不能同时申请。调查机关审查认为：如前所述，印度政府没有配合本项目调查。调查机关明确表明，调查机关不会接受仅援引网站作为的证据，调查机关无法获知网站的地址，无法验证网站发布信息的准确性和时效性。此外，由于印度政府没有配合本项目调查，调查机关无

法得知该项目的实施条件、期限和授权金额，也无法得知该项目在调查期是否终止。即便项目可能终止，也无法得知在调查期公司是否有权继续申请该项目并获得利益。由于印度政府没有配合本项目调查，调查机关也无法从授予利益的主体即政府方面对公司提交的项目列表及其数额进行印证。从公司提交的表面证据上看，调查机关无法确认项目的金额和时间，也无法印证在补贴调查期的相关情况。关于 FPS, FMS 和 MLFPS 之间的关系，由于印度政府没有配合调查，调查机关无法得知这些项目的具体实施情况，公司在原始答卷中也未提供足够证据材料，调查机关在初裁中已经合理考虑可获得的最佳信息，未对相关项目累加适用。综上，调查机关决定根据可获得的事实作出裁决符合《中华人民共和国反补贴条例》相关规定。在终裁中，调查机关决定不接受印度政府和阿迪公司的主张，维持初裁认定。

5. “MEIS” 印度出口商品项目（Merchandise Exports from India Scheme）

申请人主张，依据是印度商务部《2015 年-2020 年外贸政策法案》第 3.03-3.06 节，出口企业可以获得相当于其 FOB 出口额 2%—5% 的“关税免税凭证”，用于抵免进口产品的关税、消费税和服务税。出口企业可自由转让其“关税免税凭证”。申请人主张印度政府上述激励项目构成了《反补贴条例》第三条项下的补贴，并使邻氯对硝基苯胺生产和出口企

业获得利益。

财政资助认定

由于印度政府没有配合本项目调查，对于该补贴项目财政资助的认定，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。

现有证据表明，该项目是印度政府在《2015 年-2020 年外贸政策法案》规定的，向符合规定的国家或地区出口符合条件的产品，出口商可以获得 FOB 金额一定比例关税免税凭证奖励。根据《反补贴条例》第三条的规定，出口国（地区）政府放弃或者不收缴应收收入是财政资助的一种方式。调查机关初步认定，印度政府在该项目下的税收减免，符合上述规定，应认定为财政资助。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。

专向性认定

由于印度政府没有配合本项目调查，对于该补贴项目专向性的认定，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。

现有证据表明，企业获得关税免税凭证奖励的前提是企业向符合规定的国家或地区出口符合规定的产品。该补贴项目与出口实绩直接相关。根据《反补贴条例》第四条的规定，以出口实绩为条件获得的补贴，具有专向性。调查机关初步

认定，印度政府在该项目下提供的补贴符合上述规定，属于出口补贴，具有专向性。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。

补贴利益确定

公司主张该项目是持续性资助，利益获得可以预见，因此该项目是重复性补贴。公司提供了调查期在本项目下获益的金额，并认为获益产品众多，无法区分具体产品。

调查机关调查发现，

其一，由于印度政府没有配合本项目调查，调查机关无法获得该项目的具体内容和实施条件，也无法获得政府所保存应诉公司申请文件、政府批复文件和公司实际减免金额、用途等方面的信息。

其二，调查机关要求公司提交其获得的关税免税奖励的具体用途，对公司生产经营的影响等信息。公司没有提供。此外，虽然公司在证据材料中提交了公司在 2015 年至 2017 年获得关税免税凭证奖励的列表及申请样本，由于印度政府没有配合本项目调查，调查机关无法从授予利益的主体即政府方面对上述列表和数额进行印证。调查机关还发现，公司提交的证据本身存在不一致地方，调查机关无法确认项目金额。

综上，调查机关认定，印度政府和公司均未按照要求提

供足够的信息，根据《反补贴条例》第二十一条规定，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。现有证据表明，印度法律规定出口企业最高可以获得相当于其 FOB 出口额 5% 的“关税免税凭证”。在初裁中，调查机关据此计算了被调查产品该项目从价补贴率为 4.70%。

初裁后，印度政府提交评论意见认为，在该项目下，只有在相关政策中所列的国家/地区，才可以实现减税。在该项目下，出口到中国产品的税率是 2%。在 POI 期间，MEIS 税率可以在网站上或附录表中获得。该项目目标是抵消基础设施效率低下和印度生产、制造和出口的费用，并请求调查机关不应把该项目作为补贴。即便作为补贴，其补贴率也不能超过 2%。此外，调查机关初裁中分别对待 FPS, FMS 和 MEIS，会造成补贴保证金的增高，希望调查机关重新审视所采用的方法。阿迪公司提交评论认为，自 2015 年 4 月 1 日起，MEIS 项目替代了 FPS, MLFPS 和 FMS，调查机关不应对已经替代的项目计算补贴率。调查机关审查认为：其一，如前所述，印度政府没有配合本项目调查，公司对其主张也未提供足够的证据证明。调查机关明确表明，调查机关不会接受仅援引网站作为的证据，调查机关无法获知网站的地址，无法验证网站发布信息的准确性和时效性。印度政府在评论意见提供的表格，调查机关无法审核该表的来源、法律效力、实施期限、实施条件、实施程序、实施对象等相关信息，也无法获

取阿迪工业有限公司申请金额、批准金额等。关于分别对待 FPS, FMS 和 MEIS 事宜, 如前所述, 由于印度政府没有配合本项目调查, 调查机关无法得知这些项目的实施条件、期限和授权金额, 也无法得知这些项目在调查期内是否终止。即便这些项目可能终止, 也无法得知在调查期公司是否有权继续申请这些项目并获得利益。据此, 调查机关决定, 在终裁中维持初裁认定。

6. 《所得税法》第 32AC 条投资项目税收减免

申请人主张, 印度《所得税法案》(Income Tax Act, 1961) 第 32AC 章规定, 从事制造业企业如果在 2013 年 4 月至 2017 年 3 月期间投资于厂房或设备, 可以获得相当于投资额 15% 的所得税减免。企业获得此项补贴必须满足以下条件之一:

1) 在 2013 年 4 月至 2015 年 3 月期间, 对厂房或设备的投资额超过 10 亿印度卢比; 2) 在 2014 年 4 月至 2017 年 3 月期间, 对厂房或设备的投资额超过 2.5 亿印度卢比。申请人主张印度政府上述激励项目构成了《反补贴条例》第三条项下的补贴, 并使邻氯对硝基苯胺生产和出口企业获得利益。

财政资助认定

由于印度政府没有配合本项目调查, 对于该补贴项目财政资助的认定, 调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。

现有证据表明, 印度政府在《所得税法案》第 32AC 节

规定，满足条件制造企业可以按照投资额 15% 获得税收减免。根据《反补贴条例》第三条的规定，出口国（地区）政府放弃或者不收缴应收收入是财政资助的一种方式。调查机关初步认定，印度政府在该项目下的税收减免，符合上述规定，应认定为财政资助。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。

专向性认定

由于印度政府没有配合本项目调查，对于该补贴项目专向性的认定，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。

现有证据表明，根据法律规定，企业获得投资税收减免需要满足一定条件，即在 2013-2014 财年和 2014-2015 财年投资安装新厂房或设备的实际成本超过 10 亿印度卢比。2015-2016 财年和 2016-2017 财年投资安装新厂房或设备的实际成本超过 2.5 亿印度卢比。根据上述条件，印度政府通过立法形式将补贴明确限于某些企业，根据《反补贴条例》第四条的规定，由出口国（地区）法律、法规明确规定某些企业获得的补贴具有专向性。调查机关初步认定，印度政府在该项目下提供的补贴符合上述规定，具有专向性。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。

补贴利益确定

公司主张在调查期内申报了税收减免的金额，但申报该项目的工厂不生产被调查产品，因此被调查产品未获益。此外，公司认为其减免申请需要获得所得税管理局的批准，调查期申报的减免金额尚未得到所得税管理局的批准。

调查机关调查发现：

其一，印度政府没有配合本项目调查，调查机关无法获得该项目的具体内容和实施条件，也无法获得政府所保存应诉公司申请文件、政府批复文件和公司实际减免金额、用途等方面的信息。

其二，公司主张申报该项目的工厂不生产被调查产品，但未提供任何证明文件。公司提交的纳税申报表的样本显示公司税收减免申请是以公司整体营业收入为基础的，公司税收减免使公司整体获益，理应包括被调查产品的生产和销售。

其三，公司主张其减免申请尚未得到所得税管理局的批准，但公司未提供任何证明材料。由于印度政府未配合本项目调查，调查机关无法获取相关信息。现有证据表明，印度法律明确规定在满足一定条件的情况下，某些企业有权获得税收减免，公司满足了该税收减免的条件，公司在调查期也申报该税收减免，因此调查机关认为公司调查期获得了利益。

综上，在初裁中，调查机关以公司报告的调查期申报的税收减免金额与其同期销售收入为基础，计算了被调查产品

该项目从价补贴率为 0.47%。初裁后，没有相关利害关系方对此提出评论意见，调查机关决定，在终裁中维持初裁认定。

7. 经济特区（SEZ）内企业进口货物关税免除

申请人主张，印度《2005 经济特区法案》（Special Economic Zones Act 2005）规定，特区内企业进口所有货物免征关税，但获得补贴的前提条件是必须在设立 5 年内实现累计“净创汇”。根据印度商务部《2006 年经济特区条例》规定，“资本货物”的范围无所不包，涵盖了开发区内用于生产、服务、开发、建设、测试、研发、环保等诸多方面的物资。申请人主张印度政府上述激励项目构成了《反补贴条例》第三条项下的补贴，并使邻氯对硝基苯胺生产和出口企业获得利益。

财政资助认定

由于印度政府没有配合本项目调查，对于该补贴项目财政资助的认定，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。

现有证据表明，该项目是印度《2005 经济特区法案》中所规定的经济特区内企业众多税收优惠政策之一，特区内企业采购货物免征关税。根据《反补贴条例》第三条的规定，出口国（地区）政府放弃或者不收缴应收收入是财政资助的一种方式。调查机关初步认定，印度政府在该项目下的税收减免，符合上述规定，应认定为财政资助。初裁后，没有利

害关系方对此提出评论意见。经进一步调查，调查机关决定在终裁中维持初裁认定。

专向性认定

由于印度政府没有配合本项目调查，对于该补贴项目专向性的认定，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。

现有证据表明，印度《2005 经济特区法案》目标之一是促进货物和劳务的出口，法案明确规定特区企业获得补贴前提条件是必须在设立 5 年内实现累计“净创汇”。印度政府通过立法形式将补贴获得明确限于某些企业，并且与出口业绩挂钩，根据《反补贴条例》第四条的规定，由出口国（地区）法律、法规明确规定某些企业获得的补贴具有专向性。调查机关初步认定，印度政府在该项目下提供的补贴符合上述规定，属于出口补贴，具有专向性。初裁后，没有利害关系方对此提出评论意见。经进一步调查，调查机关决定在终裁中维持初裁认定。

补贴利益确定

公司主张经济特区的工厂不生产被调查产品，因此被调查产品未获益。公司报告了调查期的获益额，但主张从获益角度看，只有进口关税的免除才应当被视为补贴利益，因为只有进口关税才计入所采购货物的成本，而附加税、教育附加、中高等教育附加以及特别附加税属于公司可以抵扣的进

项税，公司采购货物时缴纳的这些税属于公司的资产，在公司销售其产成品时可以从其应缴纳的销项税中抵扣。

调查机关调查发现：

其一，由于印度政府没有配合本项目调查，调查机关无法获得该项目的具体内容和实施条件。也无法获得政府所保存应诉公司申请文件、政府批复文件和公司实际减免金额、用途等方面的信息。

其二，公司主张申报该项目工厂不生产被调查产品，公司提交了获得 SEZ 企业资格的批准文件，由于印度政府没有配合本项目调查，调查机关无法从印度政府印证该批准文件。此外，该批准文件显示制造项目为 ITC（HS）的第 29 章所列产品，调查机关发现被调查产品也属于 ITC（HS）第 29 章所列产品，因此调查机关认定公司未提供足够证据证明其主张。

其三，公司主张附加税、教育附加、中高等教育附加以及特别附加税属于公司可以抵扣的进项税，但未提供任何证明文件，印度政府也没有配合本项目调查，因此调查机关无法得知上述附加税是否可以抵扣，如何抵扣，公司是否实现抵扣等。现有证据显示，上述附加税免除是印度政府的税收激励措施之一，并且与出口业绩挂钩。因此调查机关不接受公司主张。

综上，在初裁中，调查机关以公司报告调查期出口销售

收入和公司申报的税收减免金额为基础，计算该项目被调查产品从价补贴率为 0.14%。初裁后，没有利害关系方对此提出评论意见。经进一步调查，调查机关决定在终裁中维持初裁认定。

8. 经济特区（SEZ）内企业的境内采购货物的消费税免除

经济特区（SEZ）内企业的中央销售税（CST）免除

经济特区（SEZ）内企业的服务税免除

经济特区（SEZ）内企业的电力税和附加税（cess）免除

古吉拉特邦免征经济特区（SEZ）内企业的销售和交易应付税款

申请人主张，依据印度《2005 经济特区法案》，经济特区内的企业从印度境内的非经济特区地区采购的所有货物均免征消费税（Excise duty）。印度政府对经济特区内的企业免征中央销售税（Central Sales Tax “CTS”）、服务税（Service Tax）、电力税及其附加税和销售和交易应付税款。特区内企业享受这些补贴前提条件是，必须在设立 5 年内实现累计“净创汇”。申请人主张印度政府上述激励项目构成了《反补贴条例》第三条项下的补贴，并使邻氯对硝基苯胺生产和出口企业获得利益。

财政资助认定

由于印度政府没有配合本项目调查，对于该补贴项目财政资助的认定，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。

现有证据表明，该项目是印度《2005 经济特区法案》和《古吉拉特经济特区法案 2004》中所规定的经济特区内企业众多税收优惠政策。为了向经济特区吸引投资，促进特区货物和劳务的出口，特区内的企业享受各种类型的税收减免。根据《反补贴条例》第三条的规定，出口国（地区）政府放弃或者不收缴应收收入是财政资助的一种方式。调查机关初步认定，印度政府在这些项目下的税收减免，符合上述规定，应认定为财政资助。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。

专向性认定

由于印度政府没有配合本项目调查，对于该补贴项目专向性的认定，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。

现有证据表明，印度《2005 经济特区法案》和《古吉拉特经济特区法案 2004》目标之一是促进货物和劳务的出口。法案明确规定特区企业获得税收减免前提条件是必须在设立 5 年内实现累计“净创汇”。印度政府通过立法形式将补贴获得明确限于某些企业，并且与出口业绩挂钩，根据《反补贴条例》第四条的规定，由出口国（地区）法律、法规明

确规定某些企业获得的补贴具有专向性。调查机关初步认定，印度政府这些税收减免提供的补贴符合上述规定，属于出口补贴，具有专向性。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。

补贴利益确定

公司主张经济特区工厂不生产被调查产品，因此被调查产品未获益。公司报告了调查期的获益额，但主张从获益角度看，只有中央销售税免除才应当被视为补贴利益，因此只有该税免除才计入所采购货物的成本，而其他如消费税、服务税等种类的税收减免属于公司可以抵扣的进项税，公司采购货物缴纳这些税属于公司的资产，在公司销售其产成品时可以从其应缴纳的销项税中抵扣。此外，公司主张在调查期电力税免除申请已经向政府提交，公司尚未收到返还款项，因此公司未获益。

调查机关调查发现：

其一，由于印度政府没有配合本项目调查，调查机关无法获得这些税收项目的具体内容和实施条件，也无法获得政府所保存应诉公司申请文件、政府批复文件和公司实际减免金额、用途等方面的信息。

其二，公司主张经济特区工厂不生产被调查产品。公司提交了政府给予 SEZ 企业的批准文件。由于印度政府没有答卷，调查机关无法从印度政府印证该批准文件。此外，该批

准文件显示制造项目为 ITC（HS）的第 29 章所列产品，被调查产品也属于 ITC（HS）第 29 章所列产品。因此公司未提供足够的证据证明其主张。

其三，公司主张除中央销售税外其他税收减免属于公司可以抵扣的进项税，但未提供任何证明文件。印度政府也没有配合本项目调查，调查机关无法得知上述附加税是否可以抵扣，如何抵扣，公司是否实现抵扣等。根据印度法律规定，位于特区的企业免除增值税、中央销售税、服务税、免除邦销售税及其它邦政府的税赋。上述税的免除是印度政府的税收激励措施之一，给予特区内的企业，并且与出口业绩挂钩。因此，调查机关有理由推定，相对于特区外的企业，特区内的企业获得这些税收减免使之获得了市场竞争优势。因此，调查机关不接受公司主张。

其四，关于公司电力税和附加税免除的主张。由于政府未提供答卷，调查机关无法印证公司的主张。现有证据显示，公司于 2017 年 8 月进行商业化生产，具有获得该税收减免的资格且公司已经提起了申请，公司对因调查期经营活动而获得的税收减免具有稳定的获益预期，这种稳定的预期会影响到公司的生产和经营。据此，调查机关认为，公司在 2016 年 8 月和 9 月获得了利益。

综上，在初裁中，调查机关以公司报告调查期出口销售收入和公司申报的税收减免金额为基础，计算该项目被调查

产品从价补贴率为 0.74%。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。

9. 关税退税（Duty drawback）

公司在原始答卷中报告公司在调查期获得出口退税收入，并报告了出口退税的金额。调查机关认为对一出口产品免征其同类产品供国内消费时所负担的关税或国内税，或免除此类关税或国内税的数量不超过增加的数量，不是一种可诉性补贴。但如果免除税额超过对出口产品生产过程中所耗用的物料或服务征收的税额，则构成可诉性补贴。调查机关对公司报告的出口退税项目是否构成可诉性补贴进行了调查。

财政资助认定

印度政府补充答卷称，关税退税项目是对出口产品生产过程中使用的进口应税材料和进口服务征收的关税进行退还。该项目抵消的税收为关税、国税和与进口服务有关的服务税等。调查机关要求印度政府和阿迪公司提供公司调查期向印度政府申请退税的所有证据材料，包括采购物料或服务的数量和价值、缴纳的税收金额、政府退税的金额、物料生产使用的数量和价值、所生产产品的种类、数量和价值以及作为废物处理、再利用和副产品所耗用投入物的数量和价值。印度政府和阿迪公司均没有回答上述问题。公司报告该退税

返还形式以出口产品 FOB 价值的一定百分比作为退税，直接汇入公司账户。调查期内被调查产品可以获得 FOB 价值的 1.4%（2015 年 10 月 1 日-2015 年 11 月 22 日）或 1.9%（2015 年 11 月 23 日-2016 年 9 月 30 日）的退税。

调查认为，印度政府并不是按照生产出口产品实际投入物或服务所负担的税收进行返还，而是根据产品出口 FOB 价值的一定比例设定退税金额，这实际上是一种出口补贴行为。根据《反补贴条例》第三条的规定，出口国（地区）政府放弃或者不收缴应收收入是财政资助的一种方式。调查机关初步认定，印度政府在该项目下的税收减免，符合上述规定，应认定为财政资助。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。

专向性认定

如前所述，印度政府并不是按照生产出口产品实际投入物或服务所负担的税收进行返还，而是根据产品出口 FOB 价值的一定比例设定退税金额，这实际上与出口业绩挂钩，是一种出口补贴行为。根据《反补贴条例》第四条的规定，由出口国（地区）法律、法规明确规定某些企业获得的补贴具有专向性。调查机关初步认定，印度政府这些税收减免提供的补贴符合上述规定，属于出口补贴，具有专向性。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查

机关决定在终裁中维持初裁认定。

补贴利益确定

公司报告该退税返还形式以出口产品 FOB 价值的一定百分比作为退税，直接汇入公司账户。调查期内被调查产品可以获得 FOB 价值的 1.4%（2015 年 10 月 1 日-2015 年 11 月 22 日）或 1.9%（2015 年 11 月 23 日-2016 年 9 月 30 日）作为退税。在初裁中，调查机关据此计算了该项目被调查产品从价补贴率为 1.55%。

初裁后，公司提交评论认为，出口退税都是以出口额百分比计算，对进项税的抵扣或退还，不是补贴。调查机关认为对一出口产品免征其同类产品供国内消费时所负担的关税或国内税，或免除此类关税或国内税的数量不超过增加的数量，不是一种可诉性补贴。但如果免除税额超过对出口产品生产过程中所耗用的物料或服务征收的税额，则构成可诉性补贴。调查机关要求印度政府和阿迪公司提供公司调查期向印度政府申请退税的所有证据材料，包括采购物料或服务的数量和价值、缴纳的税收金额、政府退税的金额、物料生产使用的数量和价值、所生产产品的种类、数量和价值以及作为废物处理、再利用和副产品所耗用投入物的数量和价值。印度政府和阿迪公司均没有回答上述问题。印度政府并不是按照生产出口产品实际投入物或服务所负担的税收进行返还，而是根据产品出口 FOB 价值的一定比例设定退税金额，

这实际上与出口业绩挂钩，是一种出口补贴行为。据此，在终裁中，调查机关决定不接受公司主张，维持初裁认定。

10. 肥料补贴

公司答卷称，调查期公司因肥料补贴项目获得了补贴利益。该项目是印度政府肥料管理局提供的与肥料（过磷酸钙）有关的补贴，目的是促使生产商以低价向农民销售肥料。调查机关对公司报告的肥料补贴是否构成可诉性补贴进行了调查。

财政资助认定

调查机关向印度政府发放补充问卷，要求政府提供有关肥料补贴项目的情况，并提供相关证明文件。印度政府拒绝回答相关问题。根据《反补贴条例》第二十一条的规定，调查机关决定根据可获得的事实作出裁定。

公司答卷称，为了农业可持续增长和促进营养平衡，向农民提供其可承受价格的肥料，印度政府对尿素和一些含磷含钾肥料的销售价格进行管制。肥料产品的法定销售价格或指示性最高零售价格一般低于生产企业生产成本。为此，印度政府对生产企业的生产成本和肥料销售价格或最高零售价格之间的差异进行补贴。根据《反补贴条例》第三条的规定，出口国（地区）政府以拨款等形式直接提供资金是财政资助的一种方式。调查机关初步认定，印度政府在该项目下提供资金支持，符合上述规定，应认定为财政资助。初裁后，

无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。

专向性认定

由于印度政府没有配合本项目调查，对于该补贴项目专向性的认定，调查机关决定根据已获得的事实和可获得的最佳信息作出裁定。

现有证据表明，印度政府为保证生产商以低价向农民销售肥料，为肥料生产企业提供补贴。根据《反补贴条例》第四条的规定，由出口国（地区）法律、法规明确规定某些企业获得的补贴具有专向性。调查机关初步认定，印度政府为肥料生产企业提供补贴符合上述规定，具有专向性。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。

补贴利益确定

公司报告了在调查期获得的补贴利益。在初裁中，调查机关根据公司报告的补贴利益和公司销售收入计算了被调查产品该项目从价补贴率为 0.73%。初裁后，无利害关系方对此提出评论意见，经进一步调查，调查机关决定在终裁中维持初裁认定。

11. 政府提供优惠贷款项目

公司答卷报告，公司在调查期内从印度国家银行和印度工业发展银行两家国有银行获得贷款。本案申请人于 2017

年9月11日提交《对印度政府和Aarti公司反补贴问卷及补充问卷答卷的评论意见》，指控该项目为可诉性补贴并使相关企业获得了利益。调查机关认为，如果在被调查国家存在由政府或任何公共机构提供资金直接转移，该行为可构成可诉性补贴，调查机关据此进行了调查。

公共机构与财政资助认定

就公司从国有商业银行获得贷款事宜，调查机关向印度政府发放补充问卷，要求其详细说明上述两家国有商业银行情况，包括股权结构、资金来源、公司章程、年度审计报告等，提供国有商业银行对应诉企业贷款的相关情况，包括贷款申请、贷款评估、贷款审批、利率确定和执行相关政策等信息。印度政府在补充问卷没有全面回答上述问题，仅主张国有商业银行贷款决定依据商业原则做出，不受政府影响。在实地核查中，印度政府就本项目提供了一些解释，但未按照调查机关要求提交完整的相关证据材料。根据《中华人民共和国反补贴条例》第二十一条的规定，调查机关根据可获得的事实作出裁定。

