## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–533–821]**

### Certain Hot-Rolled Carbon Steel Flat Products From India: Preliminary Results of Countervailing Duty Administrative Review

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

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on certain hot-rolled carbon steel flat products from India for the period of review (POR) January 1, 2008, through December 31, 2008. These preliminary results cover one company Tata Steel Limited (Tata). For the information on the net subsidy rate for the reviewed company, see the "Preliminary Results of Review" section.

**DATES:** *Effective Date:* January 11, 2010.

**FOR FURTHER INFORMATION CONTACT:** Gayle Longest, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3338

**SUPPLEMENTARY INFORMATION:**

#### Background

On December 1, 2001, the Department published in the **Federal Register** the CVD order on certain hot-rolled carbon steel flat products from India. *See Notice of Amended Final Determination and Notice of Countervailing Duty Orders: Certain Hot-Rolled Carbon Steel Flat Products From India and Indonesia,* 66 FR 60198 (December 3, 2001). On December 1, 2008, the Department published a notice of opportunity to request an administrative review of this CVD order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 73 FR 72764 (December 1, 2008). On December 31, 2008, U.S. Steel Corporation (Petitioner) requested that the Department conduct an administrative review of Essar Steel Limited (Essar), Ispat Industries Limited (Ispat), JSW Steel Limited (JSW), and Tata.

On February 2, 2009, the Department initiated an administrative review of the CVD order on certain hot-rolled carbon steel flat products from India, covering the period January 1, 2008, through December 31, 2008. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 74 FR 5821 (February 2, 2009).

On February 6, 2009, the Department issued a questionnaire to the Government of India (GOI), Essar, Ispat, JSW, and Tata. On February 6, 2009, Essar and JSW notified the Department that they had no shipments during the POR. On February 9, 2009, Ispat notified the Department that it had no shipments during the POR. On February 25, 2009, Tata notified the Department that it had no sales of commercial quantities of subject merchandise during the POR. However, Tata did acknowledge that it made certain sales during the POR. On March 11, 2009, counsel for Tata met with Department officials concerning an alleged sale by Tata to the United States that is currently on the record of the antidumping proceeding. *See* Memorandum to the File regarding "Meeting with Counsel for Tata Steel Limited," dated March 11, 2009, which is on file in the Central Records Unit (CRU) of the main Commerce Building. On March 19, 2009, Tata submitted information pertaining to an additional sale of subject merchandise from India in question during the POR. On March 23, 2009, Tata submitted additional data, as requested by the Department, which pertains to certain sales during the POR. On March 27, 2009, the Department made a finding that Tata had sales of subject merchandise during the POR and extended the due date for Tata's questionnaire response because of the confusion as to whether Tata did or did not have any sales during the POR. *See* Memorandum to the File regarding "Sales by Tata during the POR," dated March 27, 2009, which is on file in the CRU of the main Commerce Building.

On April 23, 2009, we received a questionnaire response from the GOI. As discussed below, the GOI's submission did not contain responses concerning certain programs administered by the state governments. We issued supplemental questionnaires to the GOI regarding programs addressed in the initial CVD questionnaire, including programs administered by the state governments. On August 10, 2009 and September 24, 2009, the GOI submitted responses to the supplemental questionnaires; however, it failed to respond to certain programs administered by the state governments.

On April 25, 2009, Department officials spoke with counsel for Tata regarding the company's failure to submit a questionnaire response. Tata's counsel informed the Department that the company was no longer participating in the administrative review and would not be responding to the questionnaire. *See* Memorandum to the File regarding "Phone Conversation with Counsel for Tata Steel Limited," dated April 23, 2009, which is on file in the CRU of the main Commerce Building.

On May 4, 2009, Petitioner withdrew its request for review with respect to Essar, Ispat, and JSW. As a result, the Department rescinded this review, in part, on June 4, 2009, with respect to Essar, Ispat, and JSW. *See Certain Hot-Rolled Carbon Steel Products from India: Partial Rescission of Countervailing Duty Administrative Review,* 74 FR 26847 (June 4, 2009). On August 12, 2009, Petitioner submitted comments with respect to the failure by Tata to cooperate in the administrative review and argued that the Department should resort to adverse facts available (AFA) when determining the net subsidy to apply to Tata. On October 14, 2009, Tata submitted a letter in which it responded to Petitioner's comments concerning the AFA rate to be applied to Tata in the instant review.

In accordance with 19 CFR 351.213(b), this review covers only those producers or exporters for which a review was specifically requested. The company subject to this review is Tata. This review covers 93 programs.

#### Scope of the Order

The merchandise subject to the order is certain hot-rolled carbon-quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, or a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of the order.

Specifically included in the scope of the order are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF) steels, high-strength low-alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low-carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize

carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of the order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTS), are products in which: (i) Iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is two percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of the order unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of the order.

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.,* ASTM specifications A543, A387, A514, A517, A506).
- SAE/AISI grades of series 2300 and higher.
- Ball bearings steels, as defined in the HTS.
- Tool steels, as defined in the HTS.
- Silico-manganese (as defined in the HTS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS Abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTS.

The merchandise subject to the order is currently classifiable in the HTS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled flat-rolled carbon-quality steel covered by the order, including: vacuum-degassed fully stabilized; high-strength low-alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise subject to the order is dispositive.

**Adverse Facts Available**

*I. The GOI*

As discussed above, on February 6, 2009, the Department issued the initial questionnaire to Tata and the GOI, including state governments. The GOI filed a response to the Department's initial questionnaire on April 23, 2009 (April QR). However, the GOI failed to provide responses with regard to certain programs administered by the state governments of Gujarat, Maharashtra, Andhra Pradesh, Chhattisgarh and Karnataka. On July 30, 2009, the Department issued a supplemental questionnaire to the GOI and again requested responses with regard to the state government programs. The GOI submitted a response on August 10, 2009, but again failed to provide responses with regard to the programs administered by the state governments. On August 21, 2009, the Department issued another supplemental questionnaire to the GOI requesting additional information from the state governments mentioned above, as well as additional and clarifying information from the state government of Jharkhand concerning its responses in the April QR. In its response, the GOI again failed to submit responses with regard to the programs administered by the state governments. On September 10, 2009, the Department issued to the GOI a final supplemental questionnaire in which we requested a second time the same information from the August 21, 2009, supplemental questionnaire on the State programs administered by the government of Jharkhand. In its response, the GOI submitted incomplete information on the programs administered by the state government of Jharkhand. Specifically, in the September 24, 2009, questionnaire response, the government of Jharkhand submitted a brief letter from the Department of Industries restating that Tata had not received any benefits during the POR. No other information or documentation requested by the Department to demonstrate this claim was provided.

Sections 776(a)(1) and (2) of the Tariff Act of 1930, as amended (the Act), provide that the Department shall use the "facts otherwise available" if, *inter alia,* 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.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent possible, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses. Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority" if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party has demonstrated that it has acted to the best of its ability in providing the

information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

Because the GOI failed to provide the requested information by the established deadlines, the Department does not have the necessary information on the record to determine whether the subsidies received by Tata under the state-administered programs constitute financial contributions and are specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. Therefore, the Department must base its determination on the facts otherwise available in accordance with section 776(a)(2)(B) of the Act.

Section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as AFA information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. In a countervailing duty proceeding, the Department requires information from both the government of the country whose merchandise is under the order and the foreign domestic producers and exporters. When the government fails to provide requested information concerning alleged subsidy programs, the Department, as AFA, typically finds that a financial contribution exists under the alleged program and that the program is specific. *See e.g., Notice of Preliminary Results of Countervailing Duty Administrative Review: Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea,* 71 FR 11397, 11399 (March 7, 2006) (unchanged in the *Notice of Final Results of Countervailing Duty Administrative Review: Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea,* 71 FR 38861 (July 10, 2006) (in which the Department relied on adverse inferences in determining that the Government of Korea directed credit to the steel industry in a manner that constituted a financial contribution and was specific to the steel industry within the meaning of sections 771(5)(D) and 771(5A)(D)(iii) of the Act, respectively). However, the Department will normally rely on the foreign producer's or exporter's records to determine the existence and amount of the benefit. Consistent with its past practice, because the GOI failed to provide information concerning certain alleged subsidies, the Department, as AFA, has determined that those programs confer a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act, respectively. The analysis of the extent of the benefit, if any, is discussed under the sections below entitled "Programs Administered by the Government of India", "Programs Administered by the State Government of Gujarat," "Programs Administered by the State Government of Maharashtra," "Programs Administered by the State Government of Andhra Pradesh", "Programs Administered by the State Government of Jharkhand," "Programs Administered by the State Government of Chhattisgarh," and "Programs Administered by the State Government of Karantaka."

In the instant review, Tata did not provide the Department with any information during the POR, as discussed below under the "Tata" section. Accordingly, in such instances, the Department must base its determination on the facts otherwise available in accordance with section 776(a)(2)(B) of the Act with respect to the programs in the initial questionnaire administered by the GOI and state governments.

*II. Tata*

With respect to Tata, although the company maintains that it had no sales of commercial quantities during the POR, it provided data concerning sales of subject merchandise during the POR on March 19 and March 23, 2009. After considering the information on the record, the Department decided that Tata did have sales during the POR and requested on March 27, 2009, that Tata submit a questionnaire response. *See* Memorandum to the File regarding "Sales by Tata during the POR," dated March 27, 2009, which is on file in the CRU of the main Commerce Building.

The Department extended Tata's deadline to respond to the initial questionnaire. Specifically, on March 27, 2009, the Department extended the March 15, 2009, original deadline until April 17, 2009. *Id.* However, Tata failed to provide a response to the initial questionnaire. On April 23, 2009, Department officials contacted Tata regarding its failure to respond to the Department's February 6, 2009 questionnaire, which was due on April 17, 2009. *See* Memorandum to the File regarding "Phone Conversation with Counsel for Tata Steel Limited," dated April 23, 2009, which is on file in the CRU of the main Commerce Building. Tata indicated that it would not participate in this administrative review. *Id.* No further response has been filed by Tata in this segment of the proceeding.

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply "facts otherwise available" if, *inter alia,* 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.

Because Tata failed to provide the requested information by the established deadlines, the Department does not have the necessary information to determine the net subsidies received by Tata under the GOI administered programs as well as those programs administered by the state governments. Therefore, the Department must base its determination on the facts otherwise available in accordance with section 776(a)(2)(B) of the Act with respect to the GOI and state government programs covered in this review.

Section 776(b) of the Act provides that the Department may use an adverse inference in applying the fact otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Because Tata did not provide the requested information on any of the programs covered by this review, we find that Tata did not act to the best of its ability and, therefore, pursuant to section 776(b) of the Act, we are employing adverse inferences in selecting from among the facts otherwise available. Section 776(b) of the Act also authorizes the Department to use as AFA information derived from the petition, the original determination, a previous administrative review, or other information placed on the record.

As explained above, due to the GOI's failure to submit a timely response, we find that all programs administered by the GOI and the state governments continued to operate during the POR, and that these programs provided financial contributions and were specific within the meanings of sections 771(5)(D) and 771(5A) of the Act, respectively.

Moreover, because Tata failed to provide the requested information with respect to the GOI and state government programs by the established deadlines, despite the extensions of time granted by the Department, we do not have the necessary information to determine the

net subsidies Tata received from these programs. Therefore, as AFA, we find that Tata received a benefit from all these programs.

In assigning net subsidy rates for each of the programs for which specific information was required from Tata, we were guided by the Department's approach in the prior reviews as well as recent CVD investigations involving the People's Republic of China (PRC). *See e.g., Certain Hot-Rolled Carbon Steel Flat Products from India: Final Results and Partial Rescission of Countervailing Duty Administrative Review,* 74 FR 20923 (May 6, 2009) (*Final Results of Fifth HRS Review*) and accompanying Issues and Decision Memorandum (Final Results of Fifth HRS Decision Memorandum) at "SGOC Industrial Policy 2004–2009" section; *see also, Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 74 FR 4936 (January 28, 2009) and accompanying Issues and Decision Memorandum at "Application of Facts Available and Use of Adverse Inferences" section. In these preliminary results, as AFA, we have first sought to apply, where available, the highest, above *de minimis* subsidy rate calculated for an *identical* program from any segment of this proceeding. Absent such a rate, we have applied, where available, the highest, above *de minimis* subsidy rate calculated for a *similar* program from any segment of this proceeding. Under our AFA approach, absent a subsidy rate calculated for the same or similar program, the Department applies the highest above *de minimis,* calculated subsidy rate for any program from any CVD proceeding involving the country in which the subject merchandise is produced, so long as the producer of the subject merchandise or the industry to which it belongs could have used the program for which the rates were calculated. In the instant review, it was not necessary to rely on this third prong in the hierarchy of our AFA methodology because above *de minimis* subsidy rates for identical and/or similar programs were available within the proceeding. In accordance with this methodology, we have applied AFA rates and have assigned these rates to Tata for all the subsidy programs as discussed further below.

**Analysis of Programs**

*A. Programs Administered by the Government of India*

1. Pre- and Post-Shipment Export Financing

The Department of Banking Operations & Development, Directives Division of Reserve Bank of India (RBI) provides short-term pre-shipment export financing, or "packing credits," to exporters through commercial banks. Upon presentation of a confirmed export order or letter of credit to a bank, companies receive pre-shipment credit lines upon which they may draw as needed. Credit line limits are established by commercial banks based upon a company's creditworthiness and past export performance, and may be denominated either in Indian rupees or in foreign currency. Commercial banks extending export credit to Indian companies must, by law, charge interest on this credit at rates capped by the RBI. For post-shipment export financing, exporters are eligible to receive post-shipment short-term credit in the form of discounted trade bills or advances by commercial banks at preferential interest rates to finance the transit period between the date of shipment of exported merchandise and payment from export customers.

