Exporter/Manufacturer	Margin percentage
All Others	45.55

The ''All Others'' rate, which we derived from the average of the margins calculated in the petition, applies to all entries of subject merchandise other than those manufactured or exported by the named respondent.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

In accordance with section 735(c)(3) of the Act, if the ITC makes a final negative finding of critical circumstances, the Department will instruct Customs to terminate the retroactive suspension of liquidation of GEL's entries from the period beginning November 4, 1998, through February 1, 1999 (i.e., the 90 day period prior to publication of the preliminary determination). The Department will also instruct Customs to release any bond or other security and refund any cash deposit collected on subject merchandise retroactively suspended during this 90-day period.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: April 12, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–9760 Filed 4–16–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–816]

Final Negative Countervailing Duty Determination: Elastic Rubber Tape From India

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

EFFECTIVE DATE: April 19, 1999.

FOR FURTHER INFORMATION CONTACT: Vincent Kane or Suresh Maniam, Office I, AD/CVD Enforcement, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–2815 or 482–0176, respectively.

Final Determination

The Department of Commerce (''the Department'') determines that countervailable subsidies are being provided to Garware Elastomerics Ltd. and that these subsidies are *de minimis.*

Petitioners

The petition in this investigation was filed by Fulflex, Inc., Elastomer Technologies Group, Inc., and RM Engineered Products, Inc. (''petitioners'').

Respondents

The respondents in this investigation are Garware Elastomerics Ltd. (''GEL''), its affiliate, and the Government of India (''GOI'').

Case History

Since our preliminary determination on December 7, 1998 (63 FR 67457), the following events have occurred: On January 11, 1999, January 13, 1999, February 8, 1999, and February 12, 1999, we issued supplemental questionnaires to respondents. We received responses to these questionnaires prior to verification. On January 8, 1999, we aligned the date of our final determination with the date of the final determination in the companion antidumping duty investigation of elastic rubber tape from India (63 FR 4973). We conducted a verification in India of the questionnaire responses received from the Government of India, Garware Elastomeric Ltd., (GEL) and one of GEL's affiliates from February 21 through March 6, 1999. Petitioners filed a case brief on March 24, 1999. Respondents filed a rebuttal brief on March 26, 1999.

Period of Investigation

The period for which we are measuring subsidies (''the POI'') is GEL's 1997 fiscal year from April 1, 1997 through March 31, 1998.

Scope of Investigation

For purposes of this investigation, the product covered is elastic rubber tape. Elastic rubber tape is defined as vulcanized, non-cellular rubber strips, of either natural or synthetic rubber, 0.006 inches to 0.100 inches (0.15 mm to 2.54 mm) in thickness, and ⅛ inches to 1⅝ inches (3 mm to 42 mm) in width. Such product is generally used in swim wear and underwear.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheading 4008.21.00. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (''URAA''), effective January 1, 1995 (''the Act''). The Department is conducting this investigation in accordance with section 701 of the Act.

Injury Test

Because India is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the International Trade Commission (''ITC'') is required to determine whether imports of the subject merchandise from India materially injure, or threaten material injury to, a U.S. industry. On October 15, 1998, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports of the subject merchandise from India (*see* 63 FR 55407 (October 15, 1998)).

De Minimis Threshold for Least Developed Countries

Section 705(3) of the Act requires the Department to disregard *de minimis* subsidies in making countervailing duty determinations. The Agreement on Subsidies and Countervailing Measures extends special and differential treatment to developing and least-developed members of the World Trade Organization, inter alia, by raising the *de minimis* level for these members. Normally, *de minimis* is defined as a

subsidy of one percent or less *ad valorem*. In the case of least developed countries the *de minimis* standard is three percent or less. (*See* section 703(b)(4)(C) of the Act.)

Because India is considered a least developed country, it is entitled to the three percent *de minimis* test. (*See* Developing and Least-Developed Country Designations under the Countervailing Duty Law (63 FR 29945, 29946 (June 2, 1998)).

Subsidies Valuation Information

Benchmarks for Short-term Loans: GEL received an exemption from customs duties on certain capital goods under the Export Promotion Capital Goods Scheme contingent on its export performance over a five-year period. We are treating the contingent liability arising from the exemption as a series of short-term, zero rate loans that were taken out in the year prior to the POI. Our benchmark for these loans is an average of the short-term loan rates reported by the State Bank of India for the year prior to the POI. *See* the Reserve Bank of India's Report on Currency and Finance (1997–98, Statement 70). We find this rate to be representative of short-term commercial interest rates in effect prior to the POI.