调查机关调查发现：第一，为了促进印度制造业和化工产业发展，印度政府制定了包括优惠贷款在内的多项产业发展政策。在实地核查中，调查机关要求印度政府提供《国家化工产业政策》等政策文件及现行有效的9个化工产业法律文件，但印度政府没有提供。现有证据显示，在印度政府制

定的 2014 年化工产业政策（草案）中，提出通过政策扶持增强印度化学工业的全球竞争力，在 10 年内将化学工业占 GDP 的比例从 2% 提升至 6%。为此，通过贴息或低息贷款鼓励在环保、职业健康和安全方面符合规定的企业。此外，调查机关还发现该政策文件是对现行有效相关化工法律政策和措施的汇总，以实现“单一窗口”的目的。印度工商联合会在 2015 年发布的《印度化学工业-挑战与机遇》第五点介绍了促进化学工业品发展的政策，其中包括贷款利率优惠。

第二，印度国家银行和印度工业发展银行为政府所有，受政府控制，履行政府职能。现有证据表明，印度国家银行（SBI）为议会根据《1955 年印度国家银行法案》设立，政府在银行股权中占比超过 60%。该法案第 5 章规定，印度国家银行的董事会依据中央的政策指令履行职能，所有指令由中央政府作出，中央政府决定具有终局性；董事会成员由中央政府指派或提名。此外，印度国家银行是印度储备银行的代理人，履行中央银行的职能，其中包括促进优先部门发展的职能。印度工业发展银行的章程规定，由中央政府任命银行的董事长和常务董事/总经理，由中央政府提名 6 名董事，其中 2 名必须是政府官员。印度政府在印度工业发展银行股权中占比超过 70%。此外，印度工业发展银行章程备忘录规定，该机构设立的主要目的之一是通过提供贷款的方式促进和发展产业，为产业提供融资，协助产业发展。根据企业答

卷显示，上述两个银行提供贷款与商业银行贷款利率相比较低。因此，调查机关有理由推定，上述两个国有银行为政府所控制，履行政府职能，执行政府相关产业政策，为化工产业提供优惠贷款支持。据此，调查机关将这两个国有商业银行认定为公共机构。

根据《反补贴条例》第三条的规定，出口国（地区）政府（包括公共机构）以拨款、贷款等形式提供资金，或提供一般基础设施以外的货物、服务是财政资助的方式。调查机关认定，印度政府在该项目下提供的贷款，符合上述规定，应认定为财政资助。

专向性认定

印度政府没有配合本项目调查，对于该补贴项目专向性的认定，调查机关决定根据已获得的事实作出裁定。

如前所述，印度国家银行和印度工业发展银行为政府所有，受政府控制，履行政府职能。印度政府为促进制造业和化工产业发展，制定了包括了优惠贷款在内的各项优惠政策和措施。本案被调查产品和应诉企业隶属化工产业，是上述政策支持对象。调查机关要求印度政府分行业提供贷款金额和所适用的利率，要求印度政府提供涉案公司贷款申请、审批等文件，印度政府也没有提供。调查机关在实地核查中发现，印度国家银行向化学制品行业发放的贷款在所有行业中排名居前十位。而印度工业发展银行在贷款发放时，也要遵

守相关政府部门制定的促进优先部门发展义务的规定，其向化学品及化学产品行业发放贷款在所有行业中排名居前三位。根据《反补贴条例》第四条的规定，调查机关认定，印度政府为化工企业提供优惠贷款具有专向性。

补贴利益确定

调查机关根据公司报告的支付给国有商业银行的贷款金额与公司支付的可实际从市场上获得的可比商业贷款金额的差额计算该公司在本项目下获得的利益，并根据公司总销售收入计算了被调查产品从价补贴率为 0.12%。

12. 政府低于充分对价提供水和电

公司答卷报告，公司在调查期从政府所有企业购买了水和电。本案申请人于 2017 年 9 月 11 日提交《对印度政府和 Aarti 公司反补贴问卷及补充问卷答卷的评论意见》，指控该项目为可诉性补贴并使相关企业获得了利益。调查机关认为，如果在被调查国家存在由政府或任何公共机构提供除一般基础设施外的货物或服务，该行为可能构成可诉性补贴，调查机关据此进行了调查。

公共机构与财政资助认定

就 Aarti 公司从政府所有企业购买水和电事宜，调查机关向印度政府发放补充问卷，要求其提供水电行业有关情况，水价与电价的形成机制，审批与监管信息，购买水电的行业清单，各行业购买水电的总数量和金额等具体问题，还要求

其回答“原产料供应商附件”，同时也向应诉企业发放了补充问卷。企业填答了购买水电的有关信息，并表示已向印度政府完整的水电供应商名单。但印度政府的答卷内容十分有限，仅提供了一些整体性介绍，并表示水电由各州监管并制定政策。调查机关又向印度政府再次发放补充问卷，询问相关国有企业章程、注资报告、注册信息、股权结构、股东信息，高管人员、董事会成员的任命，董事会决议方式，投资、生产和市场拓展的决定过程和方式，资金和投资决定过程和方式，公司是否承担代表政府提供公共服务义务和执行相关政策等。印度政府没有回答上述问题。在实地核查中，印度政府就本项目提供了一些解释，但未按照调查机关要求提交完整的相关证据材料。根据《中华人民共和国反补贴条例》第二十一条的规定，调查机关根据可获得的事实作出裁定。

调查机关调查发现：第一，为了促进印度制造业和化工产业发展，印度政府制定了包括水、电补贴各类产业发展政策，如在印度政府制定的 2014 年化工产业政策（草案）中，提出通过政策扶持增强印度化学工业的全球竞争力。印度工商联合会在 2015 年 12 月发布的《印度化学工业-挑战与机遇》第五点介绍了促进化学工业品发展的政策，其中包括电力价格优惠等。马哈拉施特拉邦工业发展公司在《马哈拉施特拉邦化工产业》中总结化工企业享受的各种补贴，其中包括电力税免除、水和能源补贴。在 2016 年 12 月以前，马哈

拉施特拉邦工业发展公司向其园区内企业出口工业用水价格大幅低于区外工业用水价格。根据古吉拉特邦工业和矿产部公布的《古吉拉特邦工业政策 2015-工业园财政支持项目》，工业园区必须以优惠率提供水、电等基础设施。本案应诉企业隶属化工产业，是上述印度政府政策支持的对象。

第二，现有证据显示，为应诉公司提供水、电的国有企业为政府所有，受政府控制，履行政府职能。如古吉拉特邦工业发展公司是古吉拉特邦的政府事业部门，其职能是提供水、电等基础设施。马哈拉施特拉邦工业发展公司为马哈拉施特拉邦政府所有，作为政府的代理机构履行邦工业发展法案和规章框架内的职能，要遵守邦政府的指令。马哈拉施特拉邦配电公司为马哈拉施特拉邦所有的政府事业，是该邦最大的配电公司。现有证据显示，其电价比马邦其他 3 家私营电力公司的电价低。在古吉拉特邦，政府所有的 7 家公司控制了邦内的 85%以上的供电。因此，调查机关有理由推定，上述为国有供电、供水企业为政府所控制，执行政府相关产业政策，为化工产业提供支持。据此，调查机关将上述印度国有供电、供水企业认定为公共机构。

根据《反补贴条例》第三条的规定，出口国（地区）政府（包括公共机构）以拨款、贷款等形式提供资金，或提供一般基础设施以外的货物、服务是财政资助的方式。调查机关认定，印度政府在该项目下提供的补贴，符合上述规定，

应认定为财政资助。

专向性认定

如前所述，印度政府没有配合本项目调查，对于该补贴项目专向性的认定，调查机关决定根据已获得的事实作出裁定。

如前所述，印度政府为促进制造业和化工产业发展，制定了包括了低价提供水、电在内的各项优惠政策和措施，本案被调查产品和应诉企业隶属化工产业，是上述政策支持对象。调查机关要求印度政府分行业提供水和电的用量和价格，印度政府也没有提供。在核查中，调查机关发现马哈拉施特拉邦工业发展公司对工业区内和工业区外采取不同的水价。根据《反补贴条例》第四条的规定，调查机关认定，印度政府为化工企业低于充分对价提供水和电具有专向性。

补贴利益确定

根据可获得的事实，调查机关以公司答卷中报告的支付给国有企业的用电价格与调查机关确定的在市场上支付的可比商业价格的差额计算该公司获得的利益；以公司答卷中报告支付的用电价格与马哈拉施特拉邦工业发展公司提供给工业区外水价差额计算应诉公司获得的收益，并根据公司总销售收入计算了本项目下被调查产品的从价补贴率为0.71%。

13. 其他补贴项目

对于立案公告的其他补贴项目，调查机关本案暂不予以认定。项目如下：

经济特区内企业的出口收入所得税减免

经济特区内企业的不动产交易印花税免除

经济特区内企业的最低替代税免除

出口导向企业进口货物的关税免除

出口导向企业境内采购货物的中央消费税免除

出口导向企业境内采购货物的中央销售税返还

市场进入项目和市场拓展支持项目

出口信贷利息补贴

免征经济特区内企业进行土地交易、贷款、授信和按揭的印花税和登记费

古吉拉特邦奖励投资企业的利息补贴

古吉拉特邦奖励投资企业的增值税返还

古吉拉特邦中小微企业的投资赠款

古吉拉特邦中小微企业的利息补贴

古吉拉特邦对拥有“创新技术”的中小微企业注入资本或提供贷款

古吉拉特邦队中小微企业的质量认证补贴

古吉拉特邦中小微企业的技术引进费用补贴

古吉拉特邦中小微企业的专利申请费用补贴

古吉拉特邦中小微企业的节能节水费用补贴

古吉拉特邦中小企业投资平台费用补贴

古吉拉特邦中小微企业国际展览费用补贴

古吉拉特邦对私营企业投资工业园区内核心基础设施的补贴

马哈拉施特拉邦奖励投资企业的增值税和中央销售税返还

马哈拉施特拉邦奖励投资企业的印花税免除

马哈拉施特拉邦奖励投资企业的电力税免除

马哈拉施特拉邦奖励投资企业的利息补贴

马哈拉施特拉邦奖励投资企业的电价补贴

马哈拉施特拉邦奖励投资企业的节水节能费用补贴

马哈拉施特拉邦其它奖励投资企业的补贴政策

马哈拉施特拉邦对大型和超大型项目的特别补贴政策

其他印度公司

2017 年 2 月 13 日，调查机关发布公告决定对原产于印度的邻氯对硝基苯胺发起反补贴调查。当日，调查机关通知了印度驻华使馆和申请书列明的印度生产商，同日，调查机关将立案公告登载在商务部网站上，任何利害关系方均可在商务部网站上查阅本案立案公告。立案后，调查机关给予各利害关系方 20 天的登记应诉期，给予所有利害关系方合理的时间获知立案有关情况。此后，调查机关将调查问卷登载

在商务部网站上，任何利害关系方可在商务部网站上查阅并下载本案调查问卷。调查机关尽最大能力通知了所有利害关系方，也尽最大能力向所有利害关系方提醒了不配合调查的后果。

现有信息表明，除本案应诉企业外，印度还有多家被调查产品生产企业未登记参加并配合本次反补贴调查。在初裁中，对于调查机关已尽通知义务但没有提供必要信息配合调查的公司，调查机关根据《反补贴条例》第二十一条的规定，在可获得事实的基础上裁定其补贴率。调查机关比较分析在调查中可获得的信息，初步认为应诉公司的信息和申请人提出的信息可以较为合理反映印度政府对被调查产品的补贴情况，因此，调查机关在初裁中根据上述信息确定其他印度公司的补贴率。

初裁后，印度政府提交评论认为，为其他生产商确定的税率不合理，没有正当理由，调查机关没有提供补贴税率计算依据。调查机关审查认为，如前所述，调查机关已经尽到通知义务，详尽列明了印度其他生产商或出口商提供信息的内容，以及告知未提供信息或未在合理时间内提供信息的结果，即调查机关有权以可获得的事实为基础做出裁定，包括使用国内产业提起申请中包含的信息。现有信息也表明，除本案应诉企业外，印度还有多家被调查产品生产企业未登记参加并配合本次反补贴调查。据此，调查机关认为，阿迪工

业有限公司获得补贴的信息以及申请人指控的补贴项目信息可以合理反映印度政府对被调查产品的补贴情况，在终裁中，调查机关决定维持初裁裁定，根据上述信息确定其他印度公司的补贴率，即调查机关认定的阿迪公司获得各补贴项目的补贴率与申请人指控的其他项目补贴率之和计算其他公司的补贴率。调查机关在初裁后披露和终裁前的披露中详细披露了计算方法。

经调查，印度各公司从价补贴率为：

阿迪工业有限公司：

Aarti Industries Limited	21.2%
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其他印度公司：

All others	166.8%
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五、国内同类产品、国内产业

（一）国内同类产品认定。

《反补贴条例》第十二条规定，同类产品是与补贴进口产品相同的产品，或与补贴进口产品特性最相似的产品。

调查机关对被调查产品与国内生产的邻氯对硝基苯胺的物理特征及化学性能、原材料和生产工艺、产品用途、销售渠道和客户群体等因素进行了调查。

1. 物理特征及化学性能。

经初步调查，被调查产品和国内生产的邻氯对硝基苯胺产品分子结构、分子量均完全相同，熔点基本相同。两者均

为黄色粉末，在常温常压下稳定，溶于乙醇、乙醚及苯，微溶于水和强酸，不溶于粗汽油。

因此，调查机关在初裁中认定，被调查产品与国内生产的邻氯对硝基苯胺产品的物理特征及化学性能基本相同。

2. 原材料和生产工艺。

经调查，被调查产品和国内生产的邻氯对硝基苯胺产品所使用的主要原材料均为 3,4-二氯硝基苯和氨水，生产工艺过程均为将 3,4-二氯硝基苯和氨水投入高压釜进行化学反应，再经过分离、洗涤、过滤、烘干等工序，得到成品邻氯对硝基苯胺。

因此，调查机关在初裁中认定，被调查产品与国内生产的邻氯对硝基苯胺所使用的原材料和生产工艺基本相同。

3. 产品用途。

经调查，被调查产品和国内生产的邻氯对硝基苯胺产品均主要用作生产染料产品的中间体，或用作生产医药产品的中间体。

因此，调查机关在初裁中认定，被调查产品与国内生产的邻氯对硝基苯胺产品的用途基本相同。

4. 销售渠道和客户群体。

经调查，被调查产品和国内生产的邻氯对硝基苯胺产品均主要通过直接销售或代理的方式在国内市场进行销售。两者的销售区域和客户群体相互重叠。被调查产品和国内生产

的邻氯对硝基苯胺的销售地域也基本相同，主要销售地域集中在浙江、江苏、安徽等地。二者客户群体存在相同和相互交叉的情况。部分下游用户既购买或使用被调查产品，同时也购买和使用国内生产的邻氯对硝基苯胺。

因此，调查机关在初裁中认定，被调查产品和国内生产的邻氯对硝基苯胺产品销售渠道和客户群体存在相同。

综上，调查机关在初裁中认定，国内生产的邻氯对硝基苯胺产品与被调查产品在物理特征及化学性能、原材料和生产工艺、产品用途、销售渠道和客户群体方面基本相同，具有相似性和替代性，国内生产的邻氯对硝基苯胺产品与被调查产品属于同类产品。初裁后，万丰化工有限公司和德司达贸易有限公司提出国内生产的邻氯对硝基苯胺产品与被调查产品质量不同，但未提交进一步的证据。经进一步调查，调查机关决定在终裁中维持初裁认定。

（二）国内产业认定。

在本案中，苏州市罗森助剂有限公司向调查机关提交了国内生产者答卷。调查机关经调查核实，苏州市罗森助剂有限公司 2013 年、2014 年、2015 年和 2016 年 1-9 月的产量占国内总产量的比例均大于 50%，符合《反补贴条例》第十一条关于国内产业认定的规定。初裁中，调查机关认定，苏州市罗森助剂有限公司作为国内主要生产者可以代表国内产业，其数据可以作为损害和因果关系分析的基础。初裁后，

没有利害关系方对此提交评论意见。经进一步调查，调查机关决定在终裁中维持初裁认定。

六、产业损害及损害程度

调查机关尽最大能力通知了所有利害关系方，也尽最大能力向所有利害关系方提醒了不配合的后果。对于调查机关无法获得的进口数据，在初裁中，调查机关根据《反补贴产业损害调查规定》第三十三条的规定，根据已经获得的事实和可获得的最佳信息的作出裁定。初裁后，没有利害关系方对此提交评论意见。经进一步调查，调查机关决定在终裁中维持初裁认定。

（一）补贴进口产品进口数量。

调查机关对补贴进口产品的绝对数量是否大幅增加进行了调查。

初裁中，调查机关发现，立案公告列举的税则号 29214200 中包括被调查产品及其他产品。调查机关查询该税则号下的海关进口数据，并与中国邻氯对硝基苯胺产品的消费情况进行比较。调查机关发现，整个税则号下的进口数量比较大，除包括被调查产品外，还包括其他产品，且总进口量远高于中国邻氯对硝基苯胺产品的需求量。申请人向调查机关提交了被调查产品的进口数据，数据基础为 29214200 税则号下所有海关数据，通过按产品名称检索筛选，获得逐笔进口的数量和价格数据。在初裁中，调查机关审核了申请

人进口数据的来源和筛选办法，并参考在调查中获得的应诉公司对中国出口数据。调查机关认为，29214200 税则号下的进口数量远高于中国邻氯对硝基苯胺产品的需求量，不能体现进口被调查产品的真实情况。同时，应诉公司仅是中国自印度进口的多家公司中的一家，其出口量与中国自印度总进口量相差较大。在初裁中，调查机关认为，申请人提交的进口数据比较真实地反映了被调查产品的进口情况，是调查中可获得的最佳信息。因此，如无特殊说明，调查机关在评估进口数量和进口价格对国内产业的影响时，均使用国内产业提交的经筛选的中国海关进口数据。初裁后，没有利害关系方对此提交评论意见。经进一步调查，调查机关决定在终裁中维持初裁认定。

申请人提交的数据显示，2013 年至 2015 年，自印度进口的邻氯对硝基苯胺数量分别为 1607 吨、2282 吨、2231 吨，2014 年比 2013 年增长了 42%，2015 年比 2014 年下降了 2.23%，2016 年 1-9 月进口数量为 1918 吨，比上年同期增长了 23.03%。损害调查期内，原产于印度的进口邻氯对硝基苯胺进口数量大幅增加。2013-2015 年累积增加 624 吨，增长 38.83%。

调查机关在初裁中认定，补贴进口产品的绝对数量在损害调查期出现大幅增加。初裁后，没有利害关系方对此提交评论意见。经进一步调查，调查机关决定在终裁中维持初裁

认定。

（二）补贴进口产品对国内同类产品价格的影响。

调查机关就补贴进口产品对国内同类产品价格的影响进行了调查。

第一，调查机关在采用申请人提供的海关价格数据时，考虑各年度平均汇率、海关关税等因素，与国内产业的国内同类产品的加权平均国内出厂销售价格进行比较。调查机关认为上述两类价格贸易水平相当，二者具有可比性。

第二，现有数据显示，2013 年至 2015 年及 2016 年 1-9 月，补贴进口产品人民币价格分别为 17229 元/吨、19199 元/吨、19264 元/吨和 15771 元/吨，2014 年比 2013 年上涨 11.43%，2015 年比 2014 年上涨 0.34%，2016 年 1-9 月比 2015 年同期下降 18.8%。2013 年至 2016 年 1-9 月，国内同类产品价格分别为 13697-16740 元/吨、21130-25825 元/吨、18709-22866 元/吨和 15260-18651 元/吨，2014 年比 2013 年增长 38.64%，2015 年比 2014 年下降 11.12%，2016 年 1-9 月比上年同期下降 12.9%。调查期初的 2013 年至 2016 年 1-9 月，补贴进口产品的价格累积下降 8.46%，国内同类产品价格累积增长 9.31%。

第三，损害调查期，被调查产品进口数量大幅上升。2013 年、2014 年、2015 年、2016 年 1-9 月进口数量分别为 1607 吨、2282 吨、2231 吨、1918 吨。2014 年比 2013 年增长了

42%，2015 年比 2014 年下降了 2.23%，2016 年 1-9 月比上年同期增长了 23.03%。

第四，调查机关对进口价格的变化、国内产业同类产品价格的变化，以及二者的关系进行了考虑。

首先，国内产业主张，随着全球有机中间体及精细化工产业逐渐由欧美等国家和地区向亚洲转移，目前已经形成了以中国和印度为核心的生产和贸易中心，印度和中国成为国际中间体市场上的主要竞争对手。邻氯对硝基苯胺是一个市场容量较小的中间体产品，生产该公司的公司仅为国内产业申请人、阿迪公司等数家公司。考虑到各公司的产能和中国的供需结构，各公司在市场中能够发挥较大的影响力，都是市场竞争中具有主导地位的竞争者。

其二，国内邻氯对硝基苯胺消费市场是一个竞争开放的市场，国内产业同类产品与被调查产品可以替代使用，不同产品在国内市场相互竞争。价格对下游用户的采购选择有重要的影响。调查机关在走访下游时了解到，下游用户的产成品销售价格随市场竞争波动，化工行业产品的市场价格公开透明，整个行业的经营利润率维持在一定水平，下游用户在采购原材料时，关注价格的变化。调查机关考虑到化工产业这种竞争模式，导致下游用户对被调查产品的价格非常敏感。被调查产品在国内的下游用户与国内产业下游用户存在交叉，很多下游用户既购买被调查产品也购买国内产业生产的

产品。调查机关考虑到这种情况下，下游用户对价格的敏感程度会直接决定对采购不同产品的选择。

其三，调查机关注意到，调查期初的 2013 年，被调查产品价格略高于国内同类产品价格 6.3%，同期国内产业同类产品的市场份额为 70%-86%，产能利用率为 69%-84%，国内供需基本维持在平衡状态。自 2014 年开始至调查期末，被调查产品价格均维持在比国产产品低的水平。2014 年、2015 年以及 2016 年 1-9 月，国内产业同类产品价格分别为每吨 21130-25825 元、18709-22866 元、15260-18651 元，同期被调查产品比国内产业同类产品价格每吨低 3.45%-14.44%。相应地，进口数量大幅增加，由 2013 年的 1607 吨增加至 2015 年的 2231 吨，累积增加 624 吨，增长 38.8%。2015 年 1-9 月进口 1559 吨，2016 年 1-9 月进口 1918 吨，同比增加 359 吨，增长 23%。

其四，调查机关考虑到，被调查产品属于需求量有限的中间体产品，国内用户群体和需求基本稳定，化工行业的竞争模式，如价格透明，交易便利、低毛利、进入门槛低等，导致下游用户选购产品时，对价格异常敏感。调查期内，除 2013 年外，2014 年至损害调查期末被调查产品价格比国内产业同类产品价格每吨低 3.45%-14.44%。与化工行业利润率相比，该价差足以影响下游客户的采购选择。调查机关注意到，国内产业的调价报告中指出，用户要求国内产业根据被

调查产品报价降低同类产品的售价。

最后，调查机关注意到，除 2013 年被调查产品的价格略高于国内产业同类产品的价格以外，2014 年、2015 年、2016 年 1-9 月，被调查产品的价格比国内产业同类产品低 3.45%-14.44%。国内产业注意到市场上被调查产品的低价事实，为了维持一定的开工水平，不断调整同类产品的售价，但自 2014 年开始被调查产品的价格均低于国内同类产品，持续对国内产业产品的价格造成影响。相应地，损害调查期内，被调查产品的市场份额也上升了 26 个百分点。