The Department has previously determined that these export financing programs are countervailable to the extent that the interest rates are capped by the GOI and are lower than the rates exporters would have paid on comparable commercial loans. *See e.g., Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review,* 72 FR 6530 (February 12, 2007) and accompanying Issues and Decision Memorandum (Final Results of 3rd PET Film Review Decision Memorandum) at "Pre-Shipment and Post-Shipment Export Financing" section. Specifically, the Department determined that the GOI's issuance of financing at preferential rates constituted a financial contribution pursuant to section 771(5)(D)(i) of the Act and that the interest savings under this program conferred a benefit pursuant to section 771(5)(E)(ii) of the Act. The Department also found this program to be contingent upon exports and, therefore, specific within the meaning of section 771(5A)(B) of the Act. No new information or evidence of changed circumstances has been presented in this review to warrant a reconsideration of the Department's finding.

In its questionnaire response, the GOI reported that RBI does not maintain company-specific accounting records. *See* April QR at 52. Therefore, the GOI is unable to provide information as to whether Tata applied for, accrued, or received benefits under the program during the POR. *Id.* As discussed more fully under the "Adverse Facts Available" section above, Tata did not submit a response to any of the Department's questionnaires and, therefore, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from pre- and post-export financing during the POR within the meaning of section 771(5)(E) of the Act.

Pursuant to the AFA methodology described above, for this program, we have assigned a net subsidy rate of 1.32 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in another segment of this proceeding. *See Final Affirmative Countervailing Duty Investigation: Certain Hot-Rolled Carbon Steel Flat Products From India,* 66 FR 49635 (September 28, 2001) (HRS Investigation Final) and accompanying Issues and Decision Memorandum (HRS Investigation Decision Memorandum) at "Pre- and Post-Export Financing" section.

2. Export Promotion of Capital Goods Scheme (EPCGS)

The EPCGS provides for a reduction or exemption of customs duties and an exemption for excise taxes on imports of capital goods. Under this program, producers may import capital equipment at a reduced customs duty, subject to an export obligation equal to eight times the duty saved to be fulfilled over a period of eight years (12 years where the CIF value is Rs. 100 crore [1]) from the date the license was issued. For failure to meet the export obligation, a company is subject to payment of all or part of the duty reduction, depending on the extent of the export shortfall, plus penalty interest.

The Department has previously determined that the import duty reductions provided under the EPCGS constitute a countervailable export subsidy. *See e.g.,* Final Results of 3rd PET Film Review Decision Memorandum at "Export Promotion Capital Goods Scheme" section. Specifically, the Department has found that under the EPCGS program, the GOI provides a financial contribution under section 771(5)(D) of the Act. The Department also found this program to be specific under section 771(5A)(B) of the Act because it is contingent upon export performance. No new

[1] A crore is equal to 10,000,000 rupees.

information or evidence of changed circumstances has been provided with respect to this program. Therefore, we continue to find that import duty reductions provided under the EPCGS are countervailable export subsidies.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 16.63 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in another segment of this proceeding. *See* HRS Investigation Final and accompanying HRS Investigation Decision Memorandum at "Export Promotion for Capital Goods (EPCGS) Scheme" section.

3. Advance License Program (ALP)

Under the 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. The quantities of imported materials and exported finished products are linked through standard input/output norms (SIONs) established by the GOI.

The Department has previously found this program to be countervailable. *See e.g., Final Results of Countervailing Duty Administrative Review; Polyethylene Terephthalate Film, Sheet, and Strip from India,* 71 FR 7534 (February 13, 2006) (*Final Results of 2nd PET Film Review*), and accompanying Issues and Decision Memorandum (Final Results of 2nd PET Film Review Decision Memorandum) at "Advance License Program" section and "Comment 1." *See also, Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Lined Paper Products from India,* 71 FR 45034 (August 8, 2006) (*Final Determination of Lined Paper Investigation*), and accompanying Issues and Decision Memorandum (Final Determination of Lined Paper Investigation Decision Memorandum) at "Advance License Program" section. In the *Final Results of 2nd PET Film Review,* the Department found that the ALP provides a financial contribution, as defined under section 771(5)(D)(ii) of the Act, the GOI does not have in place, and does not apply, a system that is reasonable and effective, within the meaning of 19 CFR 351.519(a)(4), to confirm which inputs and in what amounts are consumed in the production of the exported products. Therefore, the entire amount of the import duty deferral or exemption earned by the respondent constitutes a benefit under section 771(5)(E) of the Act. *See* Final Results of 2nd PET Film Review Decision Memorandum at Comment 1 and Final Determination of Lined Paper Investigation Decision Memorandum at Comment 10. *See also, Certain Hot-Rolled Carbon Steel Flat Products from India: Notice of Preliminary Results of Countervailing Duty Administrative Review,* 73 FR 1578 (January 9, 2008) (*Preliminary Results of Fourth HRS Review*) and *Certain Hot-Rolled Carbon Steel Flat Products From India: Final Results of Countervailing Duty Administrative Review,* 73 FR 40295 (July 14, 2008) (*Final Results of Fourth HRS Review*) and the accompanying Issues and Decision Memorandum (Final Results of Fourth HRS Review Decision Memorandum) at "Advance License Program (ALP)" section.[2] No new information has been submitted on the record in this review to warrant a reconsideration of the Department's findings.

Pursuant to the AFA methodology described above, we are assigning a net subsidy rate of 0.50 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in another segment of this proceeding. *See* Final Results of Fourth HRS Review Decision Memorandum at "Advance License Program (ALP)" section.

4. Duty Entitlement Passbook Scheme (DEPS)

India's DEPS was enacted on April 1, 1997, as a successor program to the Passbook Scheme (PBS). As with PBS, the DEPS enables exporting companies to earn import duty exemptions in the form of passbook credits rather than cash. All exporters are eligible to earn DEPS credits on a post-export basis, provided that the GOI has established a SION for the exported product. DEPS credits can be used for any subsequent imports, regardless of whether they are consumed in the production of an export product. DEPS credits are valid for 12 months and are transferable after the foreign exchange is realized from the export sales on which the DEPS credits are earned. With respect to subject merchandise, the GOI has established a SION for the steel industry.

The Department has previously determined that DEPS is a countervailable program, which provides a financial contribution and is specific as an export contingent subsidy within the meaning of sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively. *See e.g.,* Final Determination of Lined Paper Investigation Decision Memorandum at "Duty Entitlement Passbook Scheme" section. The Department further found that the benefit under section 771(5)(E) of the Act is the entire amount of import duty exempted, because the GOI does not have in place, and does not apply, a system that is within the meaning of 19 CFR 351.519(a)(4), reasonable and effective for determining what imports are consumed in the production of the exported product and in what amounts. *Id.* No new information or evidence of changed circumstances has been presented in this review to warrant reconsideration of the Department's finding.

We have previously determined that this program provides a recurring benefit under 19 CFR 351.519(c). *See e.g., Preliminary Determination of Lined Paper Investigation,* 71 FR at 7920 (unchanged in *Final Determination of Lined Paper Investigation*). In accordance with past practice and pursuant to 19 CFR 351.519(b)(2), we preliminarily find that benefits from the DEPS program are conferred as of the date of exportation to the shipment for which the DEPS credits are earned. *See e.g., Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate from India,* 64 FR 73131 (December 29, 1999) at Comment 4 (explaining that for programs such as the DEPS, "we calculate the benefit on an "earned" basis (that is upon export) where it is provided as a percentage of the value of the exported merchandise on a shipment-by-shipment basis and the exact amount of the exemption is known.")

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 13.98 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Duty Entitlement Passbook Scheme (DEPS)" section.

5. Status Certificate Program

India's Status Certificate Program is detailed under paragraph 3.5 of its Foreign Trade Policy Handbook. This program details the following privileges to exporters, depending on their export performance for the current year, plus the preceding three years:

[2] In this review, as in the past review, the GOI has argued that, pursuant to changes in its Foreign Trade and Policy Handbook of Procedures, advance licenses are issued with actual user conditions and are not transferable even after completion of the export obligation. The Department analyzed these changes in the past review and determined that the systemic issues continued to exist.

(i). Authorizations and Customs clearances for both imports and exports on self-declaration basis;

(ii). Fixation of Input-Output norms on priority within 60 days;

(iii). Exemption from compulsory negotiation of documents through banks. The remittance, however, would continue to be received through banking channels;

(iv). 100 percent retention of foreign exchange in EEEC account:

(v). Enhancement in normal repatriation period from 180 days to 360 days;

(vi). (Deleted);

(vii). Exemption from furnishing of Bank Guarantee in Schemes under this Policy. *See* GOI's April QR at 60.

In the Fourth HRS Review, the Department examined this program in which certain respondents participated during that POR. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1597. In particular, we inquired about the extent to which the respondents used the provision related to foreign currency retention under the Status Certificate Program during the POR. *Id.* However, the Department found that the program was not used during the POR. *See Final Results of Fourth HRS Review,* and Final Results of Fourth HRS Review Decision Memorandum at "Programs Determined to Be Not Used" section. As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a foreign currency loan, and a benefit within the meaning of 771(5)(D)(i) and 771(5)(E) of the Act, respectively.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 1.32 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Pre- and Post Export Financing".

6. Loan Guarantees From the GOI

In the underlying investigation, the Department found that the GOI, through the State Bank of India (SBI) provides loan guarantees on a case-by-case basis to particular industrial sectors. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Determination With Final Antidumping Duty Determinations: Certain Hot-Rolled Carbon Steel Products from India,* 66 FR 20240, 20249 (April 20, 2001) (*Preliminary Determination of HRS Investigation*), unchanged in *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From India,* 66 FR 49635 (September 28, 2001) (*Final Determination of HRS Investigation*) and accompanying Issues and Decision Memorandum. We determined these SBI loan guarantees confer countervailable subsidies because they provide a financial contribution in the form of a potential direct transfer of funds or liabilities and are specific to a limited number of companies within the meaning of sections 771(5)(D)(i) and 771(5A)(D)(iii)(I) of the Act, respectively. *Id.* In accordance with section 771(5)(E)(iii) of the Act, the loan guarantees provide a benefit to the recipient in the amount of the difference between the amount the recipient pays on the guaranteed loan and the amount the recipient would pay for a comparable commercial loan if there were no government guarantee. No new information or evidence of changed circumstances has been presented to warrant reconsideration of this finding. Therefore, in the instant review, we preliminarily continue to find, as AFA, that the GOI's loan guarantees under this program provide a financial contribution in the form of a potential direct transfer of funds or liabilities and are specific to a limited number of industries within the meaning of sections 771(5)(D)(i) and 771(5A)(D)(iii)(I) of the Act, respectively. Moreover, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, Tata used and benefitted from this program, within the meaning of 771(5)(E)(iii) of the Act, in the form of the difference in the amount the firm paid on the guaranteed loan and the amount the firm would pay for a comparable loan if there were no government guarantee.

Pursuant to the AFA methodology described above, for this program, we are assigning, a net subsidy rate of 1.32 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Pre- and Post Export Financing" section.

7. Steel Development Fund (SDF) Loans

The Steel Development Fund (SDF) was established in 1978, to which India's integrated steel producers, including Tata, contributed the proceeds from GOI-mandated price increases (*i.e.,* levies). In turn, these producers were eligible to take out long-term loans from the SDF at advantageous rates. *See* Final Determination of HRC Investigation Decision Memorandum at "Loans from the Steel Development Fund" section.

In the underlying investigation, the Department determined that the GOI exercises control over the way in which funding is disbursed under this program. *See Preliminary Determination of HRS Investigation* (unchanged in *Final Determination of HRS Investigation*).

Therefore, the Department determined that loans under the SDF constitute a financial contribution within the meaning of section 771(5)(D)(i) of the Act. We also determined that loans under the SDF are specific within the meaning of section 771(5A)(D)(i) of the Act because eligibility for loans from the SDF is limited to steel companies. We further found that loans under the SDF program confer a benefit under section 771(5)(E)(ii) of the Act to the extent that the interest paid under the program during the POR was less than what would have been charged on a comparable commercial loan. *Id.* No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this determination. Therefore, in the instant review, we preliminarily continue to find, as AFA, that the GOI's provision of SDF loans under this program provide a financial contribution in the form of a potential direct transfer of funds and are specific to a limited number of industries within the meaning of sections 771(5)(D)(i) and 771(5A)(D)(iii)(I) of the Act, respectively. Furthermore, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, Tata used and benefitted from this program, within the meaning of 771(5)(E) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 0.99 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Loan from the Steel Development Fund (SDF) Fund" section.

8. Captive Mining of Iron Ore

Under the Mines and Minerals Development and Regulation Act of 1957, as amended, (MMDR) and the Mineral Concession Rules of 1960, as amended, the GOI grants captive mining rights for minerals, including iron ore, to eligible applicants. The MMDR includes a schedule that lists minerals for which mining rights are controlled

by the GOI. Iron ore is included on this schedule.

In *Preliminary Results of Fourth HRS Review,* the Department determined that the MMDR captive mining program was countervailable. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1591 (unchanged in *Final Results of Fourth HRS Review*). Specifically, the Department determined that the program provided a financial contribution in the form of the provision of a good within the meaning of 771(D)(iii) of the Act and conferred a benefit within the meaning of section 771(5)(E)(iv) of the Act by enabling the participating firms to purchase iron ore from the GOI for less than adequate remuneration (LTAR). We further determined that the program is specific within the meaning of section 771(5A)(D)(iii)(I) of the Act, because it is limited to certain enterprises, such as steel producers. *Id.* In the instant review, we preliminarily continue to find that the GOI's provision of iron ore for LTAR under this program provide a financial contribution in the form of a provision of a good and is specific to a limited number of industries within the meaning of sections 771(5)(D)(iii) and 771(5A)(D)(iii)(I) of the Act, respectively. Furthermore, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, Tata used and benefitted from this program, within the meaning of 771(5)(E)(iv) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 18.08 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in another segment of this proceeding. *See* Final Results of Fourth HRS Decision Memorandum at "Captive Mining of Iron Ore" section.