As explained below in the Affiliated Parties section, we found GEL to be related to an affiliated company. In addition, as explained below in the *Financial Transaction Between GEL and Its Related Company* section, we found that GEL received short-term loans from its affiliate. To determine whether loans received from its affiliate prior to the POI were on commercial terms, we used the State Bank of India's short-term advance rate (described above) as our benchmark rate. For the loans received from its affiliate during the POI, most did not have interest payments due during the POI. Therefore, GEL would not receive any benefit from these loans during the POI. For those loans received from its affiliate during the POI which also had payments due during the POI, we have used as our benchmark the average interest rate on several short-term lines of credit received by GEL from commercial banks.

Affiliated Parties

In accordance with section 771(33) of the Act, the Department considers the following persons to be affiliated or affiliated persons: (1) members of a family; (2) any officer or director of an organization and such organization; (3) partners; (4) employer and employee; (5) any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization; (6) two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; and (7) any person who controls any other person and such other person.

In cases where a company under investigation is affiliated with another company, the Department's questionnaire directs the affiliated company to respond to our countervailing duty questionnaire, if: (1) that company produces the subject merchandise or (2) that company is ''related'' to the company under investigation, and there are financial transactions between the two companies. Normally, we consider companies to be ''related,'' if they prepare consolidated financial statements or if one of the companies has at least 20 percent ownership in the other. *See* Final Affirmative Countervailing Duty Determination: Certain Pasta (''Pasta'') from Italy, 61 FR 30288, 30290 (June 14, 1996). If the related company has financial transactions with the company under investigation that are not on commercial terms and the related company is found to have benefitted from subsidies during the POI, the Department may determine that there has been a transfer of subsidies from the related company to the company originally under investigation.

In this case, based on proprietary information in GEL's November 9, 1998 questionnaire response and its November 16, 1998 supplementary questionnaire response (SQR), we determine that GEL is related to its affiliate. In addition, GEL reported, and we verified, that financial transactions have taken place between the two companies. (*See* March 31, 1999 Memorandum to the File on our reasons for determining the related company to be related.) As described below, our review of these various transactions leads us to conclude that certain of the financial transactions resulted in a transfer of subsidies from the related company to GEL.

Financial Transactions Between GEL and Its Related Company

During GEL's start-up in 1995, the related company supplied certain machinery and equipment and technical advice to GEL. In addition, the related company provided loans and loan guarantees to GEL and, on limited occasions, certain inputs to production. As explained below, we determine that the transactions between GEL and its related company involving loan guarantees and the provision of supplies were on commercial terms. However, the short-term loans provided to GEL by its related company are not on commercial terms. Nor are the financing arrangements for the machinery and technical advice provided to GEL by its related company.

Respondents argue that the financial transactions (short-term loans, loan guarantees, provision of machinery and supplies, and provision of technical advice) between GEL and its related company were consistent with commercial considerations. In support of this argument, they claim that the stock structure of GEL's related company requires that the transactions be made on commercial terms. The transfer of subsidies to GEL through non-commercial transactions would deplete the related company's assets and would be contrary to its shareholders' interests. They conclude that because these transactions were made on commercial terms, the Department has no basis on which to transfer any of the subsidies received by GEL's related company to GEL.

While we recognize that a company generally acts in the best interests of its stockholders, we cannot disregard evidence to the contrary in specific instances. As explained below, we found the short-term loans and the financing arrangements for the machinery and technical advice which GEL received from its related company were not on commercial terms. Hence, it is appropriate to allocate a portion of these subsidies received by GEL's affiliate to GEL.

Short-Term Loans to GEL From Its Related Company

GEL received short-term loans from its related company both prior to and during the POI. To determine whether GEL's loans received prior to the POI were on commercial terms, we first compared the interest rate on these loans to the benchmark rate. This comparison revealed that the interest rate on the loans from the related party was higher than the benchmark rate. We used the Bank of India rates as our benchmark for loans received prior to the POI because we did not have information on any short-term commercial loans which GEL may have received prior to the POI. Respondents assert that the loans GEL obtained from its related company during the POI were provided at above-market rates to take into account possible delays in payment of interest during the start-up period.