综合以上因素，初裁中，调查机关考虑到，在损害调查期内，仅 2013 年被调查产品价格略高于国内同类产品价格，从 2014 年开始至损害调查期末，被调查产品价格均维持在比国内产业产品价格低的水平。在下游用户相对集中和交叉的情况下，通过下游客户的议价压力，补贴进口产品不断对国内产业同类产品的价格造成影响。国内产业为了保持开工率和市场份额，在下游客户的议价影响下，不断调整同类产品价格，但补贴进口产品的价格在 2014 年至调查期末均维持低于同类产品价格的水平，且在调查期末价格下降明显。调查机关考虑到，在需求和下游用户基本稳定的情况下，国内产业至少可以保持稳定的价格水平，以实现盈亏平衡，但在损害调查期内，国内产业不仅不能盈利，反而长年亏损。调查机关在初裁中认为，补贴进口产品对国内同类产品造成

价格削减和压低。初裁后，没有利害关系方对此提交评论意见。经进一步调查，调查机关决定在终裁中维持初裁认定。

（三）损害调查期内国内产业状况。

根据《反补贴条例》第七条、第八条的规定，调查机关对国内产业的相关经济因素和指标进行了调查（数据见附表），证据显示：

1. 需求量。

损害调查期内，国内邻氯对硝基苯胺需求量总体基本稳定。2013-2015 年，国内邻氯对硝基苯胺的需求量分别为 5159-6306 吨、4768-5827 吨、4742-5796 吨，2016 年 1-9 月为 3262-3987 吨。2014 年比 2013 年下降了 8.23%，2015 年比 2014 年下降了 2.38%，2016 年 1-9 月比上年同期下降了 6.36%。

2. 产能。

损害调查期内，国内产业同类产品产能 2013 年为 5445-6655 吨，2014 年为 5445-6655 吨，2015 年为 5445-6655 吨，2016 年 1-9 月为 5445-6655 吨，始终保持稳定。

3. 产量。

损害调查期内，国内产业同类产品产量逐年下降，2013 年为 4014-4906 吨，2014 年为 3057-3737 吨，2015 年为 2459-3006 吨，2016 年 1-9 月为 1331-1627 吨。2014 年同比下降 19.97%，2015 年同比下降 23.07%，2016 年 1-9 月比上

年同期下降 30.47%。

4. 国内销售量。

损害调查期内，国内产业同类产品销售量 2013 年为 3464-4233 吨，2014 年为 2774-3390 吨，2015 年为 2694-3293 吨，2016 年 1-9 月为 1473-1801 吨。2014 年比上年下降 28.02%，2015 年比上年下降 2.51%，2016 年 1-9 月比上年同期下降 26.19%。

5. 国内产业市场份额。

损害调查期内，国内产业同类产品占国内市场的份额 2013 年为 70%-86%，2014 年为 51%-62%，2015 年为 53%-65%，2016 年 1-9 月为 42%-51%。2014 年比 2013 年下降 15.47 个百分点，2015 年比 2014 年下降 0.08 个百分点，2016 年 1-9 月比上年同期下降 12.63 个百分点。

6. 销售价格。

损害调查期内，国内产业同类产品销售价格 2013 年为 13697-16740 元/吨，2014 年为 21130-25825 元/吨，2015 年为 18709-22866 元/吨，2016 年 1-9 月为 15260-18651 元/吨，2014 年同比增长 38.64%，2015 年同比下降 11.12%，2016 年 1-9 月同比下降 12.90%。

7. 销售收入。

损害调查期内，国内产业同类产品销售收入 2013 年为 5707-6976 万元，2014 年为 6432-7861 万元，2015 年为

5112-6248 万元，2016 年 1-9 月为 2615-3196 万元，2014 年同比下降 0.35%，2015 年同比下降 13.31%，2016 年 1-9 月同比下降 35.67%。

8. 税前利润。

损害调查期内，国内产业同类产品税前利润 2013 年为亏损 44-54 万元，2014 年为亏损 13-16 万元，2015 年为亏损 68-83 万元，2016 年 1-9 月为亏损 601-735 万元。损害调查期内，国内产业同类产品始终处于亏损状态。

9. 投资收益率。

损害调查期内，国内产业同类产品投资收益率始终是负值，2013-2015 年投资收益率均处于-5%至 0%的区间，2016 年 1-9 月进一步恶化，投资收益率处于-20%至-15%的区间。2014 年比 2013 年负值减少 0.67 个百分点，2015 年与 2014 年相比投资收益率恶化，负值增加了 1.59 个百分点，2016 年 1-9 月投资收益率负值比上年同期增加了 18.64 个百分点。

10. 开工率。

损害调查期内，国内产业同类产品开工率不断下降，2013 年开工率为 69%-84%，2014 年开工率为 50%-62%，2015 年开工率为 41%-50%，2016 年 1-9 月开工率为 27-33%。2014 年比 2013 年下降 13.98 个百分点，2015 年比 2014 年下降 12.93 个百分点，2016 年 1-9 月比上年同期下降 13.37 个百分点。

11. 就业人数。

损害调查期内，国内产业同类产品就业人数 2013 年为 59-72 人，2014 年为 47-58 人，2015 年为 52-63 人，2016 年 1-9 月为 43-52 人。2014 年比 2013 年下降 3.33%，2015 年比 2014 年下降 5.17%，2016 年 1-9 月比上年同期下降了 18.18%。

12. 劳动生产率。

损害调查期内，国内产业同类产品劳动生产率 2013 年为 69-84 吨/年/人，2014 年为 47-58 吨/年/人，2015 年为 44-54 吨/年/人，2016 年 1-9 月为 29-36 吨/年/人。2014 年比 2013 年下降 17.21%，2015 年比 2014 年下降 18.87%，2016 年 1-9 月比上年同期下降了 15.02%。

13. 人均工资。

损害调查期内，国内产业同类产品就业人员人均工资 2013 年为 33625-41097 元/年/人，2014 年为 30205-36918 元/年/人，2015 年为 36958-45171 元/年/人，2016 年 1-9 月为 28319-34612 元/年/人。2014 年与 2013 年相比增长 7.60%，2015 年与 2014 年相比增长 6.91%，2016 年 1-9 月比上年同期下降了 0.70%。

14. 期末库存。

损害调查期内，国内产业同类产品期末库存 2013 年为 614-750 吨，2014 年为 862-1053 吨，2015 年为 729-891 吨，2016 年 1-9 月为 427-522 吨。2014 年与 2013 年相比增长

68.28%，2015 年与 2014 年相比下降 26.12%，2016 年 1-9 月比上年同期下降 37.85%。

15. 经营活动现金净流量。

损害调查期内，国内产业同类产品经营活动现金净流量 2013 年-2015 年为净流入，净额分别为 1357-1659 万元、1595-1949 万元、541-661 万元，2014 年流入额同比增长 40.74%，2015 年流入额同比下降 70.37%。2016 年 1-9 月现金流量转为净流出，流出额为 371-453 万元。

16. 投融资能力。

损害调查期内，没有证据显示国内产业同类产品投融资能力受到被调查产品的不利影响。

初裁中，调查机关对补贴进口产品的补贴幅度进行了审查，证据显示补贴进口产品的补贴幅度为 10%以上，不属于微量补贴，足以对国内产业造成不利影响。

证据显示，损害调查期内，国内邻氯对硝基苯胺市场需求量总体维持稳定，2014 年和 2015 年分别比上年下降 8.23%和 2.38%，2016 年 1-9 月比上年同期下降 6.36%。在国内市场需求基本稳定的背景下，补贴进口产品进口数量总体呈增长趋势，2014 年同比增长 42.00%，2015 年小幅回落 2.23%，2016 年 1-9 月同比增长 23.03%。损害调查期内，除 2013 年外，补贴进口产品价格均低于国内产业同类产品的价格。在调查期初的 2013 年，被调查产品价格略高于国内同

类产品价格 6.3%，2014 年至 2016 年 1-9 月，被调查产品价格比国内同类产品价格低 3.45%-14.44%，且至调查期末价格下降明显，2016 年 1-9 月同比下降 18.8%。补贴进口产品价格对国内同类产品造成价格削减和价格压低，补贴进口产品对国内产业生产经营产生了明显影响。

损害调查期内，由于补贴进口产品以补贴价格抢占国内市场，国内同类产品市场份额不断下滑，2014 年和 2015 年分别比上年下降 15.47 和 0.08 个百分点，2016 年 1-9 月比上年同期下降 12.63 个百分点，调查期内累计下降 28.18 个百分点。受此影响，国内同类产品销售量和产量均持续明显下降，2014 年同比分别下降 28.02%和 19.97%，2015 年同比分别下降 2.51%和 23.07%，2016 年 1-9 月同比分别下降 26.19%和 30.47%。国内产业已有产能未能得到充分利用，开工率持续下降，损害调查期内累计下降 40.28 个百分点。受补贴进口产品价格削减的影响，损害调查期中后期国内产业被迫降低销售价格，2015 年比 2014 年降低 11.12%，2016 年 1-9 月比上年同期降低 12.90%。叠加销售量下降的影响，国内产业销售收入在损害调查期内持续下降且降幅不断扩大，2014 年同比下降 0.35%，2015 年同比下降 13.31%，2016 年 1-9 月同比下降 35.67%。损害调查期内，国内产业同类产品始终处于亏损状态，2016 年 1-9 月亏损尤其严重，达到 564-689 万元。损害调查期内，投资收益率也始终为负值，国内产业未

能从投资活动中获得正常合理的投资回报。

受国内销售量下降影响，国内同类产品库存 2014 年大幅增长 68.28%，随着国内产业持续降低产量，损害调查期中后期库存有所减少，2015 年同比下降 26.12%，2016 年 1-9 月同比下降 37.85%。损害调查期内，国内产业现金流量逐渐由净流入状态转为净流出状态。国内产业人均工资 2014 年和 2015 年同比分别增长 7.6%和 6.91%，2016 年 1-9 月小幅下降 0.70%。国内产业劳动生产率逐年下降，2014 年同比下降 17.21%，2015 年同比下降 18.87%，2016 年 1-9 月同比下降 15.02%。国内产业就业人数也呈下降趋势，2014 年同比下降 3.33%，2015 年同比下降 5.17%，2016 年 1-9 月同比下降 18.18%。

初裁中，调查机关综合分析后认定，损害调查期内，国内邻氯对硝基苯胺产业受到了实质损害。初裁后，没有利害关系方对此提交评论意见。经进一步调查，调查机关决定在终裁中维持初裁认定。

七、因果关系

根据《反补贴条例》第二十五条，调查机关审查了原产于印度的邻氯对硝基苯胺补贴进口与国内产业受到实质损害之间是否存在因果关系，同时审查了除补贴进口产品的影响之外，已知的可能对国内产业造成损害的其他因素。

（一）补贴进口产品造成了国内产业的实质损害。

损害调查期内，补贴进口产品数量总体呈增长趋势，2014 年比 2013 年增长 42%；2015 年比 2014 年小幅回落 2.23%，2016 年 1-9 月比上年同期增长 23.03%。同期国内同类产品销售数量持续下降，2014 年比 2013 年下降 28.02%，2015 年比 2014 年下降 2.51%，2016 年 1-9 月比上年同期下降 26.19%。损害调查期内，国内产业市场份额持续下降，2014 年比 2013 年下降 15.47 个百分点，2015 年比 2014 年下降 0.08 个百分点，2016 年 1-9 月比上年同期下降 12.63 个百分点。

由于补贴进口产品与国内同类产品在物理化学特性、原材料、产品用途、销售渠道、客户群体等方面基本相同，二者可以相互替代，存在竞争关系。邻氯对硝基苯胺国内用户群体和需求基本稳定，市场对供应和价格的变化非常敏感。损害调查期内，补贴进口产品数量增长明显，2013-2015 年由 1607 吨增加至 2231 吨，2016 年 1-9 月进口量已达到 1918 吨。除调查期初的 2013 年外，补贴进口产品价格均低于国内同类产品价格。补贴进口产品快速增长的数量和较低的价格对国内市场造成显著影响，导致国内产业市场份额降低，销售量下滑，销售收入减少，并进而导致国内产业产量、开工率和就业人数持续下降。为应对补贴进口产品的低价竞争，损害调查期中后期国内产业被迫持续降低价格，销售收入进一步下降，经营指标持续恶化。在整个损害调查期内国内产业持续亏损，投资收益率始终为负，调查期末国内产业亏损

程度显著扩大，现金净流量呈净流出状况。补贴进口产品对国内产业生产经营产生了不利影响。

调查机关在初裁中认定，补贴进口产品与国内邻氯对硝基苯胺产业受到的实质损害存在因果关系。初裁后，没有利害关系方对此提交评论意见。经进一步调查，调查机关决定在终裁中维持初裁认定。

（二）其他已知因素分析。

调查机关对除补贴进口产品以外的，可能使国内产业受到实质损害的其他已知因素进行了审查。

经初步调查，没有证据表明外国与国内生产者的限制贸易的做法及它们之间的竞争、技术发展、国内产业同类产品出口状况以及不可抗力等因素，与国内邻氯对硝基苯胺产业受到的实质损害之间存在因果关系。

关于来自印度倾销进口产品的影响。2017年2月13日，商务部发布2017年第4号公告，对原产于印度的邻氯对硝基苯胺进行反倾销调查。初裁中，调查机关认为商务部发布反倾销调查的初步裁定，认定来自印度的倾销进口邻氯对硝基苯胺与国内产业受到的实质损害之间存在联系，但也不能否定补贴进口产品与国内产业受到实质损害之间的因果关系。初裁后，没有利害关系方对此提交评论意见。经进一步调查，调查机关决定在终裁中维持初裁认定。

八、调查结论

根据上述调查结果，调查机关裁定，原产于印度的进口邻氯对硝基苯胺存在补贴，国内邻氯对硝基苯胺产业受到了实质损害，且补贴与实质损害之间存在因果关系。

附件：邻氯对硝基苯胺反补贴案数据表

附件

邻氯对硝基苯胺反补贴案数据表

项目/期间	2013 年	2014 年	2015 年	2016 年 1-9 月
全国总产量（吨）	4014-4906	3057-3737	2459-3006	1331-1627
变化率	-	-19.97%	-23.07%	-30.47%
被调查产品进口量（吨）	1607	2282	2231	1918
变化率	-	42.00%	-2.23%	23.03%
被调查产品进口价格（美元/吨）	2,612	2,933	2,904	2,252
变化率	-	12.29%	-0.99%	-23.76%
需求量（吨）	5159-6306	4768-5827	4742-5796	3262-3987
变化率	-	-8.23%	-2.38%	-6.36%
产能（吨）	5445-6655	5483-6702	5587-6828	4055-4956
变化率	-	0.00%	0.00%	0.00%
产量（吨）	4014-4906	3057-3737	2459-3006	1331-1627
变化率	-	-19.97%	-23.07%	-30.47%
开工率	69%-84%	50%-62%	41%-50%	27-33%
变化率（百分点）	-	-13.98	-12.93	-13.37
国内销量（吨）	3464-4233	2774-3390	2694-3293	1473-1801
变化率	-	-28.02%	-2.51%	-26.19%
国内市场份额	70%-86%	51%-62%	53%-65%	42%-51%
变化率（百分点）	-	-15.47	-0.08	-12.63
国内销售收入（万元）	5707-6976	6432-7861	5112-6248	2615-3196
变化率	-	-0.35%	-13.31%	-35.67%
国内销售价格（元/吨）	13697-16740	21130-25825	18709-22866	15260-18651
变化率	-	38.64%	-11.12%	-12.90%
税前利润（万元）	(-44)-(-54)	(-13)-(-16)	(-68)-(-83)	(-601)-(-735)
变化率	始终处于亏损状态			
投资收益率	(-5.00%)-0%	(-5.00%)-0%	(-5.00%)-0%	(-20%)-(-15%)
变化率（百分点）	-	0.67	-1.59	-18.64
现金流量净额（万元）	1357-1659	1595-1949	541-661	(-371)-(-453)
变化率	-	40.74%	-70.37%	
期末库存（吨）	614-750	862-1053	729-891	427-522
变化率	-	68.28%	-26.12%	-37.85%
就业人数（人）	59-72	47-58	52-63	43-52

变化率	-	-3.33%	-5.17%	-18.18%
人均工资（元/年/人）	33625-41097	30205-36918	36958-45171	28319-34612
变化率	-	7.60%	6.91%	-0.70%
劳动生产率（吨/年/人）	69-84	47-58	44-54	29-36
变化率	-	-17.21%	-18.87%	-15.02%

附件十四：美国商务部——2018年2月《原产于
印度的聚四氟乙烯树脂
(polytetrafluoroethylene resin)
反补贴初裁备忘录》



C-533-880
Investigation
Public Document
E&C/I: Team

DATE: February 28, 2018

MEMORANDUM TO: Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Associate Deputy Assistant Secretary
for Enforcement and Compliance
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Countervailing Duty Investigation of Polytetrafluoroethylene
Resin from India

I. Summary

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of polytetrafluoroethylene resin (PTFE resin) from India, as provided in section 703 of the Tariff Act of 1930, as amended (the Act).

II. Background

A. Initiation and Case History

On September 28, 2017, Commerce received a countervailing duty (CVD) petition from The Chemours Company FC LLC (the petitioner) on PTFE resin from India.¹ Supplements to the petition and our consultations with the Government of India (GOI) are described in the *Initiation Notice* and the accompanying Initiation Checklist.² On October 18, 2017, Commerce initiated a CVD investigation on PTFE resin from India.³

¹ See Letter from the petitioner, “Polytetrafluoroethylene (PTFE) Resin from the People’s Republic of China and India: Antidumping and Countervailing Duty Petitions,” dated September 28, 2017 (the Petition).

² See Memorandum, “Countervailing Duty Investigation Initiation Checklist: Polytetrafluoroethylene Resin (PTFE Resin) from India,” dated October 20, 2017 (Initiation Checklist); see also *Polytetrafluoroethylene Resin from India: Initiation of Countervailing Duty Investigation*, 82 FR 49592 (October 26, 2017) (*Initiation Notice*).

³ See *Initiation Notice*.



We stated in the *Initiation Notice* that, if respondent selection became necessary, we intended to base our selection of mandatory respondents on the United States Customs and Border Protection (CBP) entry data for the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation. On October 12, 2017, Commerce released the CBP entry data under administrative protective order.⁴ On October 30, 2017, the petitioner submitted respondent selection comments.⁵ On November 15, 2017, we selected Gujarat Fluorochemicals Limited (GFL) as the mandatory respondent.⁶

We issued our CVD questionnaire to the GOI, seeking information regarding the alleged subsidies on November 16, 2017.⁷ Commerce instructed the GOI to forward the questionnaire to the selected mandatory respondent.⁸ Between December 4, 2017, and February 14, 2018, we received timely questionnaire and supplemental questionnaire responses from the GOI⁹ and GFL.¹⁰ The GOI initially improperly filed its questionnaire response, which Commerce rejected.¹¹ However, Commerce allowed the GOI to remedy the deficiencies with its filing and the GOI subsequently properly submitted its questionnaire response to Commerce.

⁴ See Memorandum, “Polytetrafluoroethylene (PTFE) Resin from India Countervailing Duty Petition: Release of U.S. Customs and Border Protection Data,” dated October 12, 2017.

⁵ See Letter from the petitioner, “Polytetrafluoroethylene (PTFE) Resin from India: Comments on Respondent Selection,” dated October 30, 2017.

⁶ See Memorandum, “Countervailing Duty Investigation of Polytetrafluoroethylene (PTFE) Resin from India: Respondent Selection,” dated November 15, 2017.

⁷ See Letter from Commerce, “Countervailing Duty Investigation of Polytetrafluoroethylene Resin from India: Countervailing Duty Questionnaire,” dated November 16, 2017 (CVD Questionnaire).

⁸ *Id.*

⁹ See Letter from the GOI, “Countervailing Duty Investigation into PTFE Resin from India (Case No. C-533-880) – Questionnaire Response on behalf of Government of India,” dated January 8, 2018 (GOI IQR); see also Letter from the GOI, “Countervailing Duty Investigation into PTFE Resin from India (Case No. C-533-880) – Response to Supplemental Questionnaire dated 9 January 2018 on behalf of Government of India,” dated January 30, 2018 (GOI SQR); see also Letter from the GOI, “Countervailing Duty Investigation into PTFE Resin from India (Case No. C-533-880) – Response to Supplemental Questionnaire dated 29 January 2018 on behalf of Government of India,” dated February 7, 2018 (GOI SQR2); see also Letter from the GOI, “Countervailing Duty Investigation into PTFE Resin from India (Case No. C-533-880) – Response to Supplemental Questionnaire dated 5 February 2018 on behalf of Government of India,” dated February 15, 2018.

¹⁰ See Letter from GFL, “Polytetrafluoroethylene Resin from India; Gujarat Fluorochemicals Limited’s Questionnaire Response to Section III Identifying Affiliated Companies,” dated December 4, 2017 (GFL Affiliated Companies Response); see also Letter from GFL, “Polytetrafluoroethylene Resin from India; Gujarat Fluorochemicals Limited’s Supplemental Questionnaire Response to Section III Identifying Affiliated Companies,” dated December 22, 2017; see also Letter from GFL, “Polytetrafluoroethylene Resin from India; Gujarat Fluorochemicals Limited’s Section III Questionnaire Response,” dated January 8, 2018 (GFL IQR); see also Letter from GFL affiliate, Inox Leasing and Finance Limited (ILFL), “Polytetrafluoroethylene Resin from India; Inox Leasing and Finance Limited’s Section III Questionnaire Response,” dated January 16, 2018 (ILFL Response); see also Letter from GFL, “Polytetrafluoroethylene Resin from India; Gujarat Fluorochemicals Limited’s First Supplemental Questionnaire Response,” dated February 9, 2018 (GFL SQR); see also Letter from GFL, “Polytetrafluoroethylene Resin from India; Gujarat Fluorochemicals Limited’s First Supplemental Questionnaire Response (Certain Questions),” dated February 13, 2018 (GFL SQR2); see also Letter from GFL, “Polytetrafluoroethylene Resin from India; Gujarat Fluorochemicals Limited’s First Supplemental Questionnaire Response (Land Sale Documentation)” dated February 14, 2018.

¹¹ See Letter from Commerce, “Countervailing Duty Investigation into PTFE Resin from India (Case No. C-533-880) – Questionnaire Response on behalf of Government of India,” dated January 4, 2018; see also Memorandum, “Countervailing Duty Investigation of Polytetrafluoroethylene Resin from India: Rejection of Documents,” dated January 5, 2018.

B. Postponement of Preliminary Determination

On December 7, 2017, based on a request from the petitioner, Commerce postponed the deadline for the preliminary determination until February 25, 2018, in accordance with sections 703(c)(1) and (2) of the Act and 19 CFR 351.205(f)(1).¹² Commerce then exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from January 20 through 22, 2018. The revised deadline for the preliminary determination of this investigation is now February 28, 2018.¹³

C. Period of Investigation

The period of investigation (POI) was originally defined as January 1, 2016, through December 31, 2016. We received comments from GFL requesting that Commerce alter the POI to correspond with the most recently completed fiscal year, April 1, 2016, through March 31, 2017, rather than to the calendar year.¹⁴ No other parties submitted comments regarding the POI. We found that this request is consistent with 19 CFR 351.204(b)(2), and consequently changed the POI to April 1, 2016, through March 31, 2017, reflecting the most recently completed Indian fiscal year.¹⁵

III. Scope Comments

In accordance with the Preamble to Commerce's regulations, and as noted in the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation.¹⁶

We received comments from interested parties concerning the scope of the AD and CVD investigations of PTFE resin from the People's Republic of China (China) and India.¹⁷ We evaluated these comments and are issuing our preliminary decision regarding the scope of the

¹² See *Polytetrafluoroethylene Resin from India: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 82 FR 57727 (December 7, 2017).

¹³ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by three days.

¹⁴ See Letter from GFL, "Polytetrafluoroethylene Resin from India; Gujarat Fluorochemicals Limited's Request to Change Period of Investigation (POI)," dated November 21, 2017.