9. Captive Mining Rights of Coal

In 1973, the GOI nationalized coal mining under the Coal Mines Nationalization Act. The legislation initially reserved coal mining for public companies. However, pursuant to the Coal Mines Nationalization Amendment Act of 1976, the law was revised to allow iron and steel companies to mine for coal for captive use (*i.e.,* the right of selected companies to extract coal from government-owned land for use in their production processes). In 1993 through 1996, the GOI amended the Act to also allow power companies and the cement industry to mine coal for captive use.

In *Preliminary Results of Fourth HRS Review,* the Department determined that this program was countervailable. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1592 (unchanged in *Final Results of Fourth HRS Review*). Specifically, the Department determined that the provision of coal constitutes a financial contribution in the form of a provision of a good within the meaning of 771(D)(iii) of the Act. We also determined that the program conferred a benefit within the meaning of section 771(5)(E)(iv) of the Act by enabling the participating firms to purchase coal from the GOI for LTAR. We further determined that the program is specific under section 771(5A)(D)(iii)(I) of the Act, because preference is given in the allocation of coal mining rights or "blocks" to steel producers whose annual production capacity exceeds one million tons. *Id.* In the instant review, we preliminarily continue to find that the GOI's provision of coal under this program provide a financial contribution in the form of a provision of a good and is specific to a limited number of industries within the meaning of sections 771(5)(D)(iii) and 771(5A)(D)(iii)(I) of the Act, respectively. Furthermore, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, Tata used and benefitted from this program, within the meaning of 771(5)(E)(iv) of the Act.

Pursuant to the AFA methodology described above, for this program we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in another segment of this proceeding. *See* Final Results of Fourth HRS Review Decision Memorandum at "Captive Mining Rights of Coal" section.

10. Export Oriented Units (EOU) Program: Duty-Free Import of Capital Goods and Raw Materials

Under this program EOUs are entitled to import capital goods and raw materials duty-free. In the *Preliminary Determination of PET Resin,* we determined that this program was countervailable. We found that the assistance provided under this program was specific as an export subsidy within the meaning of section 771(5A)(B) of the Act. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment With Final Antidumping Duty Determination: Bottle-Grade Polyethylene Terephthalate ("PET") Resin From India* (*Preliminary Determination of PET Resin*), 69 FR 52866, 52870 (August 30, 2004) (unchanged in the *Final Affirmative Countervailing Duty Determination: Bottle-Grade Polyethylene Terephthalate ("PET") Resin From India,* 70 FR 13460 (March 21, 2005) (*Final Determination of PET Resin*), and accompanying Issues and Decision Memorandum (PET Resin Investigation Decision Memorandum).) We found that this program provides a financial contribution in the form of forgone revenue within the meaning of section 771(5)(D)(ii) of the Act and confers a benefit in the amount of exemptions and reimbursements of customs duties and certain sales taxes on capital equipment in accordance with section 771(5)(E) of the Act and section 351.519(4)(i) of the Department's regulations. *See* PET Resin Investigation Decision Memorandum at "Export-Oriented Unit (EOU) Program: Duty-Free Import of Capital Goods and Raw Materials" section. In the instant review, we preliminarily continue to find the GOI's provision of assistance under this program provides a financial contribution in the form of revenue forgone and is specific as an export subsidy within the meaning of sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively. Furthermore, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, Tata used and benefitted from this program, within the meaning of 771(5)(E) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 13.98 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Duty Entitlement Passbook Scheme (DEPS)" section.

11. EOU Program: Reimbursement of Central Sales Tax (CST) Paid on Materials Procured Domestically

In the *Preliminary Determination of PET Resin,* we found that under this program, EOUs are entitled to reimbursements of the CST paid on materials procured domestically, applicable to purchases of both raw materials and capital goods. *See Preliminary Determination of PET Resin,* 69 FR at 52870 (unchanged in *Final Determination of PET Resin*).

In the *Preliminary Determination of PET Resin,* the Department determined that this program was countervailable. Specifically, we found that the program is specific as an export subsidy within the meaning of section 771(5A)(B) of the Act. This program provides a financial contribution in the form of revenue foregone within the section 771(5)(D)(ii) of the Act and confers a benefit in the amount of reimbursements of CST in accordance with section 771(5)(E) of the Act. *Id.* In the instant review, we preliminarily continue to find the GOI's provision of assistance under this program provides a financial

contribution in the form of revenue forgone and is specific as an export subsidy within the meaning of sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively. Furthermore, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, Tata used and benefitted from this program, within the meaning of 771(5)(E) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat Tax Incentives" section.

12. Income Tax Exemption Scheme Under Section (80 HHC)

Under section 80HHC of the Income Tax Act, the GOI allows exporters to deduct profits derived from the export of merchandise from taxable income. In prior CVD proceedings, the Department has found this program to be an export subsidy within the meaning of section 771(5A)(B) of the Act, and thus countervailable,. *See e.g., Certain Iron-Metal Castings from India: Final Results of Countervailing Duty Administrative Review,* 65 FR 31515 (May 18, 2000), and the accompanying Issues and Decision Memorandum at "Income Tax Deductions Under Section 80 HHC" section. This program provides a financial contribution in the form of revenue foregone and confers a benefit in the form of tax savings to the company within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. Therefore, in the instant review, we preliminarily continue to find the tax savings to the company under this program provides a financial contribution in the form of revenue forgone and is specific as an export subsidy within the meaning of sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively. Furthermore, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, Tata used and benefitted from this program, within the meaning of 771(5)(E) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat Tax Incentives" section.

13. Sale of High-Grade Iron Ore for Less Than Adequate Remuneration

The Department has previously determined that the GOI provides high-grade iron ore to steel producers for LTAR through the government-owned National Mineral Development Corporation (NMDC). *See Final Results of Countervailing Duty Administrative Review: Certain Hot-Rolled Carbon Steel Flat Products from India,* 71 FR 28665 (May 17, 2006), and accompanying Final Results of Second HRS Review Decision Memorandum at "Sale of High-Grade Iron Ore for Less Than Adequate Remuneration" section. The NMDC is governed by the Ministry of Steel and the GOI holds the vast majority of its shares. In past reviews, we have found the NMDC to be a government authority. *See e.g., Final Results of Fourth HRS Review,* and accompanying Final Results of Fourth HRS Review Decision Memorandum at "Sale of High-Grade Iron Ore for Less Than Adequate Remuneration section."

In the *Final Results of Fourth HRS Review,* the Department found that, through NMDC, the GOI provides a direct financial contribution in the form of a provision of a good as defined under section 771(5)(D)(iii) of the Act, which is specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because the actual recipients are limited to industries that use iron ore, including the steel industry. *See Final Results of Fourth HRS Review* and accompanying Final Results of Fourth HRS Review Decision Memorandum at "Sale of High-Grade Iron ore for Less Than Adequate Remuneration" section. The Department also found pursuant to section 771(5)(E)(iv) of the Act that a benefit is conferred, because the government provides the good or service for LTAR. *See* Final Results of Fourth HRS Review Decision Memorandum at "Sale of High-Grade Iron Ore for Less Than Adequate Remuneration" section.

In its questionnaire responses, the GOI provided a list of companies that purchased high-grade iron ore from NMDC during the POR and Tata does not appear on this list. *See* GOI's April QR at 43 and August 10, 2009 QR. However, without Tata's cooperation, we find that this list does not constitute complete and verifiable evidence, within the meaning of sections 782(c)(3) and (2) of the Act, respectively, that Tata or any of its affiliates did not purchase iron ore from NMDC during the POR. The Department has in the past stated that it cannot rely solely upon the government's statements to make a determination of non-use. *See Laminated Woven Sacks From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination, in Part, of Critical Circumstances,* 73 FR 35639 (June 24, 2008) (*LWS from China*), and accompanying Issues and Decision Memorandum at Comment 4 (LWS from China Investigation Decision Memorandum). Therefore, we preliminarily find that Tata benefitted from this program within the meaning of section 771(5)(E) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 16.14 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in another segment of this proceeding. *See* Final Results of Fifth HRS Review Decision Memorandum at "Sale of High-Grade Iron Ore for LTAR" section.

14. Market Development Assistance (MDA)

In *Preliminary Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings From India,* the Department found that the Federation of Indian Export Organization administers grants under the MDA program, subject to approval by the Ministry of Commerce. *See Preliminary Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings From India,* 55 FR 46699, 46702 (November 6, 1990) (*Preliminary Results of Sixth Castings Review*) (unchanged in *Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings From India,* 56 FR1956 (January 18, 1991)). The purpose of the programs is to provide grants-in-aid to approved organizations (i.e., export houses) to promote the development of markets for Indian goods abroad. Such development projects may include market research, export publicity, and participation in trade fairs and exhibitions. *Id.*

The Department found that the MDA grants were countervailable. *See Preliminary Results of Sixth Castings Review* (unchanged in *Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings From India*). The program provides a direct financial contribution and confers a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, and is specific as an export subsidy within the meaning of section 771(5A)(B) of the Act. *Id.*

In its April QR, the GOI stated that Tata had not "availed any benefits under

this program," and in its September 4, 2009, questionnaire response (September QR) submitted a certificate from the administering authority attesting to the same. *See* April QR at 59 and September 4 QR at 11. However, absent the cooperation of Tata, we do not find that these submissions constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that Tata or any of its affiliates did not benefit from this program. The Department has in the past stated that it cannot rely solely upon the government's statements to make a determination of non-use. *See LWS from China* and accompanying LWS from China Investigation Decision Memorandum at Comment 4. Therefore, as AFA, we preliminarily find that Tata benefitted from this program within the meaning of section 771(5)(E) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "The GOI's Forgiveness of SDF Loans Issued to SAIL" section.

15. Market Access Initiative (MAI)

*According to section 3.2 of the GOI's Foreign Trade Policy 2004–2009:*

"The Market Access Initiative (MAI) scheme is intended to provide financial assistance for medium term export promotion efforts with a sharp focus on a country/product, and is administered by the Department of Commerce (DoC). Financial assistance is available for Export Promotion Councils, Industry and Trade Associations, Agencies of State Governments, Indian Commercial Missions abroad and other eligible entities as may be notified. A whole range of activities can be funded under the MAI scheme. These include, amongst others, (i) market studies, * * * (iii) sales promotion campaigns, * * * (v) publicity campaigns * * *" *See* GOI's April QR at Annex 7 page 28.

In past proceedings, the Department has investigated this program to the extent that it provides financial assistance from the GOI to approved organizations which promote exports by offsetting the expense of foreign market analysis and promotional publications. *See Preliminary Determination of Lined Paper Investigation,* 71 FR at 7922 (unchanged in *Final Determination of Lined Paper Investigation,* and Final Determination of Lined Paper Investigation Decision Memorandum at the "Programs Determined to be Not Used" section).

The GOI stated in its April QR that the respondent company had not "availed any benefits under this program," and in its September 4 QR submitted a certificate from the administering authority attesting to the same. *See* April QR at 67 and September 4 QR at 12. However, absent the cooperation of Tata, we do not find that these submissions constitute complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, respectively, demonstrating that Tata or any of its affiliates did not benefit from this program during the POR. The Department has in the past stated that it cannot rely solely upon the government's statements to make a determination of non-use. *See LWS from China.* Therefore, we preliminarily find that Tata benefitted from this program within the meaning of section 771(5)(E) of the Act. Furthermore, as AFA, we find that Tata's use of the MAI program provides a financial contribution in the form of a grant and confers a benefit as a grant within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. The Department also finds, as AFA, that the program is specific as an export subsidy within the meaning of section 771(5A)(B) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "The GOI's Forgiveness of SDF Loans Issued to SAIL".

16. Special Economic Zone Act of 2005 (SEZ Act): Duty Free Import/Domestic Procurement of Goods and Services for Development, Operation, and Maintenance of SEZ Units Program

In the Fifth HRS Review, we found that, under this program, companies with SEZ units may import from overseas or procure domestically duty-free goods and services. *See Certain Hot-Rolled Carbon Steel Flat Products from India: Notice of Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review,* 73 FR 79791, 79797 (December 30, 2008) (*Fifth HRS Preliminary Results*) (unchanged in *Certain Hot-Rolled Carbon Steel Flat Products from India: Final Results and Partial Rescission of Countervailing Duty Administrative Review,* 74 FR 20923 (May 6, 2009) (*Fifth HRS Final Results*) and Final Results of Fifth HRS Review Decision Memorandum at "SEZ Act.") The Department found, based on AFA, the company's use of the programs under the 2005 SEZ Act constitutes a financial contribution that is specific within the meaning of sections 771(5)(D) and 771(5A)(B) of the Act, respectively. *Id.* No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

The GOI stated in its April QR that Tata was not covered by this program. *See* April QR at 68. However, absent cooperation by Tata, we do not find that this statement constitutes complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, demonstrating that Tata or any of its affiliates did not benefit from this program. The Department has in the past stated that it cannot rely solely upon the government's statements to make a determination of non-use. *See LWS from China.* Therefore, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, that Tata used and benefitted from this program within the meaning of section 771(5)(E) of the Act. Moreover, we preliminarily find, as AFA, the company's use of this program under the 2005 SEZ Act constitutes a financial contribution in the form of revenue forgone and is specific as an export subsidy within the meaning of sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 1.66 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a the same program in another segment of this proceeding. *See* Final Results of Fifth HRS Review Decision Memorandum at "SEZ Act" section.