In fact, the Department verified that the rate charged by the related company to GEL was greater than the 13.3 percent rate for commercial loans in 1997–98 as

reported by the Reserve Bank of India. However, even though GEL's rate for pre-POI loans was higher than the benchmark rate, the terms of payment on the loans provided prior to the POI were more favorable than commercial terms. Specifically, GEL was required to (and has) repaid the principal on these loans. However, it has not paid interest on these loans and is not required to do so until after its start-up period concludes. Although deferral of interest is not inconsistent with commercial terms in itself, it is inconsistent when the borrower is not required to pay interest on the deferred interest. In such a situation, the borrower is essentially receiving a zero-interest loan in the amount of the interest that is being deferred. Consequently, we determine that GEL has received loans from its related company on terms inconsistent with commercial considerations. An examination of the loan contract does not support respondents' assertion that the interest rate accounts for delayed interest payments.

For the loans received during the POI, we have used a different benchmark interest rate. In selecting a benchmark for short-term government loan, our preference is to use the interest rate on short-term loans received by the company from a commercial bank as our benchmark. GEL received short-term lines of credit from commercial banks during the POI. Therefore, we have used the average of the interest rate on these lines of credit as our benchmark for loans received by GEL from its related company during the POI.

Therefore, for loans received from the related company during the POI which had payments due during the POI, we compared the interest rate charged by the related company to the benchmark rate. Based on this comparison, we determine the interest rate paid by GEL was less than the benchmark and, hence, that these loans were not on commercial terms.

Provision of Machinery

GEL's related company manufactured and sold certain machinery to GEL during its start-up period. The related company calculated the sales price based on the cost of design, materials, fabrication, assembly and profit in an amount equal to the related company's profit ratio from the prior fiscal year. The costs of producing the machinery and the profit amount were audited by an outside accountant and the sales prices were certified by the accountant to be the assessable value of the machinery. The GOI requires an outside audit of financial transactions between related companies because such sales are subject to the excise tax and a sales tax. At verification, we found that the related company actually charged GEL the prices certified by the outside accountant.

We consider the related company's method for setting the sales prices to be a reasonable method of determining a commercial price. However, GEL has not paid its related company for the machinery and will not be required to do so until after its start-up period has concluded. In fact, it appears that GEL will not be required to pay for the machinery until it has sufficient cash flow to do so. Moreover, although GEL is required to pay interest on this debt, which has already been outstanding for a considerable period, it has not done so, nor does it appear that GEL is required to pay interest on the outstanding interest.

Because of the length of time that this debt has been outstanding, the open-ended terms of the debt, and the fact that GEL is not currently paying interest on it, we determine that the financing for GEL's purchases of machinery from its related company is not on commercial terms.

Provision of Technical Advice

GEL also received technical advice from its related company's engineers during its start-up period. The related company invoiced GEL for this technical advice based on the related company's appraisal of the cost of providing the technical advice required for each particular project plus an amount for profit and taxes. As with the purchases of machinery from the related company, an outside engineer certified these costs for excise tax and sales tax purposes. At verification, we found that GEL's related company actually charged GEL the prices certified by the outside engineer.

Petitioners assert that the technical advice from GEL's related company was provided at below market rates. They cite a 1996 Price Waterhouse report which states that the GOI requires accountants and engineers to certify transfer prices between related companies to prevent companies from overstating their costs on sales to related companies as a means of reducing the net profit to be reported for income tax purposes. (*See* Petitioners' February 2, 1999 submission, Exhibit 1.)

At verification, we found that the prices charged to GEL by its related company for technical advice were certified by an outside engineer as the correct assessable value for excise tax purposes. Our review of the engineer's certification of the related company's price for technical advice and our review of the related company's costs of providing the advice and profit confirmed that the related company's method of establishing a price was a reasonable one.

We consider the related company's method for setting the sales prices to be a reasonable method of determining a commercial price. However, GEL has not paid its related company for the technical advice and will not be required to do so until after its start-up period has concluded. In fact, it appears then that GEL will not be required to pay for the technical advice until it has sufficient cash flow to do so. Moreover, although GEL is required to pay interest on this debt, which has already been outstanding for a considerable period, it has not done so, nor does it appear that GEL is required to pay interest on the outstanding interest.