¹⁵ See Memorandum, "Countervailing Duty Investigation of Polytetrafluoroethylene Resin from India: Period of Investigation Change," dated December 1, 2017; see also Letter to the GOI, "Countervailing Duty Investigation of Polytetrafluoroethylene Resin from India: Period of Investigation Change," dated December 5, 2017; see also Letter to GFL, "Countervailing Duty Investigation of Polytetrafluoroethylene Resin from India: Period of Investigation Change," dated December 5, 2017.

¹⁶ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (Preamble); see also *Initiation Notice*, 82 FR at 49592.

¹⁷ See Letter from GFL, "Polytetrafluoroethylene Resin from India and the People's Republic of China; GFL Comments on Scope of Investigation," dated November 7, 2017; see also Letter from Solvay, "Polytetrafluoroethylene Resin from India and China: Comments on Scope of Investigations," dated November 14, 2017; see also Letter from the petitioner, "Polytetrafluoroethylene (PTFE) Resin from the People's Republic of China and India: Response to Scope Comments," dated November 21, 2017.

AD and CVD investigations in conjunction with this preliminary determination.¹⁸ We will issue a final scope decision after considering any relevant comments submitted in case and rebuttal briefs.¹⁹

IV. Scope of the Investigation

The product covered by this investigation is polytetrafluoroethylene (PTFE) resin, including but not limited to granular, dispersion, or coagulated dispersion (also known as fine powder). PTFE is covered by the scope of this investigation whether filled or unfilled, whether modified, and whether containing co-polymer additives, pigments, or other materials. Also included is PTFE wet raw polymer. The chemical formula for PTFE is C₂F₄, and the Chemical Abstracts Service Registry number is 9002-84-0.

PTFE further processed into micropowder, having particle size typically ranging from 1 to 25 microns, and a melt-flow rate no less than 0.1 gram/10 minutes, is excluded from the scope of this investigation.

PTFE is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 3904.61.0010 and 3904.61.0090. Subject merchandise may also be classified under HTSUS subheading 3904.69.5000. Although the HTSUS subheadings and CAS Number are provided for convenience and Customs purposes, the written description of the scope is dispositive.

V. Injury Test

Because India is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the U.S. 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 November 13, 2017, the ITC determined that there is reasonable indication that an industry in the United States is materially injured by reason of imports of PTFE resin from India that are allegedly subsidized by the GOI.²⁰

VI. Subsidies Valuation

A. Allocation Period

Commerce normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise.

Commerce finds the AUL in this proceeding to be 9.5 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service’s 1977 Class Life Asset Depreciation Range System.²¹

¹⁸ See Memorandum, “Polytetrafluoroethylene Resin from India and the People’s Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations,” dated concurrently with this memorandum.

¹⁹ *Id.*

²⁰ See *Polytetrafluoroethylene (PTFE) Resin from China and India*, 82 FR 53521 (November 16, 2017).

²¹ See U.S. Internal Revenue Service Publication 946 (2017), “How to Depreciate Property,” at Table B-2: Table of Class Lives and Recovery Periods.

We note that, consistent with past practice, in order to measure appropriately any allocated subsidies, Commerce has requested and used a 10-year AUL in this investigation.²² No party in this proceeding has disputed the allocation period. Furthermore, for non-recurring subsidies, we have applied the “0.5 percent test,” as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for the same year. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt, rather than across the AUL.

B. Attribution of Subsidies

In accordance with 19 CFR 351.525(b)(6)(i), Commerce normally attributes a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of another corporation in essentially the same ways it can use its own assets. This section of Commerce’s regulations states that this standard will normally be met where there is a majority of voting ownership interest between two corporations or through common ownership of two (or more) corporations. The *CVD Preamble* to Commerce’s regulations further clarifies Commerce’s cross-ownership standard. According to the *CVD Preamble*, relationships captured by the cross-ownership definition include those where:

{T}he interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a “golden share” may also result in cross-ownership.²³

Thus, Commerce’s regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists. The U.S. Court of International Trade

²² See, *e.g.*, *Issues and Decision Memorandum: Final Results of Countervailing Duty Administrative Reviews: Low Enriched Uranium from Germany, the Netherlands, and the United Kingdom*, 70 FR 40000 (July 12, 2005) and accompanying Issues and Decision Memorandum (IDM) at Comment 4; see also *Countervailing Duty Investigation of Certain Polyethylene Terephthalate Resin from India: Final Affirmative Determination and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 13334 (March 14, 2016) and accompanying IDM at 4.

²³ See *Countervailing Duties*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).

(CIT) upheld Commerce’s authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same ways it could use its own subsidy benefits.²⁴

GFL

GFL responded to Commerce’s questionnaire on behalf of itself and its holding company Inox Leasing and Finance Limited (ILFL).²⁵ GFL reported that ILFL holds a 52.54 percent stake in GFL; therefore, we preliminarily determine that these companies are cross-owned within the meaning of 19 CFR 351.525(b)(6)(iii).²⁶ Further, GFL reported that ILFL did not manufacture or export subject merchandise, nor did it receive any subsidies over the AUL.²⁷

While GFL identified several subsidiaries, these companies are not involved in the production or sale of subject merchandise. GFL reported that it is the only company among its affiliates involved in the production and sale of subject merchandise in India.²⁸ GFL noted that it purchased a small amount of power generated by its affiliate Inox Wind Limited, operation and maintenance services from Inox Wind Infrastructure Services Limited, and small amounts of wind turbines from Inox Air Products Pvt Ltd.²⁹ Based upon record evidence,³⁰ we preliminarily determine that these inputs are not primarily dedicated to the production of the downstream product.³¹ Therefore, we will attribute subsidies received by GFL to its own sales, in accordance with 19 CFR 351.525(b)(6)(i).

C. Denominators

In accordance with 19 CFR 351.525(b)(1)-(5), Commerce considers the basis for the respondent’s receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondent’s export or total sales. The denominators we used to calculate the countervailable subsidy rate for the various subsidy programs in this investigation are explained in further detail in the preliminary calculations memoranda prepared for this preliminary determination.³²

VII. Benchmarks and Discount Rates

Section 771(5)(E)(ii) of the Act provides that the benefit for loans is the “difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market,” indicating

²⁴ See *Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-04 (CIT 2001).

²⁵ See GFL Affiliated Companies Response; see also ILFL Response.

²⁶ See GFL Affiliated Companies Response at 2-3.

²⁷ See ILFL Response at 1.

²⁸ See GFL Affiliated Companies Response at 4.

²⁹ *Id.* at 5.

³⁰ See Letter from GFL, “Polytetrafluoroethylene Resin from India; Gujarat Fluorochemicals Limited’s Request to Amend Supplemental Questionnaire Response,” dated December 14, 2017; see also Letter from GFL, “Polytetrafluoroethylene Resin from India and the People’s Republic of China; Gujarat Fluorochemicals Limited’s Response to Petitioner’s Letter Dated December 19, 2017,” dated December 20, 2017.

³¹ See 19 CFR 351.525(b)(6)(iv).

³² See Memorandum, “Preliminary Determination Calculations for Gujarat Fluorochemicals Limited,” dated concurrently with this memorandum (GFL Preliminary Calculation Memorandum).

that a benchmark must be a market-based rate. In addition, 19 CFR 351.505(a)(3)(i) stipulates that when selecting a comparable commercial loan that the recipient “could actually obtain on the market{,}” Commerce will normally rely on actual loans obtained by the firm. However, when there are no comparable commercial loans during the period, Commerce “may use a national average interest rate for comparable commercial loans,” pursuant to 19 CFR 351.505(a)(3)(ii). In addition, 19 CFR 351.505(a)(2)(ii) states that Commerce will not consider a loan provided by a government-owned special purpose bank for purposes of calculating benchmark rates. Also, in the absence of reported long-term commercial loan interest rates, we use the national average interest rates from the International Monetary Fund’s International Financial Statistics (IFS) as discount rates for purposes of allocating non-recurring benefits over time, pursuant to 19 CFR 351.524(d)(3)(i)(B).

According to information provided by GFL, GFL received rupee-denominated long-term loans from commercial banks for certain years for which we must identify benchmark and discount rates.³³ We preliminarily find that the loan information GFL provided constitutes a reasonable representation of long-term interest rates for rupee-denominated loans pursuant to 19 CFR 351.524(d)(3). For allocating the benefit from non-recurring grants under the Export Promotion Capital Goods (EPCGS) and Status Holder Incentive Scheme (SHIS) programs, we have used the discount rates described above for the years in which the government agreed to provide the subsidies, consistent with 19 CFR 351.524(d)(3)(i)(A). The interest-rate benchmarks and discount rates used in our preliminary calculations are provided in the preliminary calculation memorandum.

VIII. Use of Facts Otherwise Available and Adverse Inferences

Sections 776(a)(1) and (2) of the Act provide that Commerce shall, subject to section 782(d) of the Act, apply “facts otherwise available” if necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by Commerce, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.³⁴

Section 776(b) of the Act further provides that Commerce may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Further, section 776(b)(2) of the Act states that adverse facts available (AFA) may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an AFA rate from among the possible sources of information, Commerce’s practice is to ensure that the rate is sufficiently

³³ See GFL SQR at Exhibit 15.

³⁴ Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD law were made, including amendments to sections 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act, as summarized below. See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362, dated June 29, 2015. See also *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015).

adverse “as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide Commerce with complete and accurate information in a timely manner.”³⁵ Commerce’s practice also ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”³⁶

Section 776(c)(1) of the Act provides that, when Commerce relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. However, section 776(c)(1) of the Act does not require corroboration when the information relied upon for AFA is derived from the petition, a final determination in the investigation, any previous review under section 751 of the Act or determination under section 753 of the Act, or any other information placed on the record.

Finally, under the section 776(d) of the Act, Commerce may use any countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a CVD rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, Commerce is not required for purposes of section 776(c) of the Act, or any other purpose, to estimate what the countervailable subsidy rate would have been if the non-cooperating interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.³⁷ With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. Additionally, as stated above, we are applying subsidy rates, which were calculated in this investigation or previous India CVD investigations or administrative reviews. Therefore, the corroboration exercise of section 776(c)(1) of the Act is inapplicable for purposes of this investigation.

For the reasons explained below, Commerce preliminarily determines that application of facts otherwise available, with an adverse inference, to the financial contribution and specificity aspects of the countervailability determination of certain programs is warranted, pursuant to section 776(b) of the Act, because, by not responding to our requests for the necessary information, the GOI repeatedly failed to provide information in the manner requested and, therefore, failed to cooperate by not acting to the best of its ability.

³⁵ See, e.g., *Drill Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011); see also *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

³⁶ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. I at 870 (1994), reprinted at 1994 U.S.C.C.A.N. 4040, 4199 (SAA) at 870.

³⁷ See section 776(d)(3) of the Act.

Government of India

On January 9, 2018, January 29, 2018, and February 5, 2018, we issued to the GOI supplemental questionnaires³⁸ in response to certain deficiencies that we identified in its initial and supplemental questionnaire responses submitted on January 8 and 30, 2018.³⁹ In these supplemental questionnaires, we requested information, for a second and third time, that we had previously requested and which the GOI had failed to provide. This information included key program procedures and guidelines pertaining to assistance provided under Section 32AC of the Income Tax Act, Renewable Energy Certificate, and Exemption from Electricity Duty. As such, we requested official documentation and program operation information to determine the countervailability of these programs.

For the Section 32AC of the Income Tax Act program, we requested that the GOI provide information regarding all Indian companies using the tax program; in response to this request, the GOI provided information only about the mandatory respondent, and failed to provide information for “all Indian companies using the tax program.”⁴⁰

The GOI did not provide any substantive response to Commerce’s questions regarding the Renewable Energy Certificate program. Thus, in its first supplemental questionnaire response, the GOI failed to provide Commerce with sufficient information to analyze this program. Because of the deficiency in its response, we issued supplemental questionnaires; however, in its supplemental questionnaire responses, the GOI failed to respond and continued to refer Commerce to its first supplemental questionnaire response.⁴¹

The GOI did not provide any substantive response to Commerce’s questions regarding the Exemption from Electricity Duty program. In its initial response, the GOI provided only a brief statement that information regarding this program, administered by the State Government of Gujarat, could be collected from the mandatory respondent. The GOI continued to provide this same response in its subsequent supplemental questionnaire responses.⁴²

Therefore, as noted above, the GOI failed to provide necessary information in response to questions pertaining to the Section 32AC of the Income Tax Act, Renewable Energy Certificate, and Exemption from Electricity Duty programs. Given that such necessary information has been withheld by the GOI, Commerce’s ability to investigate those programs is significantly impeded.

On this basis, we preliminarily determine that necessary information is not available on the record and that the GOI did not provide information that was requested of it. Further, the fact that the GOI did not cooperate to the best of its ability significantly impeded the investigation.

³⁸ See Letter to the GOI, “Countervailing Duty Investigation into PTFE Resin from India (Case No. C-533-880) – Questionnaire Response on behalf of Government of India,” dated January 9, 2018; *see also* Letter to the GOI, “Polytetrafluoroethylene (PTFE) Resin from India: Supplemental Questionnaire for the Government of India,” dated January 29, 2018; *see also* Letter to the GOI, “Polytetrafluoroethylene (PTFE) Resin from India: Third Supplemental Questionnaire for the Government of India,” dated February 5, 2018.

³⁹ See GOI IQR; *see also* GOI SQR.

⁴⁰ See GOI SQR at 20; *see also* GOI SQR3 at 9.

⁴¹ See GOI SQR at 38-39; *see also* GOI SQR3 at 11.

⁴² See GOI IQR at 51-52, GOI SQR at 10; *see also* GOI SQR3 at 15.

Thus, Commerce must rely on “facts available” in making our preliminary determination, in accordance with sections 776(a)(1), 776(a)(2)(A) and (C) of the Act. Moreover, we preliminarily determine that the GOI failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available, pursuant to section 776(b) of the Act. In applying AFA, we find that the Section 32AC of the Income Tax Act program, the Renewable Energy Certificate program, and the Exemption from Electricity Duty program constitute a financial contribution, within the meaning of section 771(5)(D) of the Act and that all three programs are specific, within the meaning of section 771(5A) of the Act.⁴³ We are preliminarily relying on AFA, because we find that the GOI has not cooperated to the best of its ability. However, because the respondent has reported its usage of these three programs, we are relying on the respondent’s reported information to calculate the benefit, within the meaning of section 771(5)(E) of the Act.

IX. Analysis of Programs

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

A. Programs Preliminarily Determined to Be Countervailable

1. Export Promotion of Capital Goods Scheme (EPCGS)

The GOI reported that EPCGS provides for a reduction of or exemption from customs duties and excise taxes on imports of capital goods used in the production of exported products.⁴⁴ Under this program, producers are granted reduced duty rates on imported capital equipment in return for a commitment to earn convertible foreign currency equal to a multiple of the duty saved within a period of a certain number of years.⁴⁵ If the company fails to meet the export obligation, the company is subject to payment of all or part of the duty reduction, depending on the extent of the shortfall in foreign currency earnings, in addition to an interest penalty.⁴⁶

Commerce has previously determined that import duty reductions or exemptions provided under EPCGS are countervailable export subsidies because the scheme: (1) provides a financial contribution pursuant to section 771(5)(D)(ii) of the Act; (2) provides two different benefits (see below) under section 771(5)(E) of the Act; and (3) is specific pursuant to sections 771(5A)(A) and (B) of the Act because the program is contingent upon export performance.⁴⁷ Because there is no new evidence on the record of this investigation that indicates any changes to the operation

⁴³ See GOI SQR at 11, 17, and 39; see also the Petition at 62.

⁴⁴ See GOI IQR at 7.

⁴⁵ *Id.* at Exhibits C and D.

⁴⁶ *Id.* at Exhibit D.

⁴⁷ 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) (*PET Film Final Determination*), and accompanying IDM at “EPCGS” section; see also *Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination*, 78 FR 50385 (August 19, 2013) (*Shrimp from India Final Determination*) and accompanying IDM at 14.

of this program since Commerce's previous findings, we preliminarily determine that this program is countervailable.⁴⁸

Under EPCGS, the exempted import duties become payable to the GOI if the accompanying export obligations are not met.⁴⁹ Pursuant to 19 CFR 351.505(d)(1), Commerce treats any balance on an unpaid liability that may be waived in the future as a contingent-liability interest-free loan.⁵⁰ Because the unpaid duties constitute a liability contingent on subsequent events, we treat the amount of unpaid duty liabilities as interest-free contingent-liability loans. We find that the amount of duties the respondent would have paid during the POI, had it borrowed the full amount of the duty reduction or exemption at the time of importation, constitutes the first benefit under EPCGS. Further, a second benefit arises based on the amount of duty finally waived by the GOI on imports of capital equipment covered by those EPCGS licenses for which the export requirement had already been met. With regards to licenses for which GFL has completed its export obligation, we treat the waived import duties as grants received in the year in which the GOI granted the final waiver to 19 CFR 351.505(d)(2). For its imports of capital goods under this program, GFL has reported that it has completed the export obligation for some of these imports, while others it has yet to complete required export obligations. As such, we preliminarily find GFL received both types of benefits (*i.e.*, interest-free loans and grants) under this program.⁵¹

Import duty exemptions under this program are approved for the purchase of capital equipment. The *CVD Preamble* 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..."⁵² Therefore, in accordance with 19 CFR 351.524(c)(2)(iii) and past practice, we are treating these final import duty exemptions on capital equipment as non-recurring benefits.

Based on the information and the documentation that GFL submitted, we cannot reliably determine that the EPCGS licenses are tied to the production of a particular product within the meaning of 19 CFR 351.525(b)(5). As such, we preliminarily find that all of GFL's EPCGS licenses benefit all of the company's exports.⁵³

To calculate the benefit received from the GOI's formal waiver of import duties on capital equipment imports where its export obligations were met prior to the end of the POI, we considered the total amount of duties waived, *i.e.*, the calculated duties payable, less the duties

⁴⁸ See *Finished Carbon Steel Flanges from India: Preliminary Affirmative Countervailing Duty Determination*, 81 FR 85928 (November 29, 2016) (*Steel Flanges from India Preliminary Determination*), and accompanying Preliminary Determination Memorandum (PDM) at 13; affirmed in *Finished Carbon Steel Flanges from India: Final Affirmative Countervailing Duty Determination*, 82 FR 29479 (June 29, 2017) (*Steel Flanges from India Final Determination*).

⁴⁹ See GOI IQR at Exhibits C and D.

⁵⁰ See *Steel Flanges from India Preliminary Determination* and accompanying PDM at 13; affirmed in *Steel Flanges from India Final Determination*.

⁵¹ See GFL IQR at Exhibit 10.

⁵² See *CVD Preamble*, 63 FR at 65393.

⁵³ *Id.*

actually paid at the time of import, net of required application fees, in accordance with section 771(6) of the Act, to be the benefit and treated these amounts as grants pursuant to 19 CFR 351.504. Further, consistent with the approach followed in previous investigations, we preliminarily determine the year of receipt of the benefit to be the year in which the GOI formally waived GFL's outstanding import duties.⁵⁴ Next, we performed the "0.5 percent test," as prescribed under 19 CFR 351.524(b)(2), for the total value of duties waived for each year in which the GOI granted GFL an import duty waiver. For any years in which the value of the waived import duties was less than 0.5 percent of GFL's total export sales, we allocated the value of the duty waived to the year of receipt. For each year of the AUL, the duties for which GFL was granted final waiver had values of less than 0.5 percent of GFL's total export sales and, therefore, the benefits were expensed in the year of receipt. GFL did not receive any final duty waivers during the POI.

As noted above, import duty reductions that GFL received on the imports of capital equipment for which it had not yet met export obligations may have to be repaid to the GOI if the obligations under the license are not met. Consistent with our practice and prior determinations, we are treating the unpaid import duty liability as an interest-free loan.⁵⁵

The amount of unpaid duty liabilities to be treated as an interest-free loan is the amount of import duty reduction or exemption for which the respondent applied, but had not been officially waived by the GOI, as of the end of the POI. Accordingly, we find the benefit to be the interest that the respondent would have paid during the POI had it borrowed the full amount of the duty reduction or exemption at the time of importation.

As discussed above, the time period for fulfilling the export requirement expires a certain number of years after importation of the capital good. As such, pursuant to 19 CFR 351.505(d)(1), the benchmark for measuring the benefit is a long-term interest rate, because the event upon which repayment of 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 goods. As the benchmark interest rate, we used the long-term interest rate as discussed in the "Benchmarks and Discount Rates" section, above. We then multiplied the total amount of unpaid duties under each license by the long-term benchmark interest rate for the year in which the capital good was imported; we summed these amounts to determine the total benefit. For EPCGS licenses with duty free imports made during the POI, we calculated the relevant interest based on the number of days the loan was outstanding during the POI.

The benefit received under EPCGS is the sum of: (1) the benefit attributable to the POI from the formally-waived duties for imports of capital equipment for which the respondents met export requirements by the end of the POI (in this case, because none of these benefits passed the 0.5 percent test, none were allocated over the AUL, and they provide no benefits during the POI); and (2) the interest that would have been due had the respondent borrowed the full amount of the duty reduction or exemption at the time of the importation for imports of capital equipment that

⁵⁴ See *PET Film Final Determination*, and accompanying IDM at Comment 5.

⁵⁵ See, *e.g.*, *Steel Flanges from India Preliminary Determination*, and accompanying PDM at 15; affirmed in *Steel Flanges from India Final Determination*.

have unmet export requirements during the POI. We divided the total benefit received by GFL under EPCGS by the total exports sales of GFL during the POI, as described above.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.15 percent *ad valorem* for GFL.⁵⁶

2. *Advance Authorization Program (AAP) aka Advance License Program (ALP)*

Under the AAP, exporters may import, duty free, specified quantities of materials required to manufacture products that are subsequently exported.⁵⁷ The exporting companies, however, remain liable for the unpaid duties until they have fulfilled their export requirement.⁵⁸ The quantities of imported materials and exported finished products are linked through standard input-output norms (SIONs) established by the GOI.⁵⁹ During the POI, GFL used advance licenses to import certain materials duty free.⁶⁰

Import duty exemptions on inputs for exported products are not countervailable if the exemption extends only to inputs consumed in the production of the exported product, making normal allowances for waste.⁶¹ However, the government in question must have in place and apply a system to confirm which inputs are consumed in the production of the exported products, and in what amounts.⁶² This system must be reasonable, effective for the purposes intended, and based on generally accepted commercial practices in the country of export.⁶³ If such a system does not exist, or if it is not applied effectively, and the government in question does not carry out an examination of actual inputs involved to confirm which inputs are consumed in the production of the exported product, the entire amount of any exemption, deferral, remission, or drawback is countervailable.⁶⁴

In the 2005 administrative review of countervailing duty order on *Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India*, the GOI indicated that it had revised its Foreign Trade Policy and Handbook of Procedures for the AAP during 2005. Commerce acknowledged that certain improvements to the AAP system were made. However, Commerce found that, based on the information submitted by the GOI and examined during previous reviews of that proceeding, and no information having been submitted for that review demonstrating that the GOI had revised its laws or procedures governing this program since those earlier reviews, systemic issues continued to exist in the AAP system during that period of review.⁶⁵

⁵⁶ See GFL Preliminary Calculation Memorandum.

⁵⁷ See GOI IQR at Exhibits C and D; see also GFL IQR at Exhibit 25.

⁵⁸ See GOI SQR at 34.

⁵⁹ See GOI IQR at Exhibits C and D.

⁶⁰ See GFL IQR at Exhibits 20.1 and 20.2.

⁶¹ See 19 CFR 351.519(a)(1)(ii).

⁶² See, e.g., *Shrimp from India Final Determination* and accompanying IDM at “Duty Drawback (DDB).”

⁶³ *Id.*

⁶⁴ See 19 CFR 351.519(a)(4)(i)-(ii).

⁶⁵ See *Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 73 FR 7708 (February 11, 2008) (2005 Review of PET Film from India), and accompanying IDM at Comment 3.