17. SEZ Act: Exemption From Excise Duties on Goods Machinery and Capital Goods Brought From the Domestic Tariff Area for Use by an Enterprise in the SEZ

In the Fifth HRS Review, we found that, under this program, companies with SEZ units may be eligible for exemption from excise duties on goods machinery and capital goods brought from the Domestic Tariff Area for use by an enterprise in the SEZ. *See Fifth HRS Preliminary Results,* 73 FR at 79797 (unchanged in *Fifth HRS Final Results*). The Department found, based on AFA, the company's use of the programs under the 2005 SEZ Act constitutes a financial contribution that is specific within the meaning of sections 771(5)(D) and 771(5A)(B) of the Act, respectively. *Id.*

The GOI stated in its April QR that Tata was not covered by this program. *See* April QR at 68. However, absent

cooperation by Tata, we do not find that this statement constitutes complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, demonstrating that Tata or any of its affiliates did not benefit from this program during the POR. The Department has in the past stated that it cannot rely solely upon the government's statements to make a determination of non-use. *See LWS from China.* Therefore, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, that Tata used and benefitted from this program within the meaning of section 771(5)(E) of the Act. Moreover, we preliminarily find, as AFA, the company's use of this program under the 2005 SEZ Act constitutes a financial contribution in the form of revenue forgone and is specific as an export subsidy within the meaning of sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 2.57 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for this program in another segment of this proceeding. *See* Final Results of Fifth HRS Review Decision Memorandum at "SEZ Act" section.

18. SEZ Act: Drawback on Goods Brought or Services Provided From the Domestic Tariff Area Into a SEZ, or Services Provided in a SEZ by Service Providers Located Outside India

In the Fifth HRS Review, we found that under this program companies that are suppliers are eligible to claim drawback or Duty Entitlement Pass Book (DEPB) on goods or services provided from the Domestic Tariff area or from outside India into a SEZ. However, we found the program was not used. *See Fifth HRS Preliminary Results,* 73 FR at 79801 (unchanged in *Fifth HRS Final Results*).

The GOI stated in its April QR that Tata was not covered by this program. *See* April QR at 68. However, absent cooperation by Tata, we do not find that this statement constitutes complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, demonstrating that Tata or any of its affiliates did not benefit from this program during the POR. The Department has in the past stated that it cannot rely solely upon the government's statements to make a determination of non-use. *See LWS from China.* Therefore, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, that Tata used and benefitted from this program within the meaning of section 771(5)(E) of the Act. Furthermore, as AFA, we preliminarily find that Tata's use of the programs under the SEZ Act constitutes a financial contribution in the form of duty exemption that is specific within the meaning of sections 771(5)(D) and 771(5A)(B) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 13.98 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRC Investigation Decision Memorandum at "Duty Entitlement Passbook Scheme (DEPS)" section.

19. SEZ Act: 100 Percent Exemption From Income Taxes on Export Income From the First 5 Years of Operation, 50 Percent for the Next 5 Years, and a Further 50 Percent Exemption on Export Income Reinvested in India for an Additional 5 Years

In the Fifth HRS Review, we found that under this program benefits are provided on sales made from the SEZ. However, the program was not used. *See Fifth HRS Preliminary Results,* 73 FR at 79801 (unchanged in *Fifth HRS Final Results*).

The GOI stated in its April QR that the Tata was not covered by this program. *See* April QR at 68. However, absent cooperation by Tata, we do not find that this statement constitutes complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, demonstrating that Tata or any of its affiliates did not benefit from this program during the POR. The Department has in the past stated that it cannot rely solely upon the government's statements to make a determination of non-use. *See LWS from China.* Therefore, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, that Tata used and benefitted from this program within the meaning of section 771(5)(E) of the Act. Furthermore, as AFA, we preliminarily find that Tata's use of the programs under the SEZ Act constitutes a financial contribution in the form of revenue forgone that is specific within the meaning of sections 771(5)(D)(ii) and 771(5A)(B) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives section."

20. SEZ Act: Exemption From the Central Sales Tax (CST)

In the Fifth HRS Review, we found that under this program companies may be eligible for exemption from the 2 percent CST on inter-state purchases made by the SEZ unit. *See Fifth HRS Preliminary Results,* 73 FR at 79798 (unchanged in *Fifth HRS Final Results*). The Department found, based on AFA, the company's use of the programs under the 2005 SEZ Act constitutes a financial contribution that is specific within the meaning of sections 771(5)(D) and 771(5A)(B) of the Act, respectively. *Id.*

The GOI stated in its April QR that Tata was not covered by this program. *See* April QR at 68. However, absent cooperation by Tata, we do not find that this statement constitutes complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, demonstrating that Tata or any of its affiliates did not benefit from this program during the POR. The Department has in the past stated that it cannot rely solely upon the government's statements to make a determination of non-use. *See LWS from China.* Therefore, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, that Tata used and benefitted from this program within the meaning of section 771(5)(E) of the Act. Moreover, we preliminarily find, as AFA, the company's use of this program under the 2005 SEZ Act constitutes a financial contribution in the form of revenue forgone and is specific as an export subsidy within the meaning of sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

21. SEZ Act: Exemption From National Service Tax

In the Fifth HRS Review, we found that under this program SEZ units are exempt from paying the national service tax of 12.36 percent. Therefore, a service provider to an SEZ unit is not required to pay the 12.36 percent service tax on invoices issued to SEZ units. *See Fifth HRS Preliminary Results,* 73 FR at 79798 (unchanged in *Fifth HRS Final*

*Results*). The Department found, based on AFA, the company's use of the programs under the 2005 SEZ Act constitutes a financial contribution that is specific within the meaning of sections 771(5)(D) and 771(5A)(B) of the Act, respectively. *Id.*

The GOI stated in its April QR that Tata was not covered by this program. *See* April QR at 68. However, absent cooperation by Tata, we do not find that this statement constitutes complete and verifiable evidence, within the meaning of sections 782(e)(3) and (2) of the Act, demonstrating that Tata or any of its affiliates did not benefit from this program during the POR. The Department has in the past stated that it cannot rely solely upon the government's statements to make a determination of non-use. *See LWS from China.* Therefore, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, that Tata used and benefitted from this program within the meaning of section 771(5)(E) of the Act. Moreover, we preliminarily find, as AFA, the company's use of this program under the 2005 SEZ Act constitutes a financial contribution in the form of revenue forgone and is specific as an export subsidy within the meaning of sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively.

Pursuant to the AFA methodology described above, this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

22. Duty Free Replenishment Certificate (DFRC) Scheme

The DFRC scheme was introduced by the GOI in 2001 and was administered by the Directorate General for Foreign Trade. The DFRC was a duty replenishment scheme that was available to exporters for the subsequent import of inputs used in the manufacture of goods without payment of basic customs duty. In order to receive a license, which entitled the recipient subsequently to import duty free certain inputs used in the production of the exported product, as identified in a SION, within the following 24 months, a company had to: (1) Export manufactured products listed in the GOI's export policy book and against which there is a SION for inputs required in the manufacture of the export product based on quantity; and (2) have realized the payment of export proceeds in the form of convertible foreign currency. The application was to be filed within six months of the realization of the profits. DFRC licenses were transferrable, yet the transferee was limited to importing only those products and in the quantities specified on the license.

In the past, the Department has found that in order to receive a DFRC license, firms must demonstrate that they made an export sale by submitting proof of payment to the GOI in the form of a bank realization certificate. As such, we found that duty exemptions provided under the DFRC program were earned on a shipment-by-shipment basis and, therefore, were tied to particular products and markets within the meaning of 19 CFR 351.525(b)(4) and (5). Moreover, we determined that the sale of DFRC licenses and the sales proceeds conferred a benefit within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We also determined that because the receipt of DFRC licenses are contingent upon exports, the DFRC program was specific within the meaning of section 771(5A)(B) of the Act. *See Preliminary Determination of Lined Paper Investigation,* unchanged in *Final Determination of Lined Paper Investigation,* and accompanying Issues and Decision Memorandum at "Duty Free Replenishment Certificate (DFRC) Scheme."

The GOI claimed that the DFRC program was terminated as of May 1, 2006, in accordance with paragraph 4.2.8 of Foreign Trade Policy (FTP) for the year 2006–07. Moreover, the GOI claimed that no benefits accrued under this program during the POR. *See* GOI's April QR at 18 and Exhibit 7. With respect to residual benefits from this program, in the September 4, 2009 questionnaire response (September 4 QR) the GOI, citing to paragraph 4.2.8 of the FTP for the period September 1, 2004–March 31, 2009, stated that any export made after April 30, 2006, is not eligible for benefits under the DFRC. *See* GOI's September 4, 2009 QR at 4. However, because we have previously determined that DFRC licenses can be used 24 months after they were issued, firms that had qualifying exports on April 30, 2006, would have been eligible to use benefits under this program through at least April 30, 2008, which is covered by the POR. *See Preliminary Determination of Lined Paper Investigation,* unchanged in *Final Determination of Lined Paper Investigation,* and accompanying Issues and Decision Memorandum at "Duty Free Replenishment Certificate (DFRC) Scheme." Without Tata's cooperation, we preliminarily find that the documentation provided by the GOI does not constitute complete and verifiable evidence, within the meaning of sections 782(c)(3)(2) of the Act, respectively, that Tata or any of its affiliates did not use DFRC licenses to import duty free inputs under this program during the period covered by this administrative review. Therefore, we preliminarily continue to find that the duty exemptions provided under the DFRC licenses provided countervailable subsidies during the POR.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 13.98 percent *ad valorem,* which corresponds to the highest above *de minimis* rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Duty Entitlement Passbook Scheme (DEPS)" section.

23. Target Plus Scheme (TPS)

In the Fourth HRS Review, the Department found that import duty exemptions under the TPS were countervailable. Specifically, the Department determined that a financial contribution, in the form of revenue forgone, as defined under section 771(5)(D)(ii) of the Act, was provided under program because the GOI provides credits for the future payment of import duties. In addition, we found that the TPS program provides a benefit because the GOI did not have in place and did not apply a system that was reasonable and effective for the purposes intended to confirm which inputs, and in what amounts, were consumed in the production of the exported products. Therefore, in accordance with 19 CFR 351.519(a)(4) and section 771(5)(E) of the Act, we determined that the entire amount of import duty exemption earned during the POR constitutes a benefit. Moreover, we determined that the program was specific under section 771(5A)(B) of the Act because the program could only be used by exporters. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1590, found not used in the *Final Results of Fourth HRS Review,* and accompanying Final Results of Fourth HRS Review Decision Memorandum at "Target Plus Scheme" section and Comment 30.

The GOI claimed that the TPS was terminated as of April 1, 2006, and reported that no benefits accrued under this program during the POR. *See* GOI's April QR at 59. In the GOI's September 4 QR, the GOI provided Notification No. 57 dated March 31, 2009, from the Directorate General for Foreign Trade

and, citing to this document, claimed that this document shows that the Target Plus Scheme has been abolished effective April 1, 2006. The GOI further claimed that this notice clearly states that the TPS has been abolished for exports from April 1, 2006, forward and that any export made after this date is not entitled to the benefits under this program. *See* GOI's September 4, 2009 QR at 5. However, we have insufficient information concerning the time period for which benefits may carry forward under this program. Furthermore, without Tata's cooperation, we preliminarily find that the documentation provided by the GOI does not constitute complete and verifiable evidence, within the meaning of sections 782(c)(3)(2) of the Act, respectively, that Tata or any of its affiliates did not use TPS credits to pay customs duty on imports of any inputs under this program during the POR.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 13.98 percent *ad valorem,* which corresponds to the highest above *de minimis* rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Duty Entitlement Passbook Scheme (DEPS)" section.

*B. Programs Administered by the State Government of Gujarat (SGOG)*

1. State Government of Gujarat Tax Incentives: Sales Tax Exemptions of Purchases of Goods During the POR

Pursuant to a 1995 Industrial Policy of Gujarat and an Incentive Policy of 1995–2000 (1995 IP), the SGOG offered incentives, such as sales tax exemptions and deferrals, to companies that locate or invest in certain disadvantaged or rural areas in the State of Gujarat. A company could be eligible to claim exemptions or deferrals valued up to 90 percent of the total eligible capital investment. These policies exempt companies from paying sales tax on the purchases of raw materials, consumable stores, packing materials, and processing materials. Other available benefits include exemption from or deferment of sales tax and turnover tax on the sale of intermediate products, by-products, and scrap. The Pioneer and Prestigious programs are the two programs that are available under this policy. To be eligible for the incentives, companies must have made a fixed capital investment of over five crores (Pioneer Scheme) or 300 crores (Prestigious Scheme) in a qualified under-developed area in the State of Gujarat. *See Notice of Preliminary Results of Countervailing Duty Administrative Review: Certain Hot-Rolled Carbon Steel Flat Products from India,* 71 FR 1512, 1514 (January 10, 2006) (*Preliminary Results of Second HRC Review*); see also the *Final Results of Countervailing Duty Administrative Review: Certain Hot-Rolled Carbon Steel Flat Products from India,* 71 FR 28665 (May 17, 2006) and Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

The amount of the eligible capital investment is linked to the amount of the incentives received over a period of 8 to 14 years, depending on the category of participation. For the Pioneer Scheme, which initially began in 1986, companies making a capital investment during 1986 and 1991 were allowed to utilize this program. For the Prestigious Scheme, tax incentives were offered only for investment units which started production between 1990 and 1995. *See Preliminary Results of Second HRC Review,* 71 FRat 1514 and Final Results of Second HRC Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

In the *Final Determination of PET Resin Investigation,* the Department determined that the sales tax exemptions under the Prestigious Scheme resulted in companies not paying the state sales tax otherwise due, and thus constituted a countervailable subsidy. *See Final Determination of PET Resin,* and the *Final Results of the Fourth HRS Review,* and Final Results of Fourth HRS Review Decision Memorandum at the "State of Gujarat (SOG) Sales Tax Incentive Scheme" section. Consistent with our findings in the *Final Determination of PET Resin,* we determined in *Final Results of Fourth HRS Review* that this program was countervailable because it is limited to only those companies that make an investment in a specified disadvantaged area and is therefore specific under section 771(5A)(D)(iv) of the Act. *See Final Results of Fourth HRS Review.* We also found in the *Preliminary Results of Fourth HRS Review* that the SGOG provides a financial contribution under section 771(5)(D)(ii) of the Act by foregoing the collection of sales tax revenue and that a company receives a benefit under section 771(5)(E) of the Act in the amount of sales tax that it does not pay. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*). In the instant review, as AFA, we preliminarily continue to find the tax savings to the company under this program provides a financial contribution in the form of revenue forgone and is specific because it is limited to eligible companies investing in specified disadvantaged area within the meaning of sections 771(5)(D)(ii) and 771(5A)(D)(iv) of the Act, respectively. Furthermore, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, Tata used and benefitted from this program, within the meaning of 771(5)(E) of the Act. Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for this program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

2. State Government of Gujarat Tax Incentives: Deferrals on Purchases of Goods From Prior Years (as Well as Deferrals Granted During the POR

As noted above, under the 1995 IP, the SGOG offered incentives, such as sales tax deferrals, to companies that locate or invest in certain disadvantaged or rural areas in the State of Gujarat.