Because of the length of time that this debt has been outstanding, the open-ended terms of the debt, and the fact that GEL is not currently paying interest on it, we determine that the financing for GEL's purchases of technical advice from its related company is not on commercial terms.

Loan Guarantees

GEL's related company guaranteed several of GEL's medium-term loans and charged no fee for the guarantees. During verification, we discussed loan guarantee practices with an official from the UTI Bank Ltd., a commercial bank in New Delhi. The official indicated that it is not uncommon for a parent company to guarantee a loan received by a subsidiary or for a company to guarantee a loan to a related company. The official also said that it was also not uncommon for the guarantor in these cases not to charge a fee for the loan guarantee. Based on these discussions, we determine that the loan guarantees received by GEL from its related company are consistent with commercial considerations.

Petitioners claim that the related company's guarantee of GEL's loans without charging a guarantee fee is inconsistent with commercial considerations.

We disagree. As explained above, we confirmed at verification that such a practice is not uncommon in India. Therefore, we find the related company's provision of guarantees to GEL free of any fees consistent with commercial considerations. (See section 351.506(a)(2) of Countervailing Duties; Final Rule (63 FR 65348, November 25, 1998) (Countervailing Duty Regulations) (although not in effect for this investigation).

Provision of Supplies

GEL purchased diesel fuel and other supplies from its related company during the POI and paid an amount for these supplies equivalent to the related company's cost of acquiring them. GEL purchased these supplies through its related company as a convenience. At verification, we found that the prices paid by GEL's related company for the supplies, as reflected on its purchase invoices, were the prices which the related company charged GEL for the supplies.

Based on our review of the purchase invoices, we determine that the sales were at arm's length and that the prices were market prices for the supplies in question. We found no evidence at verification indicating that GEL could not have purchased the supplies at the same price as its related company. Therefore, we determine that GEL's purchases of supplies from its related company were made on commercial terms.

Petitioners claim that the price for supplies was not a market price because it did not include a mark-up for general, selling and administrative expenses incurred by GEL's affiliate in purchasing supplies. For this reason, GEL's purchases of supplies were not made on commercial terms.

GEL paid market prices for the supplies provided by its affiliate and could have purchased these supplies at the same market prices on its own. Therefore, we find that the fact that GEL was not required to pay a price which included a share of the affiliate's general, selling and administrative expenses does not make the price which it did pay to be on terms inconsistent with commercial considerations. It is not uncommon for affiliates to provide services such as this without charging an additional fee.

Subsidies Received by GEL's Related Company

On January 11, 1999, we issued a countervailing duty questionnaire to the affiliated company. On January 16, 1999, we received a response from the affiliated company indicating that all of the programs that it used during the POI were tied to its production and not to the subject merchandise.

At verification, we examined documentation regarding each of the programs that GEL's related company had used during the POI. With the exception of the Income Tax Exemption Scheme, we determine that benefits under the programs used by GEL's related company, which does not produce subject merchandise, were tied to the products produced and sold by the related company. (Our bases for finding these benefits tied to non-subject merchandise are discussed more fully below.) Because we find the programs used by GEL's related company, with the exception of the Income Tax Exemption Scheme, to be tied to the production and sale of non-subject merchandise, we determine that they confer a benefit only on those products and do not benefit the production or sale of the subject merchandise.

1. Export Promotion Capital Goods Scheme

The Export Promotion Capital Goods Scheme provides for duty reductions or exemptions and an exemption from the excise tax on imports of capital equipment. At verification, the applications, approvals and licenses for this scheme clearly showed that the machinery imported under the scheme was for the production of merchandise produced by GEL's related company. On each of these documents, the products to be produced with the imported machinery were specifically named. The products that had to be exported to satisfy the related company's export obligation under the license were also specifically named on the license. These products were the related company's products, not subject merchandise. In addition, from our observation at verification of GEL's machinery for producing ERT and from our review of machinery imports by GEL's related company, it was clear that the machinery imported by GEL's related company was not the machinery we observed in GEL's plant.

2. Export Oriented Unit (Duty-Free Import of Inputs)

The application, approvals and licenses to obtain this benefit clearly showed that the inputs imported duty-free were inputs to be used in the production of the related company's products. On these documents, the inputs that may be entered duty free are specifically stated. These inputs are inputs used