Specifically, in the 2005 administrative review, Commerce stated that it continued to find the AAP countervailable based on:

the GOI's lack of a system or procedure to confirm which inputs are consumed in the production of the exported products and in what amounts that is reasonable and effective for the purposes intended, as required under 19 CFR 351.519. Specifically, we still have concerns with regard to several aspects of the ALP including (1) the GOI's inability to provide the SION calculations that reflect the production experience of the PET Film industry as a whole; (2) the lack of evidence regarding the implementation of penalties for companies not meeting the export requirements under the ALP or for claiming excessive credits; and, (3) the availability of ALP benefits for a broad category of "deemed" exports.⁶⁶

Since that *2005 Review of PET Film from India*, Commerce has, in several other proceedings, made determinations consistent with this treatment of the AAP.⁶⁷ In this investigation, record evidence does not show any change to the AAP program and therefore we preliminarily find that the program confers a countervailable subsidy because: (1) a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided under the program, as the GOI exempts the respondent from payment of import duties that would otherwise be due; (2) 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), to confirm which inputs, and in what amounts, are consumed in the production of the exported product, making normal allowance for waste, nor did the GOI carry out an examination of actual inputs involved to confirm which inputs are consumed in the production of the exported product, and in what amounts; thus the entire amount of the import duty deferral or exemption provided to the respondent constitutes a benefit under section 771(5)(E) of the Act; and (3) this program is specific under section 771(5A)(B) of the Act because it is contingent upon exportation.⁶⁸

Pursuant to 19 CFR 351.524(c)(1), the exemption of import duties on raw material inputs normally provides a recurring benefit.⁶⁹ During the POI, GFL imported duty free inputs under the AAP for the production of subject merchandise and non-subject merchandise.⁷⁰ In response to Commerce's questionnaire, GFL provided supporting documentation regarding its AAP licenses.⁷¹ The information provided demonstrates that the at the point of bestowal, the licenses provided to GFL were tied, within the meaning of 19 CFR 351.525(b)(5), to the production and export of specific merchandise, both subject merchandise and non-subject merchandise.⁷² Thus,

⁶⁶ *Id.*

⁶⁷ See, e.g., *Certain Oil Country Tubular Goods from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 41967 (July 18, 2014) (*Oil Country Tubular Goods from India Final*), and accompanying IDM; see also *Certain Lined Paper Products from India: Final Results of Countervailing Duty Administrative Review; Calendar Year 2012*, 80 FR 19637 (April 13, 2015), and accompanying IDM.

⁶⁸ See GOI IQR at Exhibits C and D; see also GOI SQR at 33; see also GFL IQR at 34-38.

⁶⁹ See, e.g., *Oil Country Tubular Goods from India Final*, and accompanying IDM.

⁷⁰ See GFL SQR at Exhibits SUPP-17 and SUPP-18.

⁷¹ *Id.* at Exhibits SUPP-19 through SUPP-26.

⁷² *Id.* at Exhibits SUPP-17 through SUPP-26.

to calculate the benefit for GFL, we first determined the total value of import duties exempted during the POI for GFL under AAP licenses tied to subject merchandise. To calculate the subsidy rate, we divided the resulting benefit by the value of GFL's POI export sales of subject merchandise.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.99 percent *ad valorem* for GFL.⁷³

3. *Status Holders Incentive Scrip (SHIS)*

The SHIS was introduced in 2009 with the objective of promoting investment in upgrading technology in specific sectors.⁷⁴ "Status Holders" under the GOI's listing of specified exported products receive incentive scrip (or credit) equal to one percent of the FOB value of the exports; this SHIS license scrip can be used to offset duties on imports of capital goods,⁷⁵ and can also be transferred to another Status Holder who may also use it to offset duties on imports of capital goods.⁷⁶

This program is countervailable, because it provides a financial contribution in the form of a grant in the amount of duty credit scrip provided.⁷⁷ Further, it is specific under sections 771(5A)(A) and (B) of the Act because it is limited to exporters.⁷⁸ A benefit is also provided under the SHIS program under section 771(5)(E) of the Act and 19 CFR 351.519 in the amount of the scrip granted to the recipient.⁷⁹

Record information states that import duty exemptions under this program are provided for the purchase of capital equipment.⁸⁰ The *CVD Preamble* 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...."⁸¹ In accordance with 19 CFR 351.524(c)(2)(iii) and past practice, we are treating these import duty exemptions on capital equipment as non-recurring benefits.⁸²

GFL reported that it received SHIS license scrips to import capital goods duty free during the AUL.⁸³ Information provided by GFL indicates that its SHIS license scrips were issued for the

⁷³ See GFL Preliminary Calculation Memorandum.

⁷⁴ See GFL IQR at 39 and Exhibit 25.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ See *Steel Flanges from India Preliminary Determination*, and accompanying PDM at 18 (citing *Steel Threaded Rod from India: Final Affirmative Countervailing Duty Determination and Partial Final Affirmative Determination of Critical Circumstances*, 79 FR 40712 (July 14, 2014) (*Steel Threaded Rod from India*), and accompanying IDM, at "Status Holder Incentive Scrip").

⁸⁰ See GFL IQR at Exhibit 25.

⁸¹ See *Countervailing Duties*, 63 FR at 65393.

⁸² See *Steel Threaded Rod from India*, and accompanying IDM at "Status Holder Incentive Scrip."

⁸³ See GFL IQR at 39 and Exhibit 24.1.

purchase of capital goods used for the production of exported goods, so we are attributing the SHIS benefits received by GFL to its total exports.⁸⁴

The SHIS scrip represents a non-recurring benefit that is not automatically received, and the amount of said benefit is not known to the recipient at the time of receipt of the scrip.⁸⁵ Although Commerce's regulations stipulate that we will normally consider the benefit as having been received as of the date of exportation,⁸⁶ because the SHIS benefit amount is not automatic and is not known to the exporter until well after the exports are made, the SHIS licenses as issued by the GOI, which contain the date of validity and the duty exemption amount, are the best method to determine and account for when the benefit is received.⁸⁷

We performed the "0.5 percent test," as prescribed under 19 CFR 351.524(b)(2), for the total value of the exempted customs duties for the years in which GFL received such SHIS licenses and determined to allocate the benefits across the AUL. GFL's licenses had values greater than 0.5 percent of its total export sales in years prior to the POI, and were, therefore, allocated over the AUL period. To calculate the subsidy rate, we divided the resulting benefit by the value of GFL's POI export sales of subject merchandise.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.19 percent *ad valorem* for GFL.⁸⁸

4. *Exemption from Electricity Duty*

GFL reported use of the Exemption from Electricity Duty program and provided supporting documentation.⁸⁹ GFL reported benefiting from two different types of electricity duty exemptions. Regarding the first type of exemption, section 3(2)(vii) and (viii) of the Gujarat Electricity Duty Act, 1958, provides exempted electricity duties on power consumed by a new industrial undertaking. GFL reported a benefit from a duty exemption for its "additional units" in its new plants within the Dahej Manufacturing Unit.⁹⁰ Regarding the second type of exemption, GFL reported a benefit from a duty exemption for its wind power generation in accordance with provision 6 of the State Government of Gujarat's Wind Power Policy – 2013.⁹¹

As noted above in the "Use of Facts Otherwise Available," section, we normally rely on the government to provide specific program information with regards to the administration and specificity of programs. Because the GOI did not provide any information regarding this program, we are not able to confirm GFL's description of how this program is administered;

⁸⁴ *Id.*

⁸⁵ See *Steel Threaded Rod from India*, and accompanying IDM at "Status Holder Incentive Scrip."

⁸⁶ See 19 CFR 351.519(b)(1).

⁸⁷ See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 11163, (March 2, 2015) (*PET Film Final Results 2012 Review*), and accompanying IDM at 21 and Comment 3.

⁸⁸ See GFL Preliminary Calculation Memorandum.

⁸⁹ See GFL IQR at 52 and Exhibits 31 and 32.

⁹⁰ *Id.* at 52.

⁹¹ *Id.* at 54.

therefore, as discussed above, we are finding that an adverse inference in selecting from the facts otherwise available is warranted in determining whether the GOI provided a financial contribution through this program. Consequently, as AFA, we preliminarily determine that the GOI conferred a financial contribution and we find this program specific within the meaning of sections 771(5)(D) and 771(5A)(D) of the Act, respectively.⁹² For both of these duty exemptions, GFL reported being exempted from the payment of electricity duty during the POI, thus conferring a benefit pursuant to section 771(5)(E) of the Act in the amount of the exempted electricity duties.

Because GFL provided information regarding the benefits it received under this program during the POI, we are relying on this information to calculate the countervailable subsidy rate. To calculate the subsidy rate, we divided the combined benefit received by GFL during the POI from the two elements of this program, the additional units and the wind turbine generators, by GFL's total sales during the POI.

On this basis, we preliminarily determine a countervailable subsidy rate of 1.45 percent *ad valorem* for GFL.⁹³

5. State Government of Gujarat (SGOG) Preferential Water Rates

The Gujarat Industrial Development Corporation (GIDC) is the agency created by the SGOG for facilitating industrial development in the state of Gujarat and establishes industry-ready land with basic infrastructure such as roads, water, and power availability, which is then leased out to manufacturers.⁹⁴ The GIDC is fully controlled by the SGOG, which issues binding directives to the GIDC, provides funding to the GIDC, sanctions the budget of the GIDC, and selects the areas where the GIDC will establish industrial estates within Gujarat.⁹⁵ GFL has an active production facility in a GIDC industrial estate that uses GIDC water.⁹⁶

Under the GIDC Water Supply Regulation of 1991, all companies located in a GIDC estate where the GIDC provides access to water must use that water.⁹⁷ Under the regulations, water is supplied through the GIDC, which controls the supply and sets and alters the rates charged, and can be made available to companies located outside of the estates.⁹⁸ The regulation also states that if a water connection is given to premises outside the limits of the estate, water charges shall be calculated at double the prevailing rates for water in the estate.⁹⁹

Because GIDC is the dispensing agency for funds appropriated by the SGOG for the development of industrial estates, it builds estates in locations as directed by the SGOG, and administers them according to directives and policies set by the SGOG. The jurisdiction of the authority providing the subsidy is the entire state of Gujarat. The rates set by the GIDC apply

⁹² See the Petition at 62.

⁹³ See GFL Preliminary Calculation Memorandum.

⁹⁴ See GOI SQR2 at 2.

⁹⁵ *Id.* at Exhibit 1.

⁹⁶ See GFL SQR at 10 and Exhibits 37.

⁹⁷ See GOI SQR2 at 7 and Exhibit 9.

⁹⁸ *Id.* at Exhibit 9.

⁹⁹ *Id.*

only to those enterprises located within its estates. Information provided by the GOI indicates that the GIDC industrial estates are a designated area under the jurisdiction of the SGOG, and that the provision of water at the discounted rate is limited by law to enterprises or industries within a designated geographical region within the jurisdiction of the authority providing the subsidy.

We preliminarily find that this program is regionally specific, in accordance with section 771(5A)(D)(iv) of the Act.¹⁰⁰ Commerce has previously found that the GIDC, in setting the rates for water in the industrial estates, charged companies located outside the estate double the rate for water that it charges to companies located inside the industrial estates.¹⁰¹ Because the GIDC, as the administering agency of the SGOG, sets the rates and supplies the water used by GFL, Commerce finds the 50 percent price discount for enterprises within the GIDC industrial estates constitutes a financial contribution in the form of revenue foregone under section 771(5)(D)(ii) of the Act.¹⁰² The record demonstrates that the discount scheme described above was available to, and used by, GFL and that water was provided to customers outside of the estate at twice the rate.¹⁰³ Accordingly, we find that this program confers a benefit, *i.e.*, the 50 percent discounted rate, within the meaning of section 771(5)(E) of the Act.

To calculate the benefit to GFL, we compared the actual amount it paid for water during the POI at its Dahej Plant, which is located in a GIDC industrial estate, to the amount it would have paid were it not located within the estate. We then divided that difference by GFL's total sales during the POI.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.75 percent *ad valorem* for GFL.¹⁰⁴

6. Renewable Energy Certificate

GFL explained that the Renewable Energy Certificate (REC) program was created by the GOI as part of the government's effort to reduce the carbon footprint in India.¹⁰⁵ The GOI identifies energy intensive consumers (*i.e.*, a "designated consumer") and requires them, through the Central Electricity Regulatory Commission (CERC), to generate a certain percentage of green energy either from self-generation or by purchasing RECs through a CERC administered power exchange.¹⁰⁶ The CERC sets the price of one REC, which is equivalent to one MWH, depending upon the demand and supply in the CERC administered power exchange.¹⁰⁷ GFL reported that it generated a number of RECs during the POI through its captive windfarm.¹⁰⁸ The company then

¹⁰⁰ *Id.*

¹⁰¹ See *Countervailing Duty Investigation of Welded Stainless Pressure Pipe from India: Final Affirmative Determination*, 81 FR 66925 (September 29, 2016) and accompanying IDM at Comment 7.

¹⁰² See GOI SQR2 at Exhibit 9.

¹⁰³ *Id.* at Exhibit 9; see also GFL SQR at Exhibit 37.

¹⁰⁴ See GFL Preliminary Calculation Memorandum.

¹⁰⁵ See GFL SQR at 20.

¹⁰⁶ *Id.* at 21.

¹⁰⁷ *Id.* and Exhibit SUP-51.

¹⁰⁸ *Id.*

sold the RECs during the POI on a power exchange at a floor price set by the CERC. These RECs are made available for purchase by designated consumers that need to meet their CERC-defined “Renewable Purchase Obligation.”¹⁰⁹ While GFL’s projects must be reaccredited every five years, the actual number of RECs granted to GFL is determined on a yearly basis.¹¹⁰

As noted above in the “Use of Facts Otherwise Available,” section, we normally rely on the government to provide specific program information with regards to the administration and specificity of programs. Because the GOI did not provide any information regarding this program, we are not able to confirm GFL’s description of how this program is administered; therefore, as discussed above, we are finding, as AFA, that this program constitutes a financial contribution and provides a benefit under section 771(5)(D)(i) of the Act and 19 CFR 351.504, respectively.¹¹¹ As AFA, we preliminarily determine that this program is *de facto* specific, pursuant to section 771(5A)(D)(iii)(I) of the Act.¹¹² In addition, we determine that this program constitutes a grant, pursuant to 19 CFR 351.504. Since, these benefits under this program are determined on a year to year basis, we are treating the amounts as recurring grants.

To calculate the countervailable subsidy, we used our standard methodology for recurring grants. We divided the POI-benefit amount received by GFL for the RECs it sold during the POI by GFL’s total sales, in accordance with the attribution analysis described above, to arrive at a total countervailable subsidy rate.

On this basis, we preliminarily determine a countervailable subsidy rate of 0.37 percent *ad valorem* for GFL.¹¹³

B. Programs Preliminarily Determined Not to Confer a Measurable Benefit During the POI

Government of India Programs

1. SGOG Provision of Land for Less than Adequate Remuneration (LTAR)

GFL reported that it leases land in Gujarat through the GIDC, which is an agency of the SGOG.¹¹⁴ The SGOG established the GIDC in 1962 “to make {the} GIDC an effective, vibrant and timely provider of quality industrial infrastructure with {an} easy, quick and transparent delivery mechanism at competitive pricing. . . .”¹¹⁵ In practice, the GIDC purchases land in Gujarat, develops infrastructure such as roads, streetlights, water, *etc.*, and then leases the land

¹⁰⁹ *Id.* at 21 and Exhibit SUPP-53.

¹¹⁰ *Id.* at 20 and Exhibit SUPP-49.

¹¹¹ See GFL IQR at 64 and Exhibit 34.

¹¹² The applications and approval documents that GFL provided for its use of the program indicate this program is *de facto* specific, because it is limited to companies that generate renewable energy. See GFL IQR at Exhibit 35; see also GFL SQR at 48.

¹¹³ See GFL Preliminary Calculation Memorandum.

¹¹⁴ See GFL IQR at 47 and Exhibit 28.1; see also GFL SQR at Exhibit SUPP-67.

¹¹⁵ See GOI SQR2 at 2.

on a 99-year basis to industrial enterprises.¹¹⁶ Regarding these leases, the GOI notes that the GIDC “offers {a} reasonable allotment price with soft payment options.”¹¹⁷ Because the GIDC is an agency of the SGOG, we preliminarily determine that the GIDC is an “authority,” as defined by section 771(5)(B) of the Act.¹¹⁸ As a result, we find that the provision to GFL of land-use rights by an authority constitutes the provision of a good and, therefore, is a financial contribution, as defined by section 771(5)(D)(iii) of the Act. We also determine that the GIDC’s provision of land-use rights to GFL based on its location is regionally specific within the meaning of section 771(5A)(D)(iv) of the Act, because it is only available in areas designated as industrial estates inside the State of Gujarat.

The adequacy of remuneration for government-provided goods or services is determined pursuant to 19 CFR 351.511(a)(2). Under 19 CFR 351.511(a)(2), Commerce measures the remuneration received by a government for goods or services against comparable benchmark prices to determine whether the government provided goods or services for LTAR. These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three). As provided in our regulations, the preferred benchmark in the hierarchy is an observed market price from actual transactions within the country under investigation (*i.e.*, tier one). This is because such prices generally would be expected to reflect most closely the prevailing market conditions of the purchaser under investigation.

GFL provided benchmark information for evaluating whether land was provided to the respondent for LTAR.¹¹⁹ GFL noted that this benchmark is “the market value rates for land in the Ambheta Village in Vagra, Bharuch District in Gujarat determined by the Stamp Duty Valuation Organization that were applicable in June 2006.”¹²⁰ GFL further noted that “the State of Gujarat prepares {this} in the normal course of business.”¹²¹ However, these land value rates were not generated by an independent third party and are not transaction-specific. Furthermore, the land rates provided by GFL are not actual transactions but, rather, a price valuation of the land. As a result, for this preliminary determination, we find that we cannot rely on GFL’s Land Benchmark Submission as a benchmark to determine whether land was provided for LTAR. GFL also provided several private land transactions it conducted in the state of Gujarat.¹²²

¹¹⁶ *Id.*

¹¹⁷ *Id.* at 4.

¹¹⁸ *Id.* at 2.

¹¹⁹ See Letter from GFL, “Polytetrafluoroethylene Resin from India; Gujarat Fluorochemicals Limited’s Benchmark Submission,” dated February 1, 2018 at Exhibit 1 (Land Benchmark Submission).

¹²⁰ *Id.* at 1.

¹²¹ *Id.*

¹²² See GFL SQR at Supp-36.

The petitioner provided a tier-three benchmark for industrial land in Singapore.¹²³ The petitioner argued that the intervention of the SGOG in purchasing industrial land in the state of Gujarat caused distortion in the industrial land market.¹²⁴ It contends that using a tier-one benchmark composed of GFL's private market transactions would not reflect a market-based transaction.¹²⁵ Therefore, it claimed that Commerce should use industrial land in Singapore as a benchmark based upon its geographic proximity and comparable economic level of development.

As noted above, it is Commerce's preference to use a transaction-specific benchmark derived from the country under investigation. Although the petitioner contended that Indian land prices are distorted by significant government intervention, it did not demonstrate the existence of significant government intervention that had an effect on land prices or that invalidated the market principles of their private land transaction in Gujarat in such a way that would make it necessary to use a tier-three benchmark. Further, the petitioner did not demonstrate that Singapore is at a comparable level of development that offers a better means of comparison than a private land transaction in India. Therefore, based upon the record evidence, we preliminarily determine that GFL's most contemporaneous private land transaction in Gujarat, as noted above, represents the best comparable land value on the record to use as a benchmark. This transaction has a rate for land obtained within India (*i.e.*, in the state of Gujarat) and is, therefore, geographically proximate and was privately purchased.

To calculate the benefit, we compared GFL's private land transaction benchmark with the prices at which GFL leased land from the GIDC. We conducted the "0.5 percent test," as instructed by 19 CFR 351.524(b)(2), for the years of the relevant GIDC leases by dividing the total unallocated benefit for the tracts of land for the corresponding years by the appropriate sales denominator. If more than one tract was provided in a single year, we combined the total unallocated benefits from the tracts before conducting the "0.5 percent test." We found that the benefits were less than 0.5 percent of the relevant sales for the particular years; therefore, we preliminarily determine that GFL did not receive a benefit under this program.

2. Duty Drawback Program (DDB)

GFL reported that it used this program.¹²⁶ The GOI explained that the DDB Program provides rebates for duty or tax chargeable on any: (a) imported or excisable materials; and (b) input services used in the manufacture of export goods.¹²⁷ Specifically, the duties and tax "neutralized" under the program are the (i) Customs and Union Excise Duties for inputs and (ii) Service Tax for services.¹²⁸ The amount of the duty drawback is generally fixed as a percentage of the free on board (FOB) price of the exported product.¹²⁹

¹²³ See Letter from the petitioner, "Polytetrafluoroethylene (PTFE) Resin from India: Chemours' Factual Information Submission," dated February 16, 2018 at Attachment 2.

¹²⁴ See Letter from the petitioner, "Polytetrafluoroethylene (PTFE) Resin from India: Response to GFL's Rebuttal Pre-Preliminary Comments," dated February 22, 2018 at 8.

¹²⁵ *Id.*

¹²⁶ See GFL IQR at Exhibit 16.

¹²⁷ See GOI IQR at 23.

¹²⁸ *Id.*

¹²⁹ *Id.* at 20 and 23.

Consistent with previous determinations, we find that the GOI's response lacks the documentation to demonstrate that the GOI has a system in place to confirm which inputs are consumed in the production of the exported products, and in what amounts. Therefore, we preliminarily determine that the GOI has not supported its claim that its system is reasonable or effective for the purposes intended.¹³⁰ Accordingly, we preliminarily determine that the DDB Program confers a countervailable subsidy. Under the DDB Program, a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided because rebated duties represent revenue forgone by the GOI. Moreover, as explained above, the GOI has not supported its claim that the DDB Program system is reasonable and effective in confirming which inputs, and in what amounts, are consumed in the production of the exported product.¹³¹ Further, this program is available only to exporters; therefore, it is specific under sections 771(5A)(A) and (B) of the Act.

Pursuant to 19 CFR 351.519(b)(1), we find that benefits from the DDB Program are conferred at a rate of three percent of the FOB value of exports, and are granted at the time of exportation. GFL reported that it received benefits only on the basis of its exports to the United States of non-subject merchandise.¹³² In accordance with 19 CFR 351.525(b)(4) and (5), when a subsidy is tied to a certain product or market, we will attribute that subsidy to only that product or market.¹³³ Therefore, because GFL did not receive benefits during the POI under this program on its exports of subject merchandise to the United States, we preliminary determine that this program is not used with regard to GFL's export of subject merchandise during the POI.¹³⁴

3. *Merchandise Exports from India Scheme (MEIS)*

GFL reported receiving benefits from MEIS during the POI.¹³⁵ The GOI explained that the MEIS was introduced in the Foreign Trade Policy (FTP) 2015-2020.¹³⁶ Its purpose is to "offset infrastructural inefficiencies and associated costs involved in export of goods/products, which are produced/manufactured in India, especially those having high export intensity, employment potential and thereby enhancing India's export competitiveness."¹³⁷ Under this program, the GOI issues a scrip worth either two, three, or five percent of the FOB value of the "exports in free foreign exchange, or on the FOB value of exports, as given on the shipping bills in free foreign exchange, whichever is less."¹³⁸ To receive the scrip, a recipient must file an electronic application and supporting shipping documentation for each port of export with the Director General of Foreign Trade (DGFT).¹³⁹ After a recipient receives and registers the scrip, it may

¹³⁰ See e.g., *Shrimp from India Final Determination*, and accompanying IDM at "Duty Drawback (DDB)."

¹³¹ See GOI IQR at 22-23.

¹³² See GFL IQR at Exhibit 16.

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ See GFL SQR at 22, 25, and Exhibit 56.

¹³⁶ See GOI IQR at Exhibits C and D; see also GOI SQR at 37.

¹³⁷ See GOI SQR at 37.

¹³⁸ See GFL IQR at 44; see also GOI IQR at Exhibit C.