As explained above, the Department found this program countervailable under section 771(5A)(D)(iv) of the Act because it was regionally specific. The Department also found that the SGOG provides a financial contribution under section 771(5)(D)(ii) of the Act by foregoing the collection of sales tax revenue and that a company receives a benefit under section 771(5)(E) of the Act in the amount of sales tax that it does not pay. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*). In the instant review, as AFA, we preliminarily continue to find the tax savings to the company under this program provides a financial contribution in the form of revenue forgone and is specific because it is limited to eligible companies investing in specified disadvantaged area within the meaning of sections 771(5)(D)(ii) and 771(5A)(D)(iv) of the Act, respectively. Furthermore, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, Tata used and benefitted from this program, within the meaning of 771(5)(E) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for this program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State

Government of Gujarat (SGOG) Tax Incentives" section.

3. State Government of Gujarat Tax Incentives: Value Added Tax (VAT) Program Established on April 1, 2006

In the Fourth HRS Review, we found that the SGOG had established a VAT remission system on April 1, 2006 that remits VAT to eligible firms using the balance of tax incentives under the Prestigious Scheme another tax incentive program. This system remits VAT to eligible firms using the balance of tax incentives under the Prestigious Scheme that remained unutilized after the end of the 8- to 14-year time window allowed under the Prestigious Scheme. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in the *Final Results of Fourth HRS Review*).

The VAT remission system operates differently with respect to purchases and sales. For purchases within the State of Gujarat, eligible firms (*i.e.,* firms with existing balances under the Prestigious Scheme) must pay full tax to the vendor. However, the tax paid is credited to the company in the form of an input tax credit to be refunded by the State Government. The SGOG then debits the refund received by the firm against the firm's remaining balance of tax credits leftover from the Prestigious System. *Id.*

With respect to sales, a company is required to charge sales tax from its customers (both local VAT and central sales tax). However, the tax collected by the seller does not have to be paid to the SGOG, but instead can be retained through a remission order provided by the state's sales tax authorities. In such instances, the amount of sales tax retained by the firm is credited against the firm's remaining balance of tax credits leftover from the Prestigious Scheme. *Id.*

In the *Preliminary Results of Fourth HRS Review,* we determined that this VAT remission system was linked to the Prestigious Scheme, a countervailable program. *Id.* Moreover, because the source of the tax remissions received under the system comes from participating firms' unused tax credits under the Prestigious Scheme, we determined that these indirect tax remissions constituted a financial contribution, in the form of revenue forgone, under section 771(5)(D)(ii) of the Act and are regionally specific under section 771(5A)(D)(iv) of the Act. We further determined that these indirect tax remissions conferred a benefit under section 771(5)(E) of the Act and 19 CFR 351.510(a)(1) because they enabled participating firms to pay less indirect taxes than they would have to pay absent the system. *Id.* In the instant review, as AFA, we preliminarily continue to find the tax savings to the company under this program provides a financial contribution in the form of revenue forgone and is specific because it is limited to eligible companies investing in specified disadvantaged area within the meaning of sections 771(5)(D)(ii) and 771(5A)(D)(iv) of the Act, respectively. Furthermore, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, Tata used and benefitted from this program, within the meaning of 771(5)(E) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning to the VAT remission scheme program, a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

4. Gujarat Special Economic Zone Act (SGOG SEZ Act): Stamp Duty and Registration Fees for Land Transfers, Loan Agreements, Credit Deeds, and Mortgages

In the *Fifth HRS Preliminary Results,* the Department found that under the SGOG SEZ act, the respondent firm was not required to pay the registration charge on leased land from the SEZ Developer nor the stamp duty on the lease rental. *See Fifth HRS Preliminary Results* (unchanged in *Fifth HRS Final Results*. The Department found, based on AFA, the company's use of the programs under the 2005 SEZ Act constitutes a financial contribution that is specific within the meaning of sections 771(5)(D) and 771(5A)(B) of the Act, respectively. Furthermore, we found that the exemption on registration charges and stamp duties confer a benefit under section 771(5)(E) of the Act. *Id.* In the instant review, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, that Tata used and benefitted from this program within the meaning of section 771(5)(E) of the Act. Moreover, we preliminarily find, as AFA, the company's use of this program under the 2005 SEZ Act constitutes a financial contribution in the form of revenue forgone and is specific as an export subsidy within the meaning of sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

5. Gujarat Special Economic Zone Act (SGOG SEZ Act): Sales Tax, Purchase Tax, and Other Taxes Payable on Sales and Transactions

In the *Preliminary Results of Fifth HRS Review,* the Department found that under the SGOG SEZ Act, inputs purchased by SEZ units from within the State of Gujarat are exempted from payment of sales tax. See *Fifth HRS Preliminary Results,* 73 FR at 79799 (unchanged in *of Fifth HRS Final Results*). The Department found, based on AFA, the company's use of the programs under the 2005 SEZ Act constitutes a financial contribution that is specific within the meaning of sections 771(5)(D) and 771(5A)(B) of the Act, respectively. Furthermore, we found that sales tax exemptions received by the company confer a benefit under section 771(5)(E) of the Act. *Id.* In the instant review, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, that Tata used and benefitted from this program within the meaning of section 771(5)(E) of the Act. Moreover, we preliminarily find, as AFA, the company's use of this program under the 2005 SEZ Act constitutes a financial contribution in the form of revenue forgone and is specific as an export subsidy within the meaning of sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

6. Gujarat Special Economic Zone Act (SGOG SEZ Act): Sales and Other State Taxes on Purchases of Inputs (Both Goods and Services) for the SEZ or a Unit Within the SEZ

In the *Fifth HRS Preliminary Results,* the Department found that under the SGOG SEZ act, the two percent CST charged on goods and services procured by SEZ units from states other than Gujarat is exempted when those goods and services are supplied to SEZ units. See *Fifth HRS Preliminary Results,* 73

FR at 79799 (unchanged in *Fifth HRS Final Results*). The Department found, based on AFA, the company's use of the programs under the 2005 SEZ Act constitutes a financial contribution that is specific within the meaning of sections 771(5)(D) and 771(5A)(B) of the Act, respectively. Furthermore, we found that the company's receipt of sales tax exemptions on inter-state purchases confer a benefit under section 771(5)(E) of the Act. *Id.* In the instant review, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, that Tata used and benefitted from this program within the meaning of section 771(5)(E) of the Act. Moreover, we preliminarily find, as AFA, the company's use of this program under the 2005 SEZ Act constitutes a financial contribution in the form of revenue forgone and is specific as an export subsidy within the meaning of sections 771(5)(D)(ii) and 771(5A)(B) of the Act, respectively.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

*C. Programs Administered by the State Government of Maharashtra (SGOM)*

1. Sales Tax Program

In the *Preliminary Results of Fourth HRS Review,* the Department found that sales tax exemptions, deferrals, and sales tax loans, in the form of interest-free loans, were provided under the SGOM's sales tax program. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1595 (unchanged in *Final Results of Fourth HRS Review*). The Department found that the benefits provided under the program are specific under section 771(5A)(D)(iv) of the Act because they are limited to only those companies that make an investment in a specified developing area. We further found that the program constitutes a financial contribution under section 771(D)(ii) of the Act by foregoing the collection of sales taxes and, in the case of sales tax deferrals, in the form of uncollected interest on the deferred sales taxes. We also found that the sales tax program confers a benefit under section 771(5)(E) of the Act: (1) In the amount of sales tax that it does not pay; (2) in the case of sales tax deferrals, in the amount of interest otherwise due; and (3) in the case of sales tax loans, in the form of interest-free loans. *Id.* In the instant review, as AFA, we preliminarily continue to find the tax savings to the company under this program provides a financial contribution in the form of revenue forgone and is specific because it is limited to only those companies investing in a specified developing area within the meaning of sections 771(5)(D)(ii) and 771(5A)(D)(iv) of the Act, respectively. Furthermore, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, Tata used and benefitted from this program, within the meaning of 771(5)(E) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 0.59 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for the same program in another segment of this proceeding. *See* Final Results of Fourth HRS Review Decision Memorandum at "State Government of Maharashtra (SGOM) Programs Sales Tax Program" section.

2. VAT Tax Refunds Under the SGOM Package Scheme of Incentives and the Maharashtra New Package Scheme of Incentives

In the *Preliminary Results of Fourth HRS Review,* the Department found that under the Maharashtra Package Scheme of Incentives and the Maharashtra New Package Scheme of Incentives, the SGOM offered tax incentives including VAT tax refunds to companies that located or invested in certain developing areas in the State of Maharashtra. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1595 (unchanged in *Final Results of Fourth HRS Review*). The Department found that the benefits provided under the program are specific under section 771(5A)(D)(iv) of the Act because they are limited to only those companies that make an investment in a specified developing area. We further found that the program constitutes a financial contribution under section 771(5)(D)(ii) of the Act by forgoing the collection of sales taxes. *Id.* In the *Final Results of Fourth HRS Review,* the Department found that the amount of refunds claimed by the company were not excessive during the POR and did not constitute a benefit. However, the Department stated that it would continue to examine this program in future reviews. *See* Final Results of Fourth HRS Review Decision Memorandum at "State Government of Maharashtra Program" section. In the instant review, as AFA, we preliminarily continue to find the tax savings to the company under this program provide a financial contribution in the form of revenue forgone and are specific because they are limited to only those companies investing in a specified developing area within the meaning of sections 771(5)(D)(ii) and 771(5A)(D)(iv) of the Act, respectively. Furthermore, as explained above, as AFA, pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

3. Electricity Duty Exemption Under the Package Scheme of Incentives for 1993

In the *Preliminary Results of Fourth HRS Review,* the Department determined that electricity duty exemptions received under the Package Scheme of Incentives of 1993 are countervailable. Specifically, we determined that the exemptions are regionally specific under section 771(5A)(D)(iv) of the Act because they are limited to companies that make investments in a specified development area. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1596 (unchanged in *Final Results of Fourth HRS Review*). We further determined that the exemptions constitute a financial contribution, in the form of revenue forgone, and a benefit equal to the amount of unpaid duties within the meaning of sections 771(5)(D)(iii) and 771(5)(E) of the Act, respectively. *Id.* No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. Therefore, in the instant review, we preliminarily continue to find the electricity duty exemptions to the company under this program provide a financial contribution in the form of revenue forgone and are regionally specific within the meaning of sections 771(5)(D)(iii) and 771(5A)(D)(iv) of the Act, respectively. Furthermore, as explained above, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, Tata used and benefitted from this program, within the meaning of 771(5)(E) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 3.09

percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

4. Refunds of Octroi Under the PSI of 1993, Maharashtra Industrial Policy (MIP of 2001), and Maharashtra Industrial Policy (MIP of 2006)

In the *Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Determination With Final Antidumping Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India,* the Department found that the Octroi Refund Scheme is a program under the SGOM's package of incentives, in which industrial establishments that make capital investments in specific regions of Maharashtra are entitled to the refund of Octroi duty, a tax levied by local authorities on goods that enter a town or district. *See Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Determination With Final Antidumping Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India,* 66 FR 53390, 53396 (October 22, 2001). In the *Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India,* the Department found that the Octroi Refund Scheme is specific within the meaning of 771(5A)(D)(i) because it is limited to certain privately-owned industries located within designated geographical regions. *See Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India,* 67 FR 34905 (May 16, 2002) (*Final Determination PET Film*) and PET Film Investigation Decision Memorandum at "Octroi Refund Scheme" section. We also found that a financial contribution was provided under section 771(5)(D)(i) of the Act. *Id.* In the instant review, we preliminarily continue to find the indirect tax savings to the company under this program provide a financial contribution in the form of revenue forgone and are regionally specific within the meaning of sections 771(5)(D)(i) and 771(5A)(D)(iv) of the Act, respectively. Furthermore, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, Tata used and benefitted from this program, within the meaning of 771(5)(E) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

5. Loan Guarantees Based on Octroi Refunds by SGOM

In the *Final Determination PET Film,* the Department found that certain long-term loans had been secured on the future payment of the Octroi refund due to the respondent company. We found that the loan guarantee was specific within the meaning of section 771(5A)(D)(i) and (iv) of the Act because the company was only to receive the loan guarantee because of its eligibility for the Octroi Refund Scheme, which is limited to certain privately-owned industries located within designated geographical regions. We also found that the SGOM and the administering authority the State Industrial and Investment Corporation of Maharashtra Limited (SICOM) provided a financial contribution under section 771(5)(D)(i) of the Act through the potential direct transfer of the Octroi refund to pay the company's loans. *See Final Determination PET Film,* and PET Film Investigation Decision Memorandum at "Octroi Refund Scheme" section. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. In the instant review, as AFA, we preliminarily continue to find, that the SGOM's loan guarantees under this program provide a financial contribution within the meaning of sections 771(5)(D)(i) through a potential direct transfer of the Octroi refund to pay off loans. We also preliminarily find, as AFA, these loan guarantees are specific within the meaning of 771(5A)(D)(iii)(I) of the Act because only companies eligible for the Octroi scheme can receive these loan guarantees. Moreover, we preliminarily find, as AFA, pursuant to section 776(b) of the Act, Tata used and benefitted from this program, within the meaning of 771(5)(E)(iii) of the Act, in the form of the difference in the amount the firm paid on the guaranteed loan and the amount the firm would pay for a comparable loan if there were no government guarantee.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 1.32 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Pre- and Post-Shipment Export Financing" section.