¹³⁹ See GOI IQR at Exhibit D.

use it for either the payment of future customs duties for importing goods or transfer it to another company.¹⁴⁰

This program is specific within the meaning of sections 771(5A)(A) and (B) of the Act, because eligibility to receive the scrips is contingent upon exports.¹⁴¹ This program provides a financial contribution in the form of a grant equal to the value of the scrips which GFL can use to pay import duties or to sell the scrips in the market.¹⁴² According to record evidence, MEIS is a continuous program and, thus, is recurring in nature.¹⁴³ This program, therefore, provides a recurring benefit.¹⁴⁴ Furthermore, recipients can expect to receive additional subsidies under this same program on an ongoing basis from year to year under 19 CFR 351.524(c)(2)(i).

The MEIS licenses, which contain the date of validity and the value of the scrip granted as issued by the GOI, are the best method to determine the amount and the timing of the benefit.¹⁴⁵ GFL reported that it generated scrips from exports of non-subject merchandise and not from subject merchandise. Further, PTFE resin is not an eligible product for generating scrips under MEIS.¹⁴⁶ However, GFL used some scrips that it earned from exports of non-subject merchandise to pay for duties on inputs used in the production of subject merchandise. Because we find this program to be tied only to exports on the GOI list and we calculated that benefit at the time of when the scrip was given to GFL, GFL's use of the scrips on inputs used for subject merchandise occurs after the GOI issues the scrip and is, therefore, not included in any potential benefit. Further, because we are preliminarily finding that the MEIS program is tied to particular products listed by the GOI for eligibility on generating scrips and because GFL did not earn any scrips on the export of subject merchandise, we preliminarily determine that GFL did not benefit from this program.¹⁴⁷

C. Programs that are Preliminarily Determined to be Not Used

GFL reported that it did not apply for or receive benefits under the following programs during the POI or over the AUL period:

GOI Programs

1. Income Tax Exemption Scheme (80-IA)

¹⁴⁰ *Id.* at Exhibits C and D.

¹⁴¹ See GOI IQR at Exhibits C and D; see also GFL IQR at 44-45.

¹⁴² *Id.* at 22-24 and Exhibits SUPP-74 through SUPP-78.

¹⁴³ See GOI IQR at Exhibits C and D.

¹⁴⁴ *Id.*

¹⁴⁵ See *Polyethylene Terephthalate Film, Sheet and Strip from India: Preliminary Results And Partial Rescission of Countervailing Duty Administrative Review; 2012*, 79 FR 50616 (August 25, 2014) (and accompanying Memorandum "Calculations for the Preliminary Results: Jindal Poly Films of India Limited (Jindal)") at 4-5, unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 40 (March 2, 2015); see also *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review; 2013*, 81 FR 7753 (February 16, 2016), and accompanying IDM at Comment 2.

¹⁴⁶ See GFL IQR at Exhibit 27.

¹⁴⁷ See GFL Preliminary Calculation Memorandum.

According to the GOI, under Section 80-IA of the Income Tax Act, 1961, a company may deduct from its taxable income 100 percent of the profits derived from a specified eligible business undertaking.¹⁴⁸ The deduction may be claimed for any ten consecutive years out of a period of fifteen years from the first year of operation.¹⁴⁹ GFL explained that it claimed the deduction on its income tax return.¹⁵⁰ The GOI notes that eligible companies must be owned by a company in India and construct an “infrastructure facility” such as a road or water supply project, operate an industrial park, or generate and distribute power, *etc.*¹⁵¹

Because information provided by the GOI indicates that financial assistance under this program is expressly limited by law to enterprises engaging in five specific activities, we find this program to be *de jure* specific under section 771(5A)(D)(i) of the Act.¹⁵² The tax deductions are financial contributions in the form of revenue foregone by the government under section 771(5)(D)(ii) of the Act. Under 19 CFR 351.509(a), the benefit is equal to the difference between the income tax actually paid and the income tax that would have paid absent the program. GFL reported that though it claimed this deduction on its income tax return it did not receive a benefit because it paid its income tax according to section 115JB of the Income Tax Act, the minimum alternate tax (MAT) calculation.¹⁵³ The MAT specifies that after a company calculates its tax according to the normal tax calculation and its tax payable is less than 18 and a half percent of book profits, a company must automatically pay the MAT rate of 18 and a half percent of book profit.¹⁵⁴ GFL presented its income tax return, which demonstrates after it calculated its tax payable under the normal method it ultimately paid its taxes according to the MAT and did not receive benefits under 80-IA.¹⁵⁵ Therefore, we preliminarily determinate that this program was not used by GFL during the POI.

2. Section 32AC of the Income Tax Act

GFL self-reported that it claimed a deduction under this program.¹⁵⁶ The GOI stated that section 32AC of the Income Tax Act, 1961, provided an incentive for investment in plant and machinery.¹⁵⁷ Eligible companies must be “engaged in the manufacture or production of any article or thing.”¹⁵⁸ During fiscal years 2015-16 and 2016-17, eligible companies could deduct 15 percent of the actual cost of the asset acquired, if it exceeded 250,000,000 rupees.¹⁵⁹

As noted above in the “Use of Facts Otherwise Available,” section, we normally rely on the government to provide specific program information with regards to the administration and

¹⁴⁸ See GOI IQR at 33-34.

¹⁴⁹ *Id.* at 34.

¹⁵⁰ See GFL IQR at 26.

¹⁵¹ See GOI IQR at 36-37.

¹⁵² *Id.* at 35-38.

¹⁵³ See GFL IQR at 28-29 and Exhibit 5.

¹⁵⁴ *Id.* at Exhibit 37.

¹⁵⁵ *Id.* at Exhibit 5.

¹⁵⁶ *Id.* at 30 and Exhibit 5.

¹⁵⁷ See GOI SQR at 11.

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

specificity of programs. The GOI did not provide any information regarding this program; therefore, we are not able to confirm GFL's description of how this program is administered. Commerce requested program usage information on two occasions but the GOI did not provide the requested information.¹⁶⁰ We are, therefore, finding that an adverse inference is warranted in determining whether there is a financial contribution and whether the program is *de facto* specific. Consequently, as AFA, we preliminarily determine that this program constitutes a financial contribution and is *de facto* specific within the meaning of sections 771(5A)(D) of the Act.¹⁶¹

Under 19 CFR 351.509(a), the benefit is equal to the difference between the income tax actually paid and the income tax that would have paid absent the program. Similar to the 80-IA income tax deduction, GFL reported that, although it claimed this deduction on its income tax return, it did not receive a benefit, because it paid its income tax according to section 115JB of the Income Tax Act, the MAT calculation.¹⁶² The MAT specifies that after a company calculates its tax according to the normal tax calculation and its tax payable is less than 18 and a half percent of book profits, a company must automatically pay the MAT rate of 18 and a half percent of book profit.¹⁶³ GFL presented its income tax return, which demonstrates that after it calculated its tax payable under the normal method, it ultimately paid its taxes according to the MAT and did not receive a benefit from 32AC of the Income Tax Act.¹⁶⁴ Therefore, we preliminarily determinate that GFL did not receive a benefit under this program.

3. *Duty Free Import Authorization (DFIA)*
4. *Duty Free Importation of Capital Goods and Raw Materials, etc.*
5. *Exemption from Payment of Central Sales Tax (CST)*
6. *SEZ Income Tax Exemption*
7. *Bank Loans Obtained from Public Sector Bank*

SGOG Programs

8. *SGOG Interest Subsidy under Assistance to Manufacturing Sector Scheme*
9. *SGOG Core Infrastructure in Manufacturing Sector*
10. *SGOG Assistance in Setting Up Common Facilities*
11. *SGOG Assistance in Common Effluent Treatment Plant*
12. *SGOG Assistance for Center for Excellence*
13. *Export Promotion – Government Grants*
14. *Exemption from Payment of State Sales Tax*
15. *Gujarat Exemption from Payment of State Government Taxes and Duties Such as Stamp Duties*

¹⁶⁰ *Id.* at 20; see also GOI SQR3 at 9.

¹⁶¹ See GOI SQR at 11 and 17.

¹⁶² See GFL IQR at Exhibit 5.

¹⁶³ *Id.* at Exhibit 37.

¹⁶⁴ *Id.* at Exhibit 5.

X. CALCULATION OF THE ALL-OTHERS RATE

Sections 703(d) and 705(c)(5)(A) of the Act state that for companies not individually 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, excluding any zero, *de minimis*, or facts available rates. Because GFL is the only investigated company, we are applying the countervailable subsidy rate calculated for GFL to all other exporters of PTFE resin to the United States.

XI. 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 Enforcement and Compliance. In accordance with section 705(b)(2) of the Act, the ITC will make its final determination before the later of 120 days after the date of this preliminary determination or 45 days after Commerce makes its final affirmative determination.

XII. DISCLOSURE AND PUBLIC COMMENT

Commerce intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.¹⁶⁵ Case briefs or other written comments for all non-scope issues may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹⁶⁶ Case briefs or other written comments on scope issues may be submitted no later than 30 days after the publication of this preliminary determination in the *Federal Register*, and rebuttal briefs, limited to issues raised in the case briefs, maybe submitted no later than five days after the deadline for the case briefs. For any briefs filed on scope issues, parties must file separate and identical documents on each of the records for the other concurrent countervailing duty and antidumping duty investigations.

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁶⁷ This summary should be limited to five pages total, including footnotes. Interested parties who wish to request a hearing, or to participate if one is requested, must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*.¹⁶⁸ Requests should contain the party's name, address, and telephone number; the

¹⁶⁵ See 19 CFR 351.224(b).

¹⁶⁶ See 19 CFR 351.309(c)-(d); *see also* 19 CFR 351.303 (for general filing requirements).

¹⁶⁷ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁶⁸ See 19 CFR 351.310(c).

number of participants; and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a date, time and location to be determined. Parties will be notified of the date, time and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using Commerce's electronic records system, ACCESS.¹⁶⁹ Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,¹⁷⁰ on the due dates established above.

XIII. VERIFICATION

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted in response to Commerce's questionnaires.

XIV. CONCLUSION

We recommend that you approve the preliminary findings described above.



Agree



Disagree

2/28/2018

X 

Signed by: CHRISTIAN MARSH

Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance

¹⁶⁹ See 19 CFR 351.303(b)(2)(i).

¹⁷⁰ See 19 CFR 351.303(b)(1).

附件十五： 印度商务部《2015-2016年度报告》

Accelerating Trade.
Facilitating Business.
Building India.

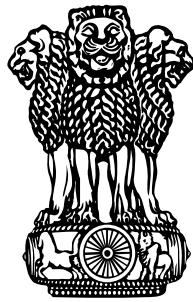


ANNUAL REPORT 2015-16

Department of Commerce
Ministry of Commerce & Industry

ANNUAL REPORT

2015-16



सत्यमेव जयते

Department of Commerce
Ministry of Commerce & Industry



Annual Report 2015-16

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Foreign Trade Policy & Exim Trade

The Five-year Foreign Trade Policy (FTP) 2015-20 focuses on export promotion of manufacturing and services sector with special emphasis on ease of doing business and trade facilitation. The FTP statement explains the vision, goals and objectives underpinning the Foreign Trade Policy. The Policy lays down road map for India's global trade engagement in the coming years. Handbook of procedures notifies the procedure to be followed by exporter/ importer or by licensing/Regional Authority or by any authority for purpose of implementing the provisions of Foreign Trade(Development and Regulation) Act, the rules, orders, under and the provisions of Foreign Trade Policy. The procedure contains Hand Book of Procedures, Appendices & Aayat Niryat Forms and Standard Input Output Norms (SION)

Foreign Trade Policy Statement

It is a comprehensive statement on government priorities in the Foreign Trade Sector. Through the statement broad approach on external sector has been articulated. First it spells out government strategy to address some of the structural and institutional mechanism which is of prime importance for Foreign Trade Sector. Secondly, it states the ways government would make trade and economic integration agreement with trade partners and would work better for Indian enterprises. Foreign Trade Policy has taken 'whole of government's approach'. The government has taken a major 'path breaking' initiative to main-stream states, Union Territories and various departments of government of India in the process of international trade.

The statement describes the market and product strategy and measures required for trade promotion infrastructure development and overall enhancement of the trade ecosystem.

The FTP statement recognizes 'behind the border' constraints faced while engaging in Foreign Trade. The statements of intent includes assistance that the Department of Commerce is providing to State and Union Territory Governments to prepare exports strategies and setup 'Export Promotion Mission' to provide an institutional framework to work with state governments to boost India's exports.

The Foreign Trade Policy provides framework for increasing exports of goods and services as well as employment generation and greater value addition in line with the 'Make in India' programme. The Policy aims to enable India to respond to the challenges of external environment, keeping pace with rapidly evolving international trading architecture and make trade major contributor to the country's economic growth and development. In this policy, measures have been taken to nudge procurement of capital goods from indigenous manufacturers under the EPCG scheme by reducing specific export obligation to 75per cent of the normal export obligation. The FTP also boost exports of defense and

hi-tech items, E-Commerce exports of handloom products, books/periodicals, leather footwear, toys and customised fashion garments through courier or foreign post office. Under the policy, Manufacturers, who are also status holders, will be able to self-certify their manufactured goods in phases, as originating from India with a view to qualifying for preferential treatment under various forms of bilateral and regional trade agreements. Under this policy number of steps have been taken for encouraging manufacturing and exports under 100 per cent EOU/EHTP/STPI/BTP Schemes. Trade facilitation and enhancing the ease of doing business are the other major focus areas.

The FTP introduces two new schemes, namely "Merchandise Exports from India Schemes (MEIS)" for export of specified goods to specified markets and "Service Exports from India Scheme (SEIS)" for increasing exports of notified services, in place of a plethora of schemes earlier with different conditions for eligibility and usage. There would be no conditionality attached to any scrips issued under these schemes. Duty credit scrips issued under MEIS and SEIS and the goods imported against these scrips are fully transferable.

Merchandise Exports From India Scheme (MEIS)

There were different schemes for rewarding Merchandise Exports with different kinds of duty scrips and with varying conditions attached to their use. These schemes were (i) Focus Product Scheme (FPS), (ii) Focus Market Scheme (FMS), (iii) Market Linked Focus Product Scrip (MLFPS), (iv) Vishesh Krishi and Gram Udyog Yojna (VKGUY), (v) Agri. Infrastructure Incentive Scrip and (vi) Incremental Export Incentive Scheme. MEIS, introduced through the Foreign Trade Policy (FTP) 2015-20 on April 1, 2015 is a merger of all the schemes. e-Commerce exports of certain specified employment creating sectors, made through courier or foreign post offices, have also been supported under MEIS.

Rewards under MEIS are payable as a percentage (2, 3 or 5%) of realized FOB value of covered exports, by way of the MEIS duty credit scrip. The scrip can be transferred or used for payment of a number of duties / taxes including the customs / excise duty / service tax. Scrips and inputs imported under the scrips are fully transferable. This has provided much flexibility to exporters. Rewards for export of notified goods to notified markets under 'Merchandise Exports from India Scheme' (MEIS) shall be payable as percentage of realized FOB value (in free foreign exchange). The debits towards basic customs duty in the transferable reward duty credit scrips would also be allowed adjustment as duty drawback. Whereas earlier only the additional duty of customs/excise duty/service tax was allowed adjustment as CENVAT credit or drawback, as per Department of Revenue rules.

Duty Credit Scrip是出口FOB金额的2%、3%或5%。

附件十六： 印度《2005经济特区法案》

THE GAZETTE OF INDIA

EXTRAORDINARY

PART II – SECTION I

PUBLISHED BY AUTHORITY

NO. 31]

NEW DELHI, THURSDAY, JUNE 23, 2005

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 23rd June, 2005/Asadha 2, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 23rd June, 2005, and it hereby published for general information: -

2005经济特区法案

THE SPECIAL ECONOMIC ZONES ACT, 2005

No. 28 OF 2005

[23rd June, 2005]

An Act to provide for the establishment, development and management of the Special Economic Zones **for the promotion of exports** and for matters connected therewith or incidental thereto. 法案目的是为了促进出口

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

	CHAPTER I PRELIMINARY	
	1. (1) This Act may be called the Special Economic Zones Act, 2005. (2) It extends to the whole of India. (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.	Short title, extent and commencement.
Definitions.	2. In this Act, unless the context otherwise requires,- (a) “appointed day” with reference to a Special Economic	

	this Act but defined in the Central Excise Act, 1944, the Industries (Development and Regulation) Act, 1951, the Income-tax Act, 1961, the Customs Act, 1962 and the Foreign Trade (Development and Regulation) Act, 1992 shall have the meanings respectively assigned to them in those Acts.	65 of 1951. 43 of 1961. 52 of 1962. 22 of 1992.
	CHAPTER II ESTABLISHMENT OF SPECIAL ECONOMIC ZONE	第二章 经济特区的设立
Procedure for making proposal to establish Special Economic Zone.	3. (1) A Special Economic Zone may be established under this Act, either jointly or severally by the Central Government, State Government, or any person for manufacture of goods or rendering services or for both or as a Free Trade and Warehousing Zone. (2) Any person, who intends to set up a Special Economic Zone, may, after identifying the area, make a proposal to the State Government concerned for the purpose of setting up the Special Economic Zone.	中央政府、邦政府和任何个人都可以设立经济特区
	(3) Notwithstanding anything contained in sub-section (2), any person, who intends to set up a Special Economic Zone, may, after identifying the area, at his option, make a proposal directly to the Board for the purpose of setting up the Special Economic Zone:	
	Provided that where such a proposal has been received directly from a person under sub-section, the Board may grant approval and after receipt of such approval, the person concerned shall obtain the concurrence of the State Government within the period, as may be prescribed.	
	(4) In case a State Government intends to set up a Special Economic Zone, it may after identifying the area, forward the proposal directly to the Board for the purpose of setting up the Special Economic Zone:	
	Provided that the Central Government may:- (a) after consulting the State Government concerned; (b) without referring the proposal for setting up the Special Economic Zone to the Board; and (c) after identifying the area; <i>suo moto</i> set up and notify the Special Economic Zone	
	(5) Every proposal under sub-sections (2) to (4) shall be made in such form and manner containing such particulars as may be prescribed.	

	(a) “company” means any body corporate and includes a firm or other association of individuals; and (b) “director”, in relation to a firm, means a partner in the firm.	
	CHAPTER VI Special Fiscal Provisions for Special Economic Zones	第六章
52 of 1962 51 of 1975	26. (1) Subject to the provisions of sub-section (2), every Developer and the entrepreneur shall be entitled to the following exemptions, drawbacks and concessions, namely: -	Exemptions, drawbacks and concessions to every Developer and entrepreneur.
52 of 1962. 51 of 1975.	(a) exemption from any duty of customs, under the Customs Act, 1962 or the Custom Tariff Act, 1975 or any other law for the time being in force, on goods imported into, or service provided in, a Special Economic Zone or a Unit, to carry on the authorised operations by the Developer or entrepreneur; (b) exemption from any duty of customs, under the Customs Act, 1962 or the Customs Tariff Act, 1975 or any other law for the time being in force, on goods exported from, or services provided, from a Special Economic Zone or from a Unit, to any place outside India:	经济特区企业进口货物免征关税
1 of 1944. 5 of 1986.	(c) exemption from any duty of excise, under the Central Excise Act, 1944 or the Central Excise Tariff Act, 1985 or any other law for the time being in force, on goods brought from Domestic Tariff Area to a Special Economic Zone or Unit, to carry on the authorised operations by the Developer or entrepreneur;	经济特区企业从印度境内非经济特区采购货物用于自身生产的, 免征消费税
	(d) drawback or such other benefits as may be admissible from time to time on goods brought or services provided from the Domestic Tariff Area into a Special Economic Zone or Unit or services provided in a Special Economic Zone or Unit by the service providers located outside India to carry on the authorised operations by the Developer or entrepreneur;	
32 of 1994.	(e) exemption from service tax under Chapter-V of the Finance Act, 1994 on taxable services provided to a Developer or Unit to carry on the authorised operations in a Special Economic Zone;	免征服务税
23 of 2004.	(f) exemption from the securities transaction tax leviable under section 98 of the Finance (No. 2) Act, 2004 in case the taxable securities transactions are entered into by a non-resident through the International Financial Services Centre;	

74 of 1956.	(g) exemption from the levy of taxes on the sale or purchase of goods other than newspapers under the Central Sales Tax Act, 1956 if such goods are meant to carry on the authorised operations by the Developer or entrepreneur.	免征中央销售税 (CST)
	(2) The Central Government may prescribe the manner in which, and the terms and conditions subject to which, the exemptions, concessions, drawback or other benefits shall be granted to the Developer or entrepreneur under sub-section (1).	
43 of 1961.	27. The provisions of the Income-tax Act, 1961, as in force for the time being, shall apply to, or in relation to, the Developer or entrepreneur for carrying on the authorised operations in a Special Economic Zone or Unit subject to the modifications specified in the Second Schedule.	Provisions of Income-tax Act, 1961 to apply with certain modification in relation to Developers and entrepreneurs.
	28. The Central Government may prescribe the period during which any goods brought into, or services provided in, any Unit or Special Economic Zone without payment of taxes, duties or cess shall remain or continue to be provided in such Unit or Special Economic Zone.	Duration of goods or services in Special Economic Zones. 免征附加税cess
Transfer of ownership and removal of goods.	29. The transfer of ownership in any goods brought into, or produced or manufactured in, any Unit or Special Economic Zone or removal thereof from such Unit or Zone shall be allowed, subject to such terms and conditions as the Central Government may prescribe.	
Domestic clearance by Units.	30. Subject to the conditions specified in the rules made by the Central Government in this behalf:- (a) any goods removed from a Special Economic Zone to the Domestic Tariff Area shall be chargeable to duties of customs including anti-dumping, countervailing and safeguard duties under the Customs Tariff Act, 1975, where applicable, as leviable on such goods when imported; and (b) the rate of duty and tariff valuation, if any, applicable to goods removed from a Special Economic Zone shall be at the rate and tariff valuation in force as on the date of such removal, and where such date is not ascertainable, on the date of payment of duty.	
	CHAPTER VII SPECIAL ECONOMIC ZONE AUTHORITY	

印度《2005 经济特区法案》

P5:

第二章 经济特区的建立

3（1）根据该法，任何法人、中央政府和邦政府均可单独或共同设立从事商品制造或提供服务（或两者兼具）的经济特区。

P24:

第六章 经济特区的特殊财政规定

26.（1）除第（2）款的条文另有规定外，每名开发商及企业家均有权享有下列豁免，退税及优惠，即：

- （a）对进口到特别经济区出口的货物或服务免除任何海关税；
- （b）对从特别经济区的货物或服务免除任何海关税；
- （c）从境内采购货物的消费税免除

.....

（e）服务税免除

（f）.....

（g）中央销售税（CST）免除

附件十七： 印度《2006年经济特区条例》

**PUBLISHED IN PART II, SECTION 3 SUB-
SECTION (i) OF THE GAZETTE
OF INDIA EXTRAORDINARY, DATED THE
10th February, 2006**

**GOVERNMENT OF INDIA MINISTRY OF
COMMERCE AND INDUSTRY
(DEPARTMENT OF COMMERCE)**

NOTIFICATION

New Delhi, the 10th February, 2006

THE SPECIAL ECONOMIC ZONES RULES, 2006^[1]

G.S.R.No : 54(E) In exercise of the powers conferred by section 55 of the Special Economic Zones Act, 2005 (28 of 2005), the Central Government hereby makes the following rules, namely:—

1. G.S.R.54(E), dated 10-2-2006, published in the Gazette of India, Part II, Section 3, sub-section (i), dated 10-2-2006 and subsequently amended vide G.S.R.470(E) dated 10-8-2006, S.O.393(E) dated 16-3-2007, G.S.R.1744(E) dated 12-10-2007, GSR 2661(E) dated 14.11.2008, GSR No.72(E) dated 03.02.2009, GSR No.1293(E) dated 20.05.2009, GSR No.562(E) dated 03.08.2009

CHAPTER I

PRELIMINARY

1. Short title and commencement.- (1) These rules may be called the Special Economic Zones Rules, 2006.

(2) They shall come into force on the date of their publication in the Official Gazette Published in Gazette of India, Extraordinary, dt. 10-2-2006.