6. Infrastructure Assistance for Mega Projects

In the Fourth HRS Review, the Department initiated an investigation into whether under the Maharashtra Industrial Policy (MIP) of 2006, firms investing in what the SGOM deems are Mega Projects are eligible to receive infrastructure subsidies. The Department also investigated whether the SGOM has been providing infrastructure subsidies in the form of tax programs and grants to firms investing in Mega Projects in years prior to the enactment of the MIP of 2006. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA, pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that Tata's use of this program constitutes a financial contribution in the form of a direct transfer of funds and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act. We also preliminarily find based on AFA that the program is limited to firms investing in Mega-Projects and, therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act. *See* Memorandum regarding New Subsidy Allegations for Ispat Industries Limited (Ispat) dated September 14, 2007 (Ispat's New Subsidy Allegations Memo) at "Infrastructure Subsidies to Mega Projects" section on file in the Central Records Unit.

Pursuant to the AFA methodology described above, for this program, we are assigning net subsidy rates of 3.09 and 6.06 percent *ad valorem*, which correspond to the highest above *de minimis* subsidy rates calculated for similar programs in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section and HRS Investigation Decision Memorandum at "The GOI's Forgiveness of SDF Loans to SAIL" section.

7. Land for Less Than Adequate Remuneration

In the Fourth HRS Review, the Department initiated an investigation into whether the SGOM encourages development outside of the Bombay and Pune metropolitan areas by offering low-cost land. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review*, 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA, pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that Tata's use of this program constitutes a financial contribution in the form of land sold for LTAR and confers a benefit within the meaning of sections 771(5)(D)(iii) and 771(5)(E)(iv). We also preliminarily find, based on AFA, that the program is limited to enterprises purchasing land outside of the Bombay and Pune area, and therefore, is specific within the meaning of section 771(5A)(D)(iv) of the Act. *See* Ispat's New Subsidy Allegations Memo at "Land for Less than Adequate Remuneration" section.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 18.08 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Fourth HRS Review Decision Memorandum at "Captive Mining Rights of Iron Ore" section.

8. Investment Subsidy

In the Fourth HRS Review, the Department initiated an investigation into whether the SGOM provided investment subsidies to firms in the state of Maharashtra. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review*, 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that Tata's use of this program constitutes a financial contribution in the form of a direct transfer of funds and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the program is limited to firms operating outside of the Bombay and Pune metropolitan areas and thus, is specific within the meaning of section 771(5A)(D)(iv) of the Act. *See* Ispat's New Subsidy Allegations Memo at "Investment Subsidy" section.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL" section.

*D. Programs Administered by the State Government of Andhra Pradesh (SGAP)*

1. Grant Under the Industrial Investment Promotion Policy of 2005–2010 (Andhra Pradesh IP): 25 Percent Reimbursement of Cost of Land in Industrial Estates and Industrial Development Areas

In the Fourth HRS Review, the Department initiated an investigation into whether under the Andhra Pradesh IP, companies from eligible industries which construct new facilities or substantially expand existing facilities and begin commercial production on or after April 1, 2005, may receive certain subsidies from the SGAP. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review*, 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the SGAP limits the grants under its Industrial Policy program to a limited number of industries operating mega projects and therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act. *See* Memorandum regarding New Subsidy Allegations for Essar Steel Limited dated October 4, 2007 (Essar's New Subsidy Allegation Memo) at "GAP Grants, Tax Programs and other Subsidies Under the Industrial Investment Promotion Policy 2005–2010 (GOAP Industrial Policy)" section on file in the CRU.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL" section.

2. Grant Under the Industrial Investment Promotion Policy of 2005–2010 (Andhra Pradesh IP): Reimbursement of Power at the Rate of Rs. 0.75 per Unit for the Period Beginning April 1, 2005, Through March 31, 2006 and for the Four Years Thereafter To Be Determined by SGAP

In the Fourth HRS Review, the Department initiated an investigation into whether under the Andhra Pradesh IP, companies from eligible industries which construct new facilities or substantially expand existing facilities and begin commercial production on or after April 1, 2005, may receive certain subsidies from the SGAP. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review*, 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the SGAP limits the grants under its Industrial Policy program to a limited number of industries operating mega projects and therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act. *See* Essar's New Subsidy Allegation Memo at "GAP Grants, Tax Programs and other Subsidies Under the Industrial Investment Promotion Policy 2005–2010 (GOAP Industrial Policy)" section.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL" section.

3. Grant Under the Industrial Investment Promotion Policy of 2005–2010 (Andhra Pradesh IP): 50 Percent Subsidy for Expenses Incurred for Quality Certification up to Rs. 100 Lakhs

In the Fourth HRS Review, the Department initiated an investigation into whether under the Andhra Pradesh IP, companies from eligible industries which construct new facilities or substantially expand existing facilities and begin commercial production on or after April 1, 2005, may receive certain subsidies from the SGAP. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review*, 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the SGAP limits the grants under its Industrial Policy program to a limited number of industries operating mega projects and therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act. *See* Essar's New Subsidy Allegation Memo at "GAP Grants, Tax Programs and other Subsidies Under the Industrial Investment Promotion Policy 2005–2010 (GOAP Industrial Policy)" section.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL" section.

4. Grant Under the Industrial Investment Promotion Policy of 2005–2010 (Andhra Pradesh IP): A 25 Percent Subsidy on Cleaner Production Measures up to Rs. 5 Lakhs

In the Fourth HRS Review, the Department initiated an investigation into whether under the Andhra Pradesh IP, companies from eligible industries which construct new facilities or substantially expand existing facilities and begin commercial production on or after April 1, 2005, may receive certain subsidies from the SGAP. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review*, 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the SGAP limits the grants under its Industrial Policy program to a limited number of industries operating mega projects and therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act. *See* Essar's New Subsidy Allegation Memo at "GAP Grants, Tax Programs and other Subsidies Under the Industrial Investment Promotion Policy 2005–2010 (GOAP Industrial Policy)" section.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL" section.

5. Grant Under the Industrial Investment Promotion Policy of 2005–2010 (Andhra Pradesh IP): A 50 Percent Subsidy on Expenses Incurred in Patent Registration, up to Rs. 5 Lakhs

In the Fourth HRS Review, the Department initiated an investigation into whether under the Andhra Pradesh IP, companies from eligible industries which construct new facilities or substantially expand existing facilities and begin commercial production on or after April 1, 2005, may receive certain subsidies from the SGAP. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review*, 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the SGAP limits the grants under its Industrial Policy program to a limited number of industries operating mega projects and therefore, is specific within the meaning of 771(5A)(D)(i) of the Act. *See* Essar's New Subsidy Allegation Memo at "GAP Grants, Tax Programs and other Subsidies Under the Industrial Investment Promotion Policy 2005–2010 (GOAP Industrial Policy)" section.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL" section.

6. Tax Incentives Under the Industrial Investment Promotion Policy of 2005–2010 (Andhra Pradesh IP): 100 Percent Reimbursement of Stamp Duty and Transfer Duty Paid for the Purchase of Land and Buildings and the Obtaining of Financial Deeds and Mortgages

In the Fourth HRS Review, the Department initiated an investigation into whether under the Andhra Pradesh IP, companies from eligible industries which construct new facilities or substantially expand existing facilities and begin commercial production on or after April 1, 2005, may receive certain subsidies from the SGAP. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review*, 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a revenue forgone, and a benefit within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the SGAP limits the indirect tax benefits under its Industrial Policy program to a limited number of industries operating mega projects and therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act. *See* Essar's New Subsidy Allegation Memo at "GAP Grants, Tax Programs and other Subsidies Under the Industrial Investment Promotion Policy 2005–2010 (GOAP Industrial Policy)" section.

Pursuant to the AFA methodology described above, for this program, we

are assigning a net subsidy rate of 3.09 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for this program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

7. Tax Incentives Under the Industrial Investment Promotion Policy of 2005–2010 (Andhra Pradesh IP): A Grant of 25 Percent of the Tax Paid to SGAP, Which is Applied as a Credit Against the Tax Owed the Following Year, for a Period of Five Years From the Date of Commencement of Production

In the Fourth HRS Review, the Department initiated an investigation into whether under the Andhra Pradesh IP, companies from eligible industries which construct new facilities or substantially expand existing facilities and begin commercial production on or after April 1, 2005, may receive certain subsidies from the SGAP. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review*, 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a revenue forgone, and a benefit within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the SGAP limits the indirect tax benefits under its Industrial Policy program to a limited number of industries operating mega projects and therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act. *See* Essar's New Subsidy Allegation Memo at "GAP Grants, Tax Programs and other Subsidies Under the Industrial Investment Promotion Policy 2005–2010 (GOAP Industrial Policy)" section.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

8. Tax Incentives Under the Industrial Investment Promotion Policy of 2005–2010 (Andhra Pradesh IP): Exemption From the SGAP Non-Agricultural Land Assessment (NALA)

In the Fourth HRS Review, the Department initiated an investigation into whether under the Andhra Pradesh IP, companies from eligible industries which construct new facilities or substantially expand existing facilities and begin commercial production on or after April 1, 2005, may receive certain subsidies from the SGAP. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review*, 73 FR at1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a revenue forgone, and a benefit within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the SGAP limits the indirect tax benefits under its Industrial Policy program to a limited number of industries operating mega projects and therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act. *See* Essar's New Subsidy Allegation Memo at "GAP Grants, Tax Programs and other Subsidies Under the Industrial Investment Promotion Policy 2005–2010 (GOAP Industrial Policy)" section.

Pursuant to the AFA methodology described above, for this program we are assigning a net subsidy rate of 3.09 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for this program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

9. Provision of Goods/Services for Less Than Adequate Remuneration Under the Industrial Investment Promotion Policy of 2005–2010 (Andhra Pradesh IP): Provision of Infrastructure for Industries Located More Than 10 Kilometers From Existing Industrial Estates or Industrial Development Areas

In the Fourth HRS Review, the Department initiated an investigation into whether under the Andhra Pradesh IP, companies from eligible industries which construct new facilities or substantially expand existing facilities and begin commercial production on or after April 1, 2005, may receive certain subsidies from the SGAP. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review*, 73 FR at1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a provision of a good, and a benefit within the meaning of sections 771(5)(D)(iii) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the SGAP limits the provision of infrastructure under this program to a limited number of industries operating mega projects, and therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act. *See* Essar's New Subsidy Allegation Memo at "GAP Grants, Tax Programs and other Subsidies Under the Industrial Investment Promotion Policy 2005–2010 (GOAP Industrial Policy)" section.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 18.08 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for this program in another segment of this proceeding. *See* Final Results of Fourth HRS Review Decision Memorandum at "Captive Mining of Iron Ore" section.

10. Provision of Goods/Services for Less Than Adequate Remuneration Under the Industrial Investment Promotion Policy of 2005–2010 (Andhra Pradesh IP): Guaranteed Stable Prices of Municipal Water for 3 Years for Industrial Use and Reservation of 10% of Water for Industrial Use for Existing and Future Projects

In the Fourth HRS Review, the Department initiated an investigation into whether under the Andhra Pradesh IP, companies from eligible industries which construct new facilities or substantially expand existing facilities and begin commercial production on or after April 1, 2005, may receive certain subsidies from the SGAP. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review*, 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the

POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a provision of a good, and a benefit within the meaning of sections 771(5)(D)(iii) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the SGAP limits the provision of municipal water at guaranteed stable prices under its Industrial Policy program to a limited number of industries operating mega projects and therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act. *See* Essar's New Subsidy Allegation Memo at "GAP Grants, Tax Programs and other Subsidies Under the Industrial Investment Promotion Policy 2005–2010 (GOAP Industrial Policy)" section.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 18.08 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Fourth HRS Review Decision Memorandum at "Captive Mining of Iron Ore" section.

*E. Programs Administered by the State Government of Chhattisgarh (SGOC)*

1. Grant Under the Industrial Policy 2004–2009 (Chhattisgarh Industrial Policy): A Direct Subsidy of 35 Percent of Total Capital Cost for the Project, up to a Maximum Amount Equivalent to the Amount of Commercial Tax/Central Sales Tax Paid in a Seven Year Period

In the Fourth HRS Review, the Department initiated an investigation into whether under the Chhattisgarh Industrial Policy (CIP), companies from eligible industries which construct new facilities or substantially expand existing facilities in most backward scheduled tribe dominated areas and begin commercial production between November 1, 2004 and October 31, 2009, may receive certain subsidies from the SGOC. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review*, 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the SGOC limits eligibility under its Industrial Policy program to certain industries located in certain areas of Chhattisgarh, and therefore, is specific within the meaning of section 771(5A)(D)(i) and (iv) of the Act. *See* Essar's New Subsidy Allegation Memo at "State Government of Chhattusgarh (GOC) Benefits Under the Industrial Investment Promotion Policy 2004–2009 (GOC Industrial Policy)" section.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL" section.