2. Definitions.- (1) In these rules, unless the context otherwise requires,—

- (a) “Act” means the Special Economic Zones Act, 2005 (28 of 2005);
- (b) “Advance Licence” means Advance Licence issued under the Duty Exemption and Remission Scheme of the Foreign Trade Policy and includes advance authorisation;
- (c) “Authorised Officer” means an Inspector or Preventive Officer or Appraiser or Superintendent of Customs posted in the Special Economic Zone and authorized by the Specified Officer to discharge any of his functions under these rules;
- (d) “Bio Technology Park unit” means a unit approved under the Bio-Technology Park Scheme of the Foreign Trade Policy;

资本货物的范围涵盖经济特区内直接或间接用于生产、服务、开发、建设、测试、研究、环保等诸多方面的厂房、机械设备等等物资。

- (e) “capital goods” means any plant, machinery, equipment or accessories required for manufacture or production, either directly or indirectly, of goods or for rendering services, or for development of Special Economic Zone, including those required for construction, replacement, modernization, technological upgradation or expansion and also include material handling equipment, packaging machinery and equipments, refractories machine tools, equipment and instruments for testing, research

and development, quality and pollution control system, for use in manufacturing, construction, mining, agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture and viticulture, and in the services sector;

- (f) **"component"** means one of the parts of a sub-assembly or assembly of which a manufactured product is made up and into which it may be resolved and includes an accessory or attachment to the component;
- (g) **"consumable"** means any item, (including fuels, high speed diesel oil, light diesel oil and other such petroleum products) which is required for a manufacturing process, which may or may not be substantially or totally consumed during a manufacturing process but does not necessarily form part of the end product;
- (h) **"custodian"** means any person referred to in section 45 of the Customs Act, 1962;
- (i) **"Customs Act"** means the Customs Act, 1962 (52 of 1962);
- (j) **"drawback"** means drawback referred to in the Customs Act, 1962;
- (k) **"Duty Entitlement Pass Book Scheme"** means the Duty Exemption Pass Book Scheme framed under the Foreign Trade Policy;
- (l) **"Duty Free Replenishment Certificate"** means Duty Free Replenishment Certificate issued under the Foreign Trade Policy;
- (m) **"Electronic Hardware Technology Park unit"** means a unit approved in accordance with the Electronic Hardware Technology Park Scheme framed under the Foreign Trade Policy;
- (n) **"Export Oriented Unit"** means a unit approved in accordance with the Export Oriented Unit Scheme framed under the Foreign Trade Policy;
- (o) **"Foreign Trade Policy"** means the Foreign Trade Policy notified from time to time by the Central Government under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992);
- (p) **"Form"** means the form appended to these rules;
- (q) **"Handbook"** means the Handbook of Procedures framed under

CHAPTER IV

TERMS AND CONDITIONS SUBJECT TO WHICH ENTREPRENEUR AND DEVELOPER SHALL BE ENTITLED TO EXEMPTIONS, DRAWBACKS AND CONCESSIONS

22. Terms and conditions for availing exemptions, drawbacks and concessions to every Developer and entrepreneur for authorized operations

企业或开发者
要获得免税、
退税等优惠的
前提包括实现
净创汇。

(1) Grant of exemption, drawbacks and concession to the entrepreneur or Developer shall be subject to the following conditions, namely:—

- (i) the Unit shall execute a Bond-cum-Legal Undertaking in Form H, with regard to its obligations regarding proper utilization and accountal of goods, including capital goods, spares, raw materials, components and consumables including fuels, imported or procured duty free and regarding achievement of positive net foreign exchange earning;
- (ii) the Developer and Co-developer shall execute the Bond-cum-Legal Undertaking in Form D with regard to their obligations regarding proper utilization and accountal of goods, including goods procured or imported by a contractor duly authorized by the Developer or Co-developer, as the case may be;
- (iii) the Bond-cum-Legal Undertaking shall be jointly accepted by Development Commissioner and by the Specified Officer:

Provided that the Bond-cum-Legal Undertaking executed by the Unit or the Developer including Co-developer shall cover one or more of the following activities, namely:—

- (a) the movement of goods between port of import or export and the Special Economic Zone;
- (b) the authorized operations, as applicable to Unit or Developer;
- (c) temporary removal of goods or goods manufactured in Unit for the purposes of repairs or testing or calibration or display or processing or sub-contracting of production process or production or other temporary removals into Domestic Tariff Area without payment of duty;

CHAPTER VI

FOREIGN EXCHANGE EARNING—REQUIREMENTS AND MONITORING

净创汇要求在
投产后的五年
内实现

53. Net Foreign Exchange Earnings — The Unit shall achieve Positive Net Foreign Exchange to be calculated cumulatively for a period of five years from the commencement of production according to the following formula, namely:—

Positive Net Foreign Exchange = A - B >> 0

Where :—

A : is Free on Board value of exports, including exports to Nepal and Bhutan against freely convertible currency, by the Unit and the value of following supplies of their products, namely:—

- (a) supply of goods against Advance Licence or Duty Free Replenishment Certificate under the Duty Exemption or Remission Scheme or Diamond Imprest Licence under the Foreign Trade Policy;
- (b) supply of capital goods to holders of licence under the Export Promotion Capital Goods Scheme under the Foreign Trade Policy;
- (c) supply of goods to projects financed by multilateral or bilateral agencies or funds as notified by the Department of Economic Affairs, Ministry of Finance under International Competitive Bidding in accordance with the procedures of those agencies or funds, where the legal agreements provide for tender evaluation without including the customs duty;
- (d) supply of capital goods, including those in unassembled or disassembled condition as well as plants, machinery, accessories, tools, dies and such goods which are used for installation purposes till the stage of production and spares to the extent of ten per cent. of the free on rail value to fertilizer plants;
- (e) supply of goods to any project or purpose in respect of which the Ministry of Finance, by a notification, permits the import of

附件十八： 印度Odisha邦政府关于SEZ激励政策
的网站介绍



POLICY FOR SPECIAL ECONOMIC ZONES, 2015

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[Odisha Policy Ecosystem Key Features](#)

Policy for Special Economic Zones

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Context & Objective

The Policy for Special Economic Zones – 2015 aims to create an internationally competitive business environment for an SEZ and stimulate more efficient use of local resources.

Thrust Sectors

IT/ITES, Bio Technology, Electronic System Design and Manufacturing, Automobile and Auto-component manufacturing, Heavy and Light Engineering goods, Leather, Handlooms and Handicrafts including coir, Textiles including garments and apparels, Agro and Food Processing Industries including Marine Products, Ship building and repairing, Gems and Jewellery, Downstream and Ancillary Industries based on primary metal, Petroleum, Chemical and Petrochemical and their downstream Industries, Pharmaceuticals and Tourism.

Ease of Doing Business

- Industries Department as the nodal department and IPICOL as the nodal agency for all SEZs.
- A three-tier single window clearance mechanism to facilitate speedy implementation of industrial projects is in place
- For Sector specific SEZ proposals, IPICOL may scrutinize in consultation with line departments.
- Provision for declaration as Public Utility Services
- Appointment of a Development Commissioner (DC) for each SEZ

Infrastructure & Utilities



Power	● Enabling environment to facilitate uninterrupted supply of quality power to the SEZs and the units therein ● The units within the SEZ would be permitted to set up Captive Power Plants (CPPs). ● The CPPs in the SEZ will also be permitted to establish grid connectivity for evacuation subject to agreement with State Transmission Utility. ● Developer, Co-Developer and the units may procure power from any source through Open Access
Water	● State Government to facilitate allocation of water available at nearby source for use and obtaining of necessary approvals required from Statutory Authorities
Land	● Government Land shall be provided to SEZ Developers at concessional rates and IDCO lands shall be leased. ● Preferential treatment to SEZs dedicated to Thrust and Priority sectors and also to large employment generating sectors.

Incentive framework

All the concessions and exemptions stated below are applicable for the Developer and Co-Developer as well as the contractors and sub-contractors appointed by the Developer and Co-Developers.



Stamp Duty Exemption	100% exemption on fees payable on transfer of land and/or built up space, loan agreements, credit deeds and mortgage executed.
VAT exemption	100% exemption from VAT payable on sales and transactions.
Entry Tax exemption	100% exemption from the payment of Entry Tax on sales and transactions.
Electricity Duty	100% exemption from the payment of Electricity duty on sales and transactions.

免除电力税

Policy Framework

- Industrial Policy, 2015
- Sectoral Policies
 - Biotechnology Policy
 - Health Care Investment Promotion Policy
 - ICT Policy
 - Odisha Fisheries Policy
 - Odisha Food Processing Policy
 - Pharmaceuticals Policy
 - Renewable Energy Policy
- Other Policies
 - Odisha MSME Policy
 - Policy for Special Economic Zones, 2015
 - Startup Policy

Ease of Doing Business

- Investors Guide
- Single Window System
 - GO SWIFT
 - List of Approvals
- Investment Facilitation Cell
- Timelines
- Compendium of Reforms

Industry Infrastructure

- Investment Regions
- Sector Specific Clusters
- Private Industrial Park
- Industrial Land Bank



Get Your Invest Odisha Mobile App



附件十九： 印度所得税法Section 35 (2AB)

⁹⁶**[Expenditure on scientific research.**

⁹⁷**35.** (1) In respect of expenditure on scientific research, the following deductions shall be allowed—

- (i) any expenditure (not being in the nature of capital expenditure) laid out or expended on scientific research related to the ⁹⁸business.

⁹⁹*[Explanation.—Where any such expenditure has been laid out or expended before the commencement of the business (not being expenditure laid out or expended before the 1st day of April, 1973) on payment of any salary [as defined in Explanation 2¹ below sub-section (5) of section 40A] to an employee engaged in such scientific research or on the purchase of materials used in such scientific research, the aggregate of the expenditure so laid out or expended within the three years immediately preceding the commencement of the business shall, to the extent it is certified by the prescribed authority² to have been laid out or expended on such scientific research, be deemed to have been laid out or expended in the previous year in which the business is commenced ;]*

- ³(ii) ⁴[an amount equal to ⁵[one and three-fourth] times of any sum paid] to a ⁶[research association] which has as its object the undertaking of scientific research or to a university, college or other institution to be used for scientific research :

⁷**[Provided** that such association, university, college or other institution for the purposes of this clause—

- (A) is for the time being approved, in accordance with the guidelines, in the manner and subject to such conditions as may be prescribed; and
- (B) such association, university, college or other institution is specified as such, by notification⁸ in the Official Gazette, by the Central Government;]

- ²[(*ia*) an amount equal to one and one-fourth times of any sum paid to a company to be used by it for scientific research:

Provided that such company—

- (A) is registered in India,
- (B) has as its main object the scientific research and development,
- (C) is, for the purposes of this clause, for the time being approved by the prescribed authority in the prescribed manner, and
- (D) fulfils such other conditions as may be prescribed¹⁰;

- ¹¹[(¹²(*iii*) ¹³[an amount equal to one and one-fourth times of ¹⁴[any sum paid to a research association which has as its object the undertaking of research in social science or statistical research or to a university]], college or other institution to be used for research in social science or statistical research :

¹⁵**[Provided** that ¹⁶[such association, university], college or other institution for the purposes of this clause—

- (A) is for the time being approved, in accordance with the guidelines, in the manner and subject to such conditions as may be prescribed; and
- (B) ¹⁶[such association, university], college or other institution is specified as such, by notification¹⁷ in the Official Gazette, by the Central Government.]

¹⁸*[Explanation.—The deduction, to which the assessee is entitled in respect of any sum paid to a ¹⁹[research association], university, college or other institution to which clause (ii) or clause (iii) applies, shall not be denied merely on the ground that, subsequent to the payment of such sum by the assessee, the approval granted to the association, university, college or other institution referred to in clause (ii) or clause (iii) has been withdrawn;]*

- (iv) in respect of any expenditure of a capital nature on scientific research related to the business carried on by the assessee, such deduction as may be admissible under the provisions of sub-section (2) :

²⁰**[Provided** that the ¹⁹[research association], university, college or other institution referred to in clause (ii) or clause (iii) shall make an application in the prescribed form and manner to the ²¹[Central Government] for the purpose of grant of approval, or continuance thereof, under clause (ii) or, as the case may be, clause (iii) :

Provided further that the ²¹[Central Government] may, before granting approval under clause (ii) or clause (iii), call for such documents (including audited annual accounts) or information from the ¹⁹[research association], university, college or other institution as it thinks necessary in order to satisfy itself about the genuineness of the activities of the ¹⁹[research association], university, college or other institution and that ²²[Government] may also make such inquiries as it may deem necessary in this behalf :

Provided also that any ²³[notification issued, by the Central Government under clause (ii) or clause (iii), before the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President[†], shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years] (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification:]

²⁴[**Provided also** that where an application under the first proviso is made on or after the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President[†], every notification under clause (ii) or clause (iii) shall be issued or an order rejecting the application shall be passed within the period of twelve months from the end of the month in which such application was received by the Central Government.]

(2) For the purposes of clause (iv) of sub-section (1),—

²⁵[(i) in a case where such capital expenditure is incurred before the 1st day of April, 1967, one-fifth of the capital expenditure incurred in any previous year shall be deducted for that previous year; and the balance of the expenditure shall be deducted in equal instalments for each of the four immediately succeeding previous years ;

(ia) in a case where such capital expenditure is incurred after the 31st day of March, 1967, the whole of such capital expenditure incurred in any previous year²⁶ shall be deducted for that previous year :]

²⁷[**Provided** that no deduction shall be admissible under this clause in respect of any expenditure incurred on the acquisition of any land, whether the land is acquired as such or as part of any property, after the 29th day of February, 1984.]

²⁸[*Explanation 1*].—Where any capital expenditure has been incurred before the commencement of the business, the aggregate of the expenditure so incurred within the three years immediately preceding the commencement of the business shall be deemed to have been incurred in the previous year in which the business is commenced.

²⁷[*Explanation 2*.—For the purposes of this clause,—

(a) "land" includes any interest in land ; and

(b) the acquisition of any land shall be deemed to have been made by the assessee on the date on which the instrument of transfer of such land to him has been registered under the Registration Act, 1908 (16 of 1908), or where he has taken or retained the possession of such land or any part thereof in part performance of a contract of the nature referred to in section 53A²⁹ of the Transfer of Property Act, 1882 (4 of 1882), the date on which he has so taken or retained possession of such land or part ;]

(ii) notwithstanding anything contained in clause (i), where an asset representing expenditure of a capital nature ³⁰[incurred before the 1st day of April, 1967,] ceases to be used in a previous year for scientific research related to the business and the value of the asset at the time of the cessation, together with the aggregate of deductions already allowed under clause (i) falls short of the said expenditure, then—

(a) there shall be allowed a deduction for that previous year of an amount equal to such deficiency, and

(b) no deduction shall be allowed under that clause for that previous year or for any subsequent previous year ;

(iii) if the asset mentioned in clause (ii) is sold, without having been used for other purposes, in the year of cessation, the sale price shall be taken to be the value of the asset at the time of the cessation ; and if the asset is sold, without having been used for other purposes, in a previous year subsequent to the year of cessation, and the sale price falls short of the value of the asset taken into account at the time of cessation, an amount equal to the deficiency shall be allowed as a deduction for the previous year in which the sale took place ;

- (iv) where a deduction is allowed for any previous year under this section in respect of expenditure represented wholly or partly by an asset, no deduction shall be allowed under ³¹[clause (ii) of sub-section (1)] of [section 32](#) for the same ³²[or any other] previous year in respect of that asset ;
- (v) where the asset ³³[mentioned in clause (ii)] is used in the business after it ceases to be used for scientific research related to that business, depreciation shall be admissible under ³⁴[clause (ii) of sub-section (1)] of [section 32](#).

³⁵[(2A) ³⁶Where ³⁷[, before the 1st day of March, 1984,] the assessee pays any sum ³⁸[(being any sum paid with a specific direction that the sum shall not be used for the acquisition of any land or building or construction of any building)] to a scientific research association or university or college or other institution referred to in clause (ii) of sub-section (1) ³⁹[or to a public sector company] to be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority⁴⁰ having regard to the social, economic and industrial needs of India, then,—

- (a) there shall be allowed a deduction of a sum equal to one and one-third times the sum so paid ; and
- (b) no deduction in respect of such sum shall be allowed under clause (ii) of sub-section (1) for the same or any other assessment year.]

⁴¹[*Explanation*.—For the purposes of this sub-section, "public sector company" shall have the same meaning as in clause (b) of the *Explanation* below sub-section (2B) of [section 32A](#).]

⁴²[(2AA) ⁴³Where the assessee pays any sum to a National Laboratory ⁴⁴[or a ⁴⁵[University or an Indian Institute of Technology or a specified person] with a specific direction that the said sum shall be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority⁴⁶, then—

- (a) there shall be allowed a deduction of a sum equal to ⁴⁷[two] times the sum so paid ; and
- (b) no deduction in respect of such sum shall be allowed under any other provision of this Act :

⁴⁸[**Provided** that the prescribed authority shall, before granting approval, satisfy itself about the feasibility of carrying out the scientific research and shall submit its report to the Director General in such form as may be prescribed.⁴⁹]

⁵⁰[*Explanation 1*.—The deduction, to which the assessee is entitled in respect of any sum paid to a National Laboratory, University, Indian Institute of Technology or a specified person for the approved programme referred to in this sub-section, shall not be denied merely on the ground that, subsequent to the payment of such sum by the assessee, the approval granted to,—

- (a) such Laboratory, or specified person has been withdrawn; or
- (b) the programme, undertaken by the National Laboratory, University, Indian Institute of Technology or specified person, has been withdrawn.]

⁵¹[*Explanation* ⁵²[2].—For the purposes of this section,—

- (a) "National Laboratory" means a scientific laboratory functioning at the national level under the aegis of the Indian Council of Agricultural Research, the Indian Council of Medical Research, the Council of Scientific and Industrial Research, the Defence Research and Development Organisation, the Department of Electronics, the Department of Bio-Technology or the Department of Atomic Energy and which is approved as a National Laboratory by the prescribed authority in such manner as may be prescribed ;
- (b) "University" shall have the same meaning as in *Explanation* to clause (ix) of [section 47](#) ;
- (c) "Indian Institute of Technology" shall have the same meaning as that of "Institute" in clause (g) of section 3⁵³ of the Institutes of Technology Act, 1961 (59 of 1961)];

⁵⁴[(d) "specified person" means such person as is approved by the prescribed authority.]

⁵⁵[(2AB)(I) Where a company engaged in the business of ⁵⁶[bio-technology or in ⁵⁷[any business of manufacture or production of any article or thing, not being an article or thing specified in the list of the Eleventh Schedule]] incurs any expenditure on scientific research (not being expenditure in the nature of cost of any land or building) on in-house research and development facility as approved by the prescribed

authority⁵⁸, then, there shall be allowed a deduction of ⁵⁹[a sum equal to ⁶⁰[two] times of the expenditure] so incurred.

⁶¹[*Explanation.*—For the purposes of this clause, "expenditure on scientific research", in relation to drugs and pharmaceuticals, shall include expenditure incurred on clinical drug trial, obtaining approval from any regulatory authority under any Central, State or Provincial Act and filing an application for a patent under the Patents Act, 1970 (39 of 1970).]

(2) No deduction shall be allowed in respect of the expenditure mentioned in clause (1) under any other provision of this Act.

(3) No company shall be entitled for deduction under clause (1) unless it enters into an agreement with the prescribed authority for co-operation in such research and development facility and for audit of the accounts maintained for that facility.

(4) The prescribed authority shall submit its report in relation to the approval of the said facility to the Director General in such form and within such time as may be prescribed.]

⁶²[(5) No deduction shall be allowed in respect of the expenditure referred to in clause (1) which is incurred after the 31st day of March, ⁶³[2017].

⁶⁴[(6) No deduction shall be allowed to a company approved under sub-clause (C) of clause (iia) of sub-section (1) in respect of the expenditure referred to in clause (1) which is incurred after the 31st day of March, 2008.]

⁶⁵[(2B)(a) Where ⁶⁶[, before the 1st day of March, 1984,] an assessee has incurred any expenditure (not being in the nature of capital expenditure incurred on the acquisition of any land or building or construction of any building) on scientific research undertaken under a programme approved in this behalf by the prescribed authority having regard to the social, economic and industrial needs of India, he shall, subject to the provisions of this sub-section, be allowed a deduction of a sum equal to one and one-fourth times the amount of the expenditure certified by the prescribed authority to have been so incurred during the previous year.

(b) Where a deduction has been allowed under clause (a) for any previous year in respect of any expenditure, no deduction in respect of such expenditure shall be allowed under clause (i) of sub-section (1) or clause (ia) of sub-section (2) for the same or any other previous year.

(c) Where a deduction is allowed for any previous year under this sub-section in respect of expenditure represented wholly or partly by an asset, no deduction shall be allowed in respect of that asset under ⁶⁷[clause (ii) of sub-section (1)] of [section 32](#) for the same or any subsequent previous year.

(d) Any deduction made under this sub-section in respect of any expenditure on scientific research in excess of the expenditure actually incurred shall be deemed to have been wrongly made for the purposes of this Act if the assessee fails to furnish within one year of the period allowed by the prescribed authority for completion of the programme, a certificate of its completion obtained from that authority, and the provisions of sub-section (5B) of [section 155](#) shall apply accordingly.]

⁶⁸[(3) If any question arises under this section as to whether, and if so, to what extent, any activity constitutes or constituted, or any asset is or was being used for, scientific research, the Board shall refer the question to

(a) the Central Government, when such question relates to any activity under clauses (ii) and (iii) of sub-section (1), and its decision shall be final;

(b) the prescribed authority⁶⁹, when such question relates to any activity other than the activity specified in clause (a), whose decision shall be final.]

(4) The provisions of sub-section (2) of [section 32](#) shall apply in relation to deductions allowable under clause (iv) of sub-section (1) as they apply in relation to deductions allowable in respect of depreciation.

⁷⁰[(5) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers to the amalgamated company (being an Indian company) any asset representing expenditure of a capital nature on scientific research,—

(i) the amalgamating company shall not be allowed the deduction under clause (ii) or clause (iii) of sub-section (2); and

(ii) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the latter had not so sold or otherwise transferred the

asset.]]

Amendment of section 35.

15. In section 35 of the Income-tax Act, with effect from the 1st day of April, 2018,—

(i) in sub-section (1),—

(a) in clause (ii),—

(I) for the words "one and three-fourth", the words "one and one-half" shall be substituted;

(II) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that where any sum is paid to such association, university, college or other institution in a previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, the deduction under this clause shall be equal to the sum so paid;"

(b) in clause (iia), the words "an amount equal to one and one-fourth times of" shall be omitted;

(c) in clause (iii), the words "an amount equal to one and one-fourth times of" shall be omitted;

(ii) in sub-section (2AA),—

(A) in clause (a), for the words "two times", the words "one and one-half times" shall be substituted;

(B) after the proviso and before *Explanation 1*, the following proviso shall be inserted, namely:—

"Provided further that where any sum is paid to such National Laboratory or university or Indian Institute of Technology or specified person in a previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, the deduction under this sub-section shall be equal to the sum so paid.";

(iii) in sub-section (2AB),—

(a) in clause (I), for the words "two times", the words "one and one-half times" shall be substituted;

(b) after clause (I) and before the *Explanation*, the following proviso shall be inserted, namely:—

"Provided that where such expenditure on scientific research (not being expenditure in the nature of cost of any land or building) on in-house research and development facility is incurred in a previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, the deduction under this clause shall be equal to the expenditure so incurred.";

(c) clause (5) shall be omitted.

1961 年印度所得税法案 Section 35 (2AB)

(1) 凡从事生物技术或任何制造或生产企业，且不属于附表 11 清单所列的企业，发生任何由当局批准的用于内部研究和开发设施的科学研究支出（不属于土地或建筑物成本性质的支出），那么，应允许扣除等于 200%支出发生的费用。

附件二十： 印度所得税法Section 35AC



Income Tax Department

Government of India

Investment in new plant or machinery.