2. Grant Under the Industrial Policy 2004–2009 (Chhattisgarh Industrial Policy): A Direct Subsidy of 40 Percent Toward Total Interest Paid for a Period of 5 Years (up to Rs. Lakh per Year) on Loans and Working Capital for Upgrades in Technology

In the Fourth HRS Review, the Department initiated an investigation into whether under the CIP, companies from eligible industries which construct new facilities or substantially expand existing facilities in most backward scheduled tribe dominated areas and begin commercial production between November 1, 2004 and October 31, 2009, may receive certain subsidies from the SGOC. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review*, 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the SGOC limits eligibility under its Industrial Policy program to certain industries located in certain areas of Chhattisgarh, and therefore, is specific within the meaning of section 771(5A)(D)(i) and (iv) of the Act. *See* Essar's New Subsidy Allegation Memo at "State Government of Chhattusgarh (GOC) Benefits Under the Industrial Investment Promotion Policy 2004–2009 (GOC Industrial Policy)" section.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem*, which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL" section.

3. Grant Under the Industrial Policy 2004–2009 (Chhattisgarh Industrial Policy): Reimbursement of 50 Percent of Expenses (up to Rs. 75,000) Incurred for Quality Certification

In the Fourth HRS Review, the Department initiated an investigation into whether under the CIP, companies from eligible industries which construct new facilities or substantially expand existing facilities in most backward scheduled tribe dominated areas and begin commercial production between November 1, 2004 and October 31, 2009, may receive certain subsidies from the SGOC. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review*, 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the SGOC limits eligibility under its Industrial Policy program to certain industries located in certain areas of Chhattisgarh, and therefore, is specific within the meaning of section 771(5A)(D)(i) and (iv) of the Act. *See* Essar's New Subsidy Allegation Memo at "State Government of Chhattusgarh (GOC) Benefits Under the Industrial Investment Promotion Policy 2004–2009 (GOC Industrial Policy)" section.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL" section.

4. Grant Under the Industrial Policy 2004–2009 (Chhattisgarh Industrial Policy): Reimbursement of 50 Percent of Expenses (up to Rs. 5 Lakh) for Obtaining Patents

In the Fourth HRS Review, the Department initiated an investigation into whether under the CIP, companies from eligible industries which construct new facilities or substantially expand existing facilities in most backward scheduled tribe dominated areas and begin commercial production between November 1, 2004 and October 31, 2009, may receive certain subsidies from the SGOC. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the SGOC limits eligibility under its Industrial Policy program to certain industries located in certain areas of Chhattisgarh, and therefore, is specific within the meaning of section 771(5A)(D)(i) and (iv) of the Act. *See* Essar's New Subsidy Allegation Memo at "State Government of Chhattusgarh (GOC) Benefits Under the Industrial Investment Promotion Policy 2004–2009 (GOC Industrial Policy)" section.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL" section.

5. Tax Incentives Under the Industrial Policy 2004–2009 (Chhattisgarh Industrial Policy): Total Exemption From Electricity Duties for a Period of 15 Years From the Date of Commencement of Commercial Production

In the Fourth HRS Review, the Department initiated an investigation into whether under the CIP, companies from eligible industries which construct new facilities or substantially expand existing facilities in most backward scheduled tribe dominated areas and begin commercial production between November 1, 2004 and October 31, 2009, may receive certain subsidies from the SGOC. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a revenue forgone, and a benefit within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the SGOC limits eligibility under its Industrial Policy program to certain industries located in certain areas of Chhattisgarh, and therefore, is specific within the meaning of section 771(5A)(D)(i) and (iv) of the Act. *See* Essar's New Subsidy Allegation Memo at "State Government of Chhattusgarh (GOC) Benefits Under the Industrial Investment Promotion Policy 2004–2009 (GOC Industrial Policy)" section.

Pursuant to the AFA methodology described above, for this program we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

6. Tax Incentives Under the Industrial Policy 2004–2009 (Chhattisgarh Industrial Policy): Exemption From Stamp Duty on Deeds Executed for Purchase or Lease of Land and Buildings and Deeds Relating to Loans and Advances To Be Taken by the Company for a Period of Three Years From the Date of Registration

In the Fourth HRS Review, the Department initiated an investigation into whether under the CIP, companies from eligible industries which construct new facilities or substantially expand existing facilities in most backward scheduled tribe dominated areas and begin commercial production between November 1, 2004 and October 31, 2009, may receive certain subsidies from the SGOC. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review,* 73 FR at1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a revenue forgone, and a benefit within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the SGOC limits eligibility under its Industrial Policy program to certain industries located in certain areas of Chhattisgarh, and therefore, is specific within the meaning of section 771(5A)(D)(i) and (iv) of the Act. *See* Essar's New Subsidy Allegation Memo at "State Government of Chhattusgarh (GOC) Benefits Under the Industrial Investment Promotion Policy 2004–2009 (GOC Industrial Policy)" section.

Pursuant to the AFA methodology described above, for this program we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

7. Tax Incentives Under the Industrial Policy 2004–2009 (Chhattisgarh Industrial Policy): Exemption From Payment of Entry Tax for 7 Years (Excluding Minerals Obtained From Mining in the State)

In the Fourth HRS Review, the Department initiated an investigation into whether under the CIP, companies from eligible industries which construct new facilities or substantially expand existing facilities in most backward scheduled tribe dominated areas and begin commercial production between November 1, 2004 and October 31, 2009, may receive certain subsidies from the SGOC. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a revenue forgone, and a benefit within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the SGOC limits eligibility under its Industrial Policy program to certain industries located in certain areas of

Chhattisgarh, and therefore, is specific within the meaning of section 771(5A)(D)(i) and (iv) of the Act. *See* Essar's New Subsidy Allegation Memo at "State Government of Chhattusgarh (GOC) Benefits Under the Industrial Investment Promotion Policy 2004–2009 (GOC Industrial Policy)" section.

Pursuant to the AFA methodology described above, for this program we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

8. Tax Incentives Under the Industrial Policy 2004–2009 (Chhattisgarh Industrial Policy): A 50 Percent Reduction of the Service Charges for Acquisition of Private Land by Chhattisgarh Industrial Development Corporation for Use by the Company

In the Fourth HRS Review, the Department initiated an investigation into whether under the CIP, companies from eligible industries which construct new facilities or substantially expand existing facilities in most backward scheduled tribe dominated areas and begin commercial production between November 1, 2004 and October 31, 2009, may receive certain subsidies from the SGOC. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a revenue forgone, and a benefit within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the SGOC limits eligibility under its Industrial Policy program to certain industries located in certain areas of Chhattisgarh, and therefore, is specific within the meaning of section 771(5A)(D)(i) and (iv) of the Act. *See* Essar's New Subsidy Allegation Memo at "State Government of Chhattusgarh (GOC) Benefits Under the Industrial Investment Promotion Policy 2004–2009 (GOC Industrial Policy)" section.

Pursuant to the AFA methodology described above, for this program we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

9. Land for Less Than Adequate Remuneration (LTAR) Under the Industrial Policy 2004–2009 (Chhattisgarh Industrial Policy)

In the Fourth HRS Review, the Department initiated an investigation into whether under the CIP, companies from eligible industries which construct new facilities or substantially expand existing facilities in most backward scheduled tribe dominated areas and begin commercial production between November 1, 2004 and October 31, 2009, may receive certain subsidies from the SGOC. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a provision of a good, and a benefit within the meaning of sections 771(5)(D)(iii) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the SGOC limits eligibility under its Industrial Policy program to certain industries located in certain areas of Chhattisgarh, and therefore, is specific within the meaning of section 771(5A)(D)(i) and (iv) of the Act. *See* Essar's New Subsidy Allegation Memo at "State Government of Chhattusgarh (GOC) Benefits Under the Industrial Investment Promotion Policy 2004–2009 (GOC Industrial Policy)" section.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 18.08 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for this program in another segment of this proceeding. *See* Final Results of Fourth HRS Review Decision Memorandum at "Captive Mining of Iron Ore" section.

*F. Programs Administered by the State Government of Jharkhand (SGOJ)*

1. Tax Incentives Under the Jharkhand State Industrial Policy (JSIP) of 2001: Exemption of Electricity Duty

Under clause 15.2.2 of the Jharkhand State Industrial Policy (JSIP) of 2001, the SGOJ encourages the private sector in setting up of Captive Power Generation Plants. This program allows large industrial unit, consortium of industrial enterprises in growth centers, or industrial areas to set up power generating units as well as take over distribution of power in such industrial complexes. This captive power generation and purchase is exempted from electricity duty for a period of ten years from the date of commercial production. *See* GOI's April QR, Annex 30 at 15.

As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a revenue forgone, and a benefit within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the program is limited to certain industries and, therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act.

Pursuant to the AFA methodology described above, for this program we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

2. Tax Incentives Under the Jharkhand State Industrial Policy (JSIP) of 2001: Offset of Jharkhand Sales Tax (JST)

Under clause 28 of the JSIP of 2001, new industrial units, as well as existing units which are not using any facility of tax-deferment, tax-free purchases or tax-free sales under any earlier notification, are allowed to opt for an offset of Jharkhand Sales Tax (JST) paid on the purchases of raw materials, within the State of Jharkhand only against transfer or consignment sale outside the state, of finished products made out from such raw materials subject to a limitation of six months or the same financial year from the date of purchase of such raw materials. *See* April QR at 87 and Annex 30 at 27.

As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of revenue

forgone, and a benefit within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the program is limited to certain industries and, therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act.

Pursuant to the AFA methodology described above, for this program we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

3. Grants Under the Jharkhand State Industrial Policy (JSIP) of 2001: Capital Investment Incentive

Under clause 29.3 of the JSIP of 2001, a capital investment incentive may be provided only to small and medium scale industries. According to Annexure 1, Entry No. 19 and 11 of the JSIP states that small and medium industries would be defined by the GOI. Pursuant to the terms of S.O. 1642(E) dated September 29, 2006, issued by the GOI, a small industry is one where the investment in plant and machinery is more than Rs. 2.5 million but does not exceed Rs. 50 million; a medium industry is one where the investment in plant and machinery is more than Rs. 50 million but does not exceed Rs. 100 million. *See* GOI's April QR at 87–88 and Annex 30 at 28.

As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the program is limited to certain industries and, therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL" section.

4. Grants Under the Jharkhand State Industrial Policy (JSIP) of 2001: Capital Power Generating Subsidy

Under clause 29.4 of the JSIP of 2001, a capital power generating subsidy may be provided to new industries. According to Annexure 1, Entry No. 4 of the JSIP, a new industrial unit is a unit that has come into commercial production after November 15, 2000. *See* GOI's April QR at 88 and Annex 30 at 28.

As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the program is limited to certain industries and, therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL" section.

5. Grants Under the Jharkhand State Industrial Policy (JSIP) of 2001: Interest Subsidy

Under clause 29.5 of the JSIP of 2001, an interest subsidy may be provided to new industries. According to Annexure 1, Entry No. 4 of the JSIP, a new industrial unit is a unit that has come into commercial production after November 15, 2000. *See* GOI's April QR at 88 and Annex 30 at 28.

As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the program is limited to certain industries and, therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL" section.

6. Tax Incentives Under the Jharkhand State Industrial Policy (JSIP) of 2001: Stamp Duty and Registration

Under clause 29.6 of the JSIP program of 2001, exemption from payment of 50 percent of stamp duty and registration fees upon registration of documents within the State of Jharkhand relating to the purchase or acquisition of land and buildings are provided for setting up a new unit. *See* GOI's April QR at 88 and Annex 30 at 29.

As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a revenue forgone, and a benefit within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the program is limited to certain industries and, therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act.

Pursuant to the AFA methodology described above, for this program we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

7. Grants Under the Jharkhand State Industrial Policy (JSIP) of 2001: Feasibility Study and Project Report Cost Reimbursement

Under clause 29.8 of the JSIP of 2001, 50 percent of the feasibility study and project report cost incurred by industrial units will be reimbursed subject to a maximum of Rs. 50,000 provided the report is prepared by a recognized consultant drawn from duly approved panel by the Industries Department. This reimbursement will be admissible after the commencement of commercial production. *See* GOI's April QR at 88 and Annex 30 at 29.

As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the

POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the program is limited to certain industries and, therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL" section.

8. Grants Under the Jharkhand State Industrial Policy (JSIP) of 2001: Pollution Control Equipment Subsidy

Under clause 29.9 of the JSIP of 2001, new and existing industrial units are entitled to a subsidy of 20 percent of the cost of pollution control and monitoring equipment subject to a maximum of Rs. 2 million upon installation of pollution control and monitoring equipment allowed on the certificate of the State Pollution Control Board about the necessity for such installation. *See* GOI's April QR at 88 and Annex 30 at 29.

As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the program is limited to certain industries and, therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL" section.

9. Grants Under the Jharkhand State Industrial Policy (JSIP) of 2001: Incentive for Quality Certification

Under clause 29.10 of the JSIP of 2001, small scale/ancillary industries would be encouraged to seek ISI/ISO certification. In accordance with 29.10, the state government shall facilitate for reimbursement of charges for acquiring ISO–900 (or its equivalent) certification to the extent of 75 percent of the cost subject to a maximum of Rs. 75,000 million from the central government. *See* GOI's April QR at 88–89 and Annex 30 at 30.

As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, that the program is limited to certain industries and, therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL" section.