32AC. (1) Where an assessee, being a company, engaged in the business of manufacture or production of any article or thing, acquires and installs new asset after the 31st day of March, 2013 but before the 1st day of April, 2015 and the aggregate amount of actual cost of such new assets exceeds one hundred crore rupees, then, there shall be allowed a deduction,—

- (a) for the assessment year commencing on the 1st day of April, 2014, of a sum equal to fifteen per cent of the actual cost of new assets acquired and installed after the 31st day of March, 2013 but before the 1st day of April, 2014, if the aggregate amount of actual cost of such new assets exceeds one hundred crore rupees; and
- (b) for the assessment year commencing on the 1st day of April, 2015, of a sum equal to fifteen per cent of the actual cost of new assets acquired and installed after the 31st day of March, 2013 but before the 1st day of April, 2015, as reduced by the amount of deduction allowed, if any, under clause (a).

(1A) Where an assessee, being a company, engaged in the business of manufacture or production of any article or thing, acquires and installs new assets and the amount of actual cost of such new assets ³⁸[acquired during any previous year exceeds twenty-five crore rupees and such assets are installed on or before the 31st day of March, 2017], then, there shall be allowed a deduction of a sum equal to fifteen per cent of the actual cost of such new assets for the assessment year relevant to that previous year:

³⁹[Provided that where the installation of the new assets are in a year other than the year of acquisition, the deduction under this sub-section shall be allowed in the year in which the new assets are installed:]

Provided ³⁹[further] that no deduction under this sub-section shall be allowed for the assessment year commencing on the 1st day of April, 2015 to the assessee, which is eligible to claim deduction under sub-section (1) for the said assessment year.

(1B) No deduction under sub-section (1A) shall be allowed for any assessment year commencing on or after the 1st day of April, 2018.

(2) If any new asset acquired and installed by the assessee is sold or otherwise transferred, except in connection with the amalgamation or demerger, within a period of five years from the date of its installation, the amount of deduction allowed under sub-section (1) or sub-section (1A) in respect of such new asset shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which such new asset is sold or otherwise transferred, in addition to taxability of gains, arising on account of transfer of such new asset.

(3) Where the new asset is sold or otherwise transferred in connection with the amalgamation or demerger within a period of five years from the date of its installation, the provisions of sub-section (2) shall apply to the amalgamated company or the resulting company, as the case may be, as they would have applied to the amalgamating company or the demerged company.

(4) For the purposes of this section, "new asset" means any new plant or machinery (other than ship or aircraft) but does not include—

- (i) any plant or machinery which before its installation by the assessee was used either within or outside India by any other person;
- (ii) any plant or machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;
- (iii) any office appliances including computers or computer software;
- (iv) any vehicle; or
- (v) any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any previous year.

附件二十一：印度出口信贷利息补贴公告及新闻
介绍 (Interest Equalisation
Scheme)

印度政府对出口企业的出口信贷提供3%的利息补贴。这一措施为期5年，从2015年4月1日起追溯实施。

Government of India
Ministry of Commerce & Industry
Directorate General of Foreign Trade
Udyog Bhavan, New Delhi

Interest Equalisation Scheme on Pre and Post Shipment Rupee Export Credit

The Government has approved the Interest Equalisation Scheme for Pre and Post Shipment Rupee Export Credit with effect from 1st April, 2015 for 5 years.

2. The details of the Scheme are as follows:

- (a) The rate of interest equalisation @ 3% per annum will be available on Pre Shipment Rupee Export Credit and Post Shipment Rupee Export Credit.
- (b) The scheme would be applicable w.e.f 01.04.2015 for 5 years. Government, however, reserves the right to modify/amend the Scheme at any time.
- (c) The scheme will be available to all exports under 416 tariff lines [at ITC (HS) code of 4 digit] as per **Annexure A** and exports made by Micro, Small & Medium Enterprises (MSMEs) across all ITC(HS) codes.
- (d) Scheme would not be available to merchant exporters.
- (e) Banks are required to completely pass on the benefit of interest equalisation, as applicable, to the eligible exporters upfront and submit the claims to RBI for reimbursement, duly certified by the external auditor.
- (f) Ministry of Commerce and Industry will place funds in advance with RBI for a requirement of one month and reimbursement would be made on a monthly basis through a revolving fund system.
- (g) All eligible exports under the scheme would have to meet the criteria of minimum processing for the goods to be called as Originating from India and would be governed by provision of Paragraph 2.108 (a) (Rules of Origin [Non preferential]) of Handbook of Procedures of Foreign Trade Policy 2015-2020, which reads as follows:

2.108 Rules of Origin (Non-Preferential)

(a) Rules of Origin (Non-Preferential) criteria are as under:

- (I) Goods are to be manufactured by the exporting entity as per the definition of "Manufacture" in Paragraph 9.31 of FTP; and*
- (II) If imported inputs (Duty Paid or Duty Free) have been used for the production of export product, the export product can be considered to be originating in India (Non Preferential) only if the imported inputs undergo the processing/ operations that exceed the following:*

(i) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, painting, cutting;

(ii) changes of packing and breaking up and assembly of consignments;

(iii) simple cutting, slicing and repacking or placing in bottles, flasks, bags, boxes, fixing on cards or boards, and all other simple packing operations;

(iv) operations to ensure the preservation of products in good condition during transport and storage (such as drying, freezing, keeping in brine, ventilation, spreading out, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations);

(v) affixing of marks, labels or other like distinguishing signs on products or their packaging;

(vi) simple mixing of products ;

(vii) simple assembly of parts of products to constitute a complete product;

(viii) disassembly;

(ix) slaughter which means the mere killing of animals; and

(x) mere dilution with water or another substance that does not materially alter the characteristics of the products.

- (h) Telecom product exports would, after notification of the guidelines by the Department of Telecommunications, however, be subject to minimum value addition as notified by Department of Telecommunications, to be eligible under the scheme.
- (i) A study may be initiated on the impact of the scheme on export promotion on completion of 3 years of the operation of the scheme. The study may be done through one of the IIMs.
- (j) RBI shall send a monthly report to Deptt of Commerce/DGFT indicating reimbursement made commodity wise/bank wise, as per the prescribed format.

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Exports get boost as CCEA approves 3% interest equalisation scheme

BY ET BUREAU | UPDATED: NOV 19, 2015, 03.30 AM IST

Post a Comment

By Kirtika Suneja

India's falling exports got a booster shot on Wednesday with the Cabinet Committee on Economic Affairs approving a scheme to provide cheaper credit to exporters for three years.

The CCEA approved an interest equalization scheme on pre and post shipment rupee export credit with effect from April 1, 2015 for three years at 3% per annum for all exports of small and medium enterprises besides 416 specific tariff lines in agri processing, handloom, handicrafts, jute, paper, ceramics, medical/scientific instruments and auto components, among others.

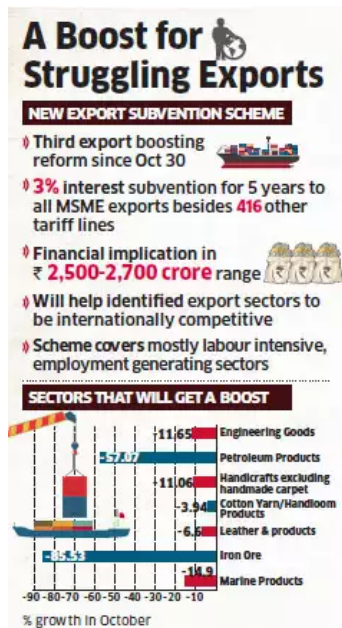
"Financial implication of the scheme is estimated to be Rs 2,500-2,700 crores. Labour intensive and employment generating sectors to benefit," tweeted commerce and industry minister Nirmala Sitharaman.



India's falling exports got a booster shot on Wednesday with the Cabinet Committee on Economic Affairs approving a scheme to provide cheaper credit to exporters for three years

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The support has come at a time when India's exports declined for the eleventh month running in October, highlighting the stiff competition faced by the country in a weak global economy.

This is the second time this week that the government has incentivized exporters. The government had revised the duty drawback rates for exporters two days ago and raised the drawback by 2% for engineering goods, marine products, textiles and leather products.



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As per data released earlier this week, exports fell 17.5% year on year in October at \$21.35 billion and outward shipments declined in 20 out of the 30 industries, led by iron ore.

Sluggish global demand, an overvalued rupee, declining imports from China and devaluation of the Chinese currency have deterred India's exports from growing despite the commerce department expanding export incentive schemes for various products and markets and there raising doubts on the total exports this year even reaching \$300 billion.

Exports in the first seven months of the year were about \$154.2 billion. In 2014-15, India's exports had totalled \$310.5 billion. In the

2015-16 Budget, [finance ministry](#) had allocated Rs 1,650 crore for the interest subvention scheme for exporters for the year.

The previous 3% interest subvention scheme was available up to March 31, 2015 for sectors including apparel, carpets, handlooms, [sports](#) goods, handicrafts, toys, and some engineering products. The rate offered under the scheme in 2013-14 was 2%.

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Commerce ministry for higher interest subsidy to exporters

BY PTI | FEB 08, 2018, 07:50 PM IST

Post a Comment

NEW DELHI: The [commerce ministry](#) has asked its finance counterpart to enhance the rate of subsidy from 3 per cent to 5 per cent on credit provided to [exporters](#), a senior official said today.

Directorate General of Foreign Trade ([DGFT](#)) Alok Vardhan Chaturvedi said that in the Union Budget 2018-19, the government has increased allocations for interest equalisation scheme to Rs 2,500 crore from Rs 1,000 crore earlier.

Under this scheme, the government provides 3 per cent [interest subsidy](#) to all MSME and labour intensive export sectors.

"The (commerce) minister has taken up with the finance minister for increasing this interest subvention rate from 3 per cent to 5 per cent," Chaturvedi told reporters here.

He said that the cost of capital in [India](#) is much higher as compared to other countries.

Besides, infrastructure inefficiencies and logistics costs too are high as compared to India's competitors including Singapore and Malaysia.



The (commerce) minister has taken up with the finance minister for increasing this interest subvention rate from 3 per cent to 5 per cent,

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Commerce and Industry Minister Suresh Prabhu said that products being sold in global markets need to be at a level playing field.

Interest subsidy to some extent neutralises infrastructure inefficiencies.

Prabhu also said that work is in progress to see ways to increase exports of goods and services to USD 1 trillion in the coming years.

On whether increase in customs duties on certain items could be seen as a protectionist measure, the minister said it is not, and India is one of the most open economies in the world.

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附件二十二：印度安得拉邦《2010-2015年工业
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Andhra Pradesh Industrial Investment Promotion Policy 2010 - 2015

Industries & Commerce Department
Government of Andhra Pradesh

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INTRODUCTION

- 1.1 Andhra Pradesh is strategically located on the south-eastern coast of India and is considered as gateway to East & South East Asia. It is the fourth largest state in the country spread over an area of 2,76,754 sq. kms and fifth largest by population. The State capital is Hyderabad. Andhra Pradesh, situated south of the Vindhyas, is surrounded by Chattisgarh, Orissa, the Bay of Bengal in the east and Tamil Nadu and Karnataka in the south and by Maharashtra in the west.
- 1.2 Andhra Pradesh State Powered by its robust economic growth over the decade and more particularly its spectacular growth of Nine percent and more in the last four years. Andhra Pradesh acquired national prominence and international recognition. A State that was considered an agrarian state, a few decades back, has transformed and emerged into a veritable hub of knowledge and a vibrant and fast growing industrial powerhouse. Andhra Pradesh is the third largest economy in the country. It is among the top three States in attracting investments from domestic and foreign investors. The contribution of industrial sector to the State GDP, last year at 25.1 percent, was higher than that of agriculture. Industry has grown at an average annual rate of 8.6 percent in the past five years, recording a double-digit growth in 2007-08.
- 1.3 The State considers industrial growth as a means to mitigate poverty and unemployment. Industrial development promotes higher capital formation; raises wage incomes to higher levels; and absorbs surplus workforce, bottled up in rural areas, to industry. To realize these benefits and hasten up the socio-economic changes, industrial development is accorded top priority by the State Government. The Andhra Pradesh “Industries Investment Promotion Policy, 2010-15 (IIPP 2010-15) is aimed at “advancing the cause of inclusivity, distributive justice, and creating employment opportunities across different skill sets”.

EXCELLENT ENDOWMENT OF RESOURCES

- 1.4 Andhra Pradesh has bountiful natural resources (coal, limestone, bauxite, and a number of minor minerals), fertile land, water, fertile river basins and extensive canal system, and conducive agro-climatic conditions. The State is agriculturally prosperous. It is known as the “Rice Bowl of India”. The State also has the second longest coastline (972 km) among all the States in India and it is also the largest producer of marine products with 40% share in country's exports.
- 1.5 Andhra Pradesh is well connected with the rest of the world through its seaports on the eastern coast and its international airport, which is ranked as the fifth best airport in the world. A well-established road and railway network link it to the rest of India. Vast Natural Gas reserves found in Krishna Godavari Basin, which is one of the largest Gas discoveries in India in the Eastern Region has opened up immense possibilities for environment-friendly industrial development with greater efficiency and cost effectiveness in Andhra Pradesh. The Natural Gas find of 62 million standard cubic metres per day has already been exploited, while further exploration is in full swing. The State has abundant water resources from its river system and Reservoirs.
- 1.6 Andhra Pradesh holds the first rank in area and production of Rice, Citrus, Chilly, Oil Palm, Prawn, Egg, Broiler, Meat. It is second in Fish, Mango, Tomato & Coriander, third in cotton, cashew; fourth in flowers and fifth in grapes, banana, ginger, and guava. There is large potential for production of variety of processed products.

- 3.2 The eligible service activities set up in all Municipal Corporation limits as appended in Annexure-II are eligible only for investment subsidy and all other service / Business activities are not eligible for any incentives set up anywhere in the State.
- 3.3 Projects involving substantial Expansion / Diversification of existing industries in the eligible lines of activities are also entitled for benefits offered under the policy.
- 3.4 The list of ineligible Industries / activities as Annexure-III.
- 3.5 Operational guidelines of the policy will be notified separately.
- 3.6 Under the IIPP 2010-15, the Government proposes the following fiscal benefits to eligible Manufacturing and Service enterprises covering the categories of (a) MSME's (b) Large Enterprises (c) SC/ST Entrepreneurs (d) Women Entrepreneurs (e) Mega Projects (f) Sector specific incentives.

4.0 POLICY INTERVENTIONS

4.1.0 Infrastructure Initiatives

A. Land

- 4.1.1 Government will create land banks for industrial parks. Industrial Parks will be developed across the State over the next 5 years. The land banks will also meet the land requirements of anchor industries which have huge employment potential. Efforts will be made to identify waste / barren / dry lands in different parts of the State.
- 4.1.2 Development of quality infrastructure for industrial growth has been given highest priority in the Policy. In line with this objective, Government of Andhra Pradesh would provide Rs. 100.00 crores in State budget every year for promotion of industrial estates in the state with quality infrastructure like roads, power, water, waste management etc., and also to provide external infrastructure to SEZs.
- 4.1.3 Infrastructure Authority (IA) has been constituted for the rapid development of physical and social infrastructure in the State through private participation in the designing, financing, construction, operation and maintenance of infrastructure projects.
- 4.1.4 Provide Infrastructure assistance to standalone units set up in remote locations under Industrial Infrastructure Development Fund (IIDF) @ 50% on the infrastructure cost limited to Rs.1.00 Crore.
- 4.1.5 Upgradation and maintenance of infrastructure in the existing industrial estates / parks on priority basis.
- 4.1.6 100% reimbursement of stamp duty and transfer duty paid by the industry on purchase of land, lease of land / shed / buildings, mortgages and hypothecations meant for industrial use.
- 4.1.7 Reimbursement of 25% land cost limited to 10.00 lakhs to the units in Industrial Estates/Industrial Parks developed by APIIC.
- 4.1.8 25% reimbursement of land conversion charges limited to Rs. 10 Lakhs for MSME's
- 4.1.9 Reservation of 30-40% of the land for Micro and Small enterprises in the existing and upcoming

B. Power

- 4.1.17 The State has emerged as a key player in the country's power sector and has an energy deficit of 2% when compared to the national average of 9.3%. At national level, the state stands first in the generation of hydroelectric power and is also looking to take the lead in clean technologies such as wind, solar and bio-mass. The state is also looking to utilize the vast natural gas reserves found in Krishna-Godavari Basin.
- 4.1.18 To make available power at most competitive rates, the Policy provides for fixed power cost reimbursement @ Rs. 0.75 per unit (upper ceiling) on the proposed revised rates (2010-11) for 5 years from the date of commencement of commercial production. In case of decrease in Power Tariff, the reimbursement will be reduced proportionately.
- 4.1.19 Promote merchant power plants through the PPP models to reduce power shortage in the State.
- 4.1.20 Provide dedicated feeders to units located in industrial estates / parks and industrial areas for uninterrupted power supply.
- 4.1.21 APTRANSCO will convert feeders having more than 50% of the industrial load as dedicated / express feeders.
- 4.1.22 Efforts will be made to ensure un-interrupted power supply to the industrial units in coordination with Energy Department.
- 4.1.23 Associated needs like Solar Power, Wind Power etc. will be taken up by facilitation and interaction with other departments.
- 4.1.24 Encourage new captive power plants for self-consumption and will examine providing Electricity duty exemption.

C. Water

- 4.1.25 The State is called "A River State" as it is blessed with major River systems like Godavari, Krishna, Pennar, Vamsadhara and 36 others.
- 4.1.26 As of now there is 2746 TMC of dependable availability of water in the State, of which 2092 TMC of water is being utilized.
- 4.1.27 In addition to the above, plenty of ground water resources are also available in the State.
- 4.1.28 Reservation of 10% of water for industrial use from the existing projects as well as future projects would be continued.

D. Airports

- 4.1.29 First Greenfield International Airport of the country at Hyderabad is one more feather in the cap of Andhra Pradesh, which is ranked as the 5th best Airport in the World. Proximity to International Airports at Chennai, Bangalore from several districts of Andhra Pradesh just adds to the overall industrial growth in the state.
- 4.1.30 The other airports in the state are Visakhapatnam Airport, Vijayawada Airport, Rajahmundry

Road, Ports, Airports. Government of India will provide necessary viability gap funding through PPP to the extent possible for creation of infrastructure. The role of the State Government is to acquire the land necessary for the infrastructure, processing and non-processing areas and to ensure that after notifying the area, all physical infrastructure and utility linkages are provided within a stipulated time.

4.1.40 The total investment expected is above 3 lakh Crores over a period of 7-10 years and employment projected is 12 lakhs (Direct 5.25 lakhs and Indirect 6.75 lakhs). Till date, the committed investment is about Rs. 1,74,654 Crores.

4.2.0 Focus on MSME

4.2.1 Recognizing the importance of MSMEs in creating a multiplier impact on the economic growth, through large scale employment generation, exports and supplying mass consumption goods, a special focus is given to aggressively develop the MSME sector in the State. The following initiatives are proposed taking Prime Ministers Task Force Committee recommendations as the guiding principle.

A. Strengthening and Revitalization of DICs

4.2.2 District Industries Centers would be strengthened and revitalized for providing support services, which include:

- i) Preparation of District-wise detailed plans
- ii) Comprehensive information on policies/schemes
- iii) Project profiles on viable activities
- iv) Marketing support
- v) Organizing entrepreneurship and skill development programmes
- vi) Credit support
- vii) Facilitating revival/rehabilitation of sick MSMEs.

B. Other Growth Enabling Incentives MSEs

4.2.3 As a support measure, MSEs will be provided investment subsidy and tax incentives in the initial stages as indicated

- i) 15% investment subsidy limited to Rs. 20.00 lakhs to MSE's
- ii) Reimbursement of 100% VAT/CST or SGST for a period of 5 years to Micro Enterprises
- iii) Reimbursement of 50% VAT/CST or SGST for a period of 5 years to Small Enterprises

C. Credit Support

4.2.4 The State will extend the following support for credit flow to MSMEs:

- a) Interest rebate reimbursement under Pavala Vaddi scheme on Prime Lending Rate on the term loan to an extent of 9% over and above 3% to MSEs for a period of 5 years
- b) Popularize the collateral free loan scheme - CGTMSE actively take measures which will enhance the loan rendering capacity of banks
- c) APSFC will provide loans to MSMEs inline with Commercial Banks under SIDBI - CGTMSE scheme
- d) Seed capital assistance to First Generation Entrepreneurs to set-up Micro Enterprises @10% of the Machinery cost and the same be deducted from the eligible investment subsidy.

D. Marketing Assistance

4.2.5 Government of Andhra Pradesh is formulating a new Marketing Policy to safeguard the interests of local Micro and Small Enterprises. The policy highlights include:

- i) Tender Forms will be made available free of cost
- ii) Exemption from payment of Earnest Money Deposit (EMD) and Security Deposit (SD)
- iii) Bill discounting facility will be made available on Government orders
- iv) 10% price preference i.e. where the bid of Micro and Small Enterprises are within 10% of L1, the local Micro and Small Enterprises will be given an offer of reasonable part of the order at L1
- v) **Reimbursement of cost incurred for quality certification/ patent registration @ 50% limited to Rs. 2.00 lakhs for MSMEs**
- vi) Provide platforms for interaction between Enterprises in Andhra Pradesh and potential domestic and global markets through Trade Fairs, Road shows
- vii) Encourage the SMEs to participate in national and overseas business fairs & exhibitions, and international delegations
- viii) Consider to create A Facilitation Council - a quasi-judicial body to redress the problems being faced by the local MSEs in marketing their quality products
- ix) Setting-up a permanent Exhibition-cum-convention Centre to exclusively display MSME products.

E. Technology Upgradation, Research & Development

4.2.6 Enhancing productivity through technological up-gradation is one of the key drivers of high economic growth. With globalization and increased competition, the survival of Industries using outdated technologies is challenged. Therefore, to survive, grow and win, there is a pressing need for SME's to infuse technological innovations in their production processes, marketing and management functions. The initiatives include:

- 4.10.2 To declare food processing as seasonal industry, wherever necessary and eligible to enable the industry to get relief from minimum electricity charges during the closure (non-seasonal) period.
- 4.10.3 To continue Fixed Power Cost reimbursement @ Rs.1.00 per unit on the revised rates for 5 years as per the guidelines
- 4.10.4 Mega food parks setup as per Food Processing Policy of Government of India
- i) To reimburse 25% cost of external infrastructure for power, water, approach roads and other infrastructures limited to Rs. 2.00 Crores
 - ii) To provide VAT/Sales Tax reimbursement for Mega Food Parks during the construction period for a period of 2 years limited to a maximum Rs. 2.00 Crores
 - iii) The Food Parks sanctioned under Mega Food Park scheme of GoI will be considered for Tailor-made benefits on case to case basis.

4.11.0 Biotechnology

- 4.11.1 Biotechnology is growing consistently and rapidly in India and the State is the leading centre for Biotechnology. The major strength of the state is in Research and Development with the presence of institutions like the Centre for Cellular and Molecular Biology, Centre for DNA Fingerprinting and Diagnostics, National Institute of Nutrition, International Crop Research Institute for Semi-Arid Tropics (ICRISAT) etc Major Global players have already set-up their base in the State. To tap the potential of this sector, special focus will be given to Bio-technology for further development of this sector.

4.12.0 Adoption of Clean Technologies

- 4.12.1 Industries will be facilitated in getting assistance from the funding agencies like NEDCAP, IREDA etc in implementing the clean technology projects using the various GOI Schemes for the state.
- 4.12.2 Provide incentives on specific cleaner production measures adopted in new industries @ 25% limited to Rs.5 lakhs
- 4.12.3 Monitor carbon emission and encourage the industries to go for carbon auditing.
- 4.12.4 Facilitate all industries in obtaining carbon credit.
- 4.12.5 Facilitate setting up of effluent treatment plants and hazardous waste treatment plants in various industrial estates and cluster with private sector participation.

4.13.0 Export Promotion and Special Economic Zones (SEZ)

- 4.13.1 The exports from Andhra Pradesh are growing consistently year after year. During 2008-09, the State has exported goods and services worth of Rs. 77, 605 Crores, recording a growth of 35% during 2008-09 over the previous year. The growth is led by software exports (Rs. 32,509 Crores), Engineering items (Rs. 13,783 Crores), Agro forest products (Rs. 5,799 Crores), Mineral and Mineral products etc.



For more information, please contact



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