10. Infrastructure Subsidies to Mega Projects: Tax Incentives

In the Fourth HRS Review, the Department initiated an investigation into whether under the JSIP of 2001, the firms investing in what the SGOJ deems are Mega Projects are eligible to receive infrastructure subsidies. The Department further investigated whether the SGOJ has a policy to provide qualifying companies additional subsidies when making capital investment totaling more than Rs. 50 crore as a Mega Project. *See* September 27, 2007 Tata New Subsidies Memorandum at "Subsidies for Mega Projects under the JSIP of 2001" section. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of revenue for gone, and a benefit within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, the SGOJ limits eligibility under this program to firms involved in "Mega Projects" on a case-by-case basis and therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act. *See* Memorandum regarding New Subsidy Allegations at "Subsidies for Mega Projects under the JSIP of 2001" section dated September 27, 2007 (Tata's New Subsidy Allegations Memo) on file in the CRU.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

11. Infrastructure Subsidies to Mega Projects: Grants

In the Fourth HRS Review, the Department initiated an investigation into whether under the JSIP of 2001, the firms investing in what the SGOJ deems are Mega Projects are eligible to receive infrastructure subsidies. The Department further investigated whether the SGOJ has a policy to provide qualifying companies additional subsidies when making capital investment totaling more than Rs. 50 crore as a Mega Project. *See* Tata's New Subsidies Memorandum at "Subsidies for Mega Projects under the JSIP of 2001" section. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review,* 73 FR at1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, the SGOJ limits eligibility under this program to firms involved in "Mega Projects" on a case-by-case basis and therefore, is specific within the meaning

of section 771(5A)(D)(i) of the Act. *See* Tata's New Subsidy Allegations Memo at "Subsidies for Mega Projects under the JSIP of 2001" section dated September 27, 2007.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL"

12. Infrastructure Subsidies to Mega Projects: Loans

In the Fourth HRS Review, the Department initiated an investigation into whether under the JSIP of 2001, the firms investing in what the SGOJ deems are Mega Projects are eligible to receive infrastructure subsidies. The Department further investigated whether the SGOJ has a policy to provide qualifying companies additional subsidies when making capital investment totaling more than Rs. 50 crore as a Mega Project. *See* Tata's New Subsidies Memorandum at "Subsidies for Mega Projects under the JSIP of 2001" section. However, the Department found that the program was not used during the POR. *See Preliminary Results of Fourth HRS Review* 73 FR at 1598 (unchanged in *Final Results of Fourth HRS Review*). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, the SGOJ limits eligibility under this program to firms involved in "Mega Projects" on a case-by-case basis and therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act. *See* Tata's New Subsidy Allegations Memo at "Subsidies for Mega Projects under the JSIP of 2001" section dated September 27, 2007.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 1.32 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Pre- and Post-Shipment Export Financing".

13. Employment Incentives Under the Jharkhand State Industrial Policy (JSIP) of 2001

Under clause 29.7 of the JSIP of 2001, the employment generation based incentives provided are available to a limited number of industries. *See* GOI's April QR at 88 and Annex 30 at 29. Specifically, the SGOJ pays, for each worker in qualifying industries, 50 percent of the premium paid by the employer under the Contributory Group Insurance Scheme (CGIS). As explained above, as AFA pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily find, based on AFA, the SGOJ limits eligibility under this program to firms in certain industries and therefore, is specific within the meaning of section 771(5A)(D)(i) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL"

*G. Programs Administered by the State Government of Karnataka (SGOK)*

1. SGOK's New Industrial Policy and Package of Incentives and Concessions of 1993 (1993 KIP): Tax Incentives

In the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the assistance provided under the New Industrial Policy and Package of Incentives and Concessions for the period 1993–1998 (1993 KIP), were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*).

In the instant review, as discussed above in the "Adverse Facts Available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

2. 1993 KIP: Land at Less Than Adequate Remuneration

As noted above in the "1993 KIP: Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the 1993 KIP, were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRC Review*).

In the instant review, as discussed above in the "adverse facts available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of provision of a good, and a benefit within the meaning of sections 771(5)(D)(iii) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program we are assigning a net subsidy rate of 18.08 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Fourth HRS Review Decision Memorandum at "Captive Mining of Iron Ore" section.

3. 1993 KIP: Iron Ore, Limestone, and Dolomite at Less Than Adequate Remuneration

As noted above in the "1993 KIP: Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with

section 776(b) of the Act that all newly alleged subsidy programs, including the 1993 KIP, were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*).

In the instant review, as discussed above in the "Adverse Facts Available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(iii) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program we are assigning a net subsidy rate of 18.08 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Fourth HRS Review Decision Memorandum at "Captive Mining of Iron Ore" section.

4. 1993 KIP: Power/Electricity at Less Than Adequate Remuneration

As noted above in the "1993 KIP: Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the 1993 KIP, were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*).

In the instant review, as discussed above in the "adverse facts available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a provision of a good, and a benefit within the meaning of sections 771(5)(D)(iii) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 18.08 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Fourth HRS Review Decision Memorandum at "Captive Mining of Iron Ore" section.

5. 1993 KIP: Water at Less Than Adequate Remuneration

As noted above in the "1993 KIP: Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the 1993 KIP, were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*).

In the instant review, as discussed above in the "adverse facts available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a provision of a good, and a benefit within the meaning of sections 771(5)(D)(iii) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 18.08 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Fourth HRS Review Decision Memorandum at "Captive Mining of Iron Ore" section.

6. 1993 KIP: Roads and Other Infrastructure at Less Than Adequate Remuneration

As noted above in the "1993 KIP: Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the 1993 KIP, were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*).

In the instant review, as discussed above in the "adverse facts available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a provision of a good, and a benefit within the meaning of sections 771(5)(D)(iii) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 18.08 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Fourth HRS Review Decision Memorandum at "Captive Mining of Iron Ore" section.

7. 1993 KIP: Port Facilities at Less Than Adequate Remuneration

As noted above in the "1993 KIP: Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the 1993 KIP, were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*).

In the instant review, as discussed above in the "adverse facts available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a provision of a good, and a benefit within the meaning of sections 771(5)(D)(iii) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 18.08 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Fourth HRS Review Decision Memorandum at "Captive Mining of Iron Ore" section.

8. 1993 KIP: Grants

As noted above in the "1993 KIP: Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the 1993 KIP, were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRC Review*).

In the instant review, as discussed above in the "adverse facts available" section, based on AFA, and pursuant to section 776(b) of the Act, we find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program, as AFA we are assigning a net subsidy rate of 6.06 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL".

9. 1993 KIP: Loans

As noted above in the "1993 KIP: Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the 1993 KIP, were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*).

In the instant review, as discussed above in the "adverse facts available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program we are assigning a net subsidy rate of 1.32 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Pre- and Post-Shipment Export Financing" section.

10. 1993 KIP: Tax Incentives

As noted above in the "1993 KIP: Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the 1993 KIP, were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*).

In the instant review, as discussed above in the "adverse facts available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of revenue forgone, and a benefit within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.11. *SGOK's New Industrial Policy and Package of Incentives and Concessions of 1996 (1996 KIP): Tax Incentives.* As noted above in the "1993 KIP: Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the SGOK's New Industrial Policy and Package of Incentives and Concessions of 1996 (1996 KIP), were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*).

In the instant review, as discussed above in the "adverse facts available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of revenue forgone, and a benefit within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program as AFA we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

12. 1996 KIP: Loans

As noted above in the "1993 KIP: Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the 1996 KIP, were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*).

In the instant review, as discussed above in the "adverse facts available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 1.32 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision

Memorandum at "Pre- and Post-Shipment Export Financing."

13. 1996 KIP: Grants

As noted above in the "1993 KIP: Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the 1996 KIP, were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*).

In the instant review, as discussed above in the "adverse facts available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL" section.

14. 1996 KIP: Provision of Goods and Services at Less Than Adequate Remuneration (LTAR)

As noted above in the "1993 KIP: Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the 1996 KIP, were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*). In the instant review, as discussed above in the "adverse facts available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a provision of a good or service, and a benefit within the meaning of sections 771(5)(D)(iii) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program we are assigning a net subsidy rate of 18.08 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in any segment of this proceeding. *See* Final Results of Fourth HRS Review Decision Memorandum at "Captive Mining of Iron Ore" section.

15. SGOK's New Industrial Policy and Package of Incentives and Concessions of 2001 (2001 KIP): Tax Incentives

As noted above in the "1993 KIP: Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the SGOK's New Industrial Policy and Package of Incentives and Concessions of 2001 (2001 KIP), were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*).

In the instant review, as discussed above in the "adverse facts available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of revenue forgone, and a benefit within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

16. 2001 KIP: Loans

As noted above in the "1993 KIP: Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the 2001 KIP, were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*).

In the instant review, as discussed above in the "adverse facts available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program we are assigning a net subsidy rate of 1.32 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Pre- and Post-Shipment Export Financing".

17. 2001 KIP: Grants

As noted above in the "1993 KIP: Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the 2001 KIP, were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*).

In the instant review, as discussed above in the "adverse facts available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program we are assigning a net subsidy rate of 6.06

percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL".

18. 2001 KIP: Provision of Goods and Services at Less Than Adequate Remuneration (LTAR)

As noted above in the "1993 KIP: Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the 2001 KIP, were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*).

In the instant review, as discussed above in the "adverse facts available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a provision of a good or service, and a benefit within the meaning of sections 771(5)(D)(iii) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 18.08 percent *ad valorem* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Fourth HRS Review Decision Memorandum at "Captive Mining of Iron Ore" section.

19. SGOK's New Industrial Policy and Package of Incentives and Concession of 2006 (2006 KIP): Loans

As noted above in the "1993 KIP: Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the SGOK's New Industrial Policy and Package of Incentives and Concessions of 2006 (2006 KIP), were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*).

In the instant review, as discussed above in the "adverse facts available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 1.32 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Pre- and Post-Shipment Export Financing" section.

20. 2006 KIP: Tax Incentives

As noted above in the "1993 KIP: Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the 2006 KIP, were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*).

In the instant review, as discussed above in the "adverse facts available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of revenue forgone, and a benefit within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 3.09 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Second HRS Review Decision Memorandum at "State Government of Gujarat (SGOG) Tax Incentives" section.

21. 2006 KIP: Provision of Goods and Services for Less Than Adequate Remuneration (LTAR)

As noted above in the "1993 KIP: Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the 2006 KIP, were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*).

In the instant review, as discussed above in the "adverse facts available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this program constitutes a financial contribution in the form of a provision of a good or service, and a benefit within the meaning of sections 771(5)(D)(iii) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 18.08 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* Final Results of Fourth HRS Review Decision Memorandum at "Captive Mining of Iron Ore" section.

22. 2006 KIP: Grants

As noted above in the "1993 KIP" Tax Incentives" section, in the Fourth HRS Review, the Department determined, based on AFA, and in accordance with section 776(b) of the Act that all newly alleged subsidy programs, including the 2006 KIP, were used and constitute a financial contribution and are specific pursuant to sections 771(5)(D) and 771(5A) of the Act. *See Preliminary Results of Fourth HRS Review,* 73 FR at 1593 (unchanged in *Final Results of Fourth HRS Review*).

In the instant review, as discussed above in the "adverse facts available" section, based on AFA, and pursuant to section 776(b) of the Act, we preliminarily find that Tata used and benefitted from this program during the POR. Furthermore, based on AFA, we preliminarily determine that this

program constitutes a financial contribution in the form of a direct transfer of funds, and a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. We also preliminarily determine, as AFA, that this program is specific pursuant to section 771(5A) of the Act.

Pursuant to the AFA methodology described above, for this program, we are assigning a net subsidy rate of 6.06 percent *ad valorem,* which corresponds to the highest above *de minimis* subsidy rate calculated for a similar program in another segment of this proceeding. *See* HRS Investigation Decision Memorandum at "Forgiveness of SDF Loans to SAIL."

**Programs Preliminarily Determined To Be Terminated**

*1. Exemption of Export Credit From Interest Taxes*

Indian commercial banks were required to pay a tax on all interest accrued from borrowers. The banks passed along this interest tax to borrowers in its entirety. As of April 1, 1993, the GOI exempted from the interest tax all interest accruing to a commercial bank on export-related loans. The Department has previously found this tax exemption to be an export subsidy, and thus countervailable, because only interest accruing on loans and advanced made to exporters in this form of export curedti was exempt from interest tax. *See e.g., Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings From India,* 61 FR 64676, 64686 (December 6, 1996).

In the instant review, the GOI reported in its April QR that pursuant to the Finance Act of 2000, the GOI has abolished the Interest Tax. *See* April QR at 68. The GOI provided a copy of circular DBOD.No.BP.BC.187/21/02/007/2000 dated June 29, 2000, which gives notice to commercial banks that the interest tax has been discontinued regarding chargeable interest accruing after March 31, 2000. *See* April QR at Annex 25. In the Carbazole Violet Pigment Countervailing Duty Investigation, the Department found that this program has been terminated in accordance with section 351.526(d). *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determination: Carbazole Violet Pigment 23 from India,* 69 FR 22763, 22768 (April 27, 2004) and *Final Affirmative Countervailing Duty Determination: Carbazole Violet Pigment 23 from India,* 69 FR 67321 (November 17, 2004) and accompanying Issues and Decision Memorandum at "Program Determined To Be Terminated" (Carbazole Violet Pigment Countervailing Duty Investigation). Because we have already found that this program has been terminated effective March 31, 2000, there were no benefits during the POR.

**Preliminary Results of Review**

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for the reviewed company for the period January 1, 2008, through December 31, 2008. We preliminarily determine the net subsidy rate for Tata to be 586.43 percent *ad valorem.*

If the final results remain the same as these preliminary results, the Department intends to issue assessment instructions to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of the final results of this review. We will instruct CBP to collect cash deposits for the respondent at the countervailing duty rate indicated above of the f.o.b. invoice price on all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. We will also instruct CBP to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company.

These deposit requirements, when imposed, shall remain in effect until further notice.

**Public Comment**

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

Representative of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(1)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of arguments made in any case or rebuttal briefs.

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: December 31, 2009.

**Susan H. Kuhbach,**

*Acting Deputy Assistant Secretary for Import Administration.*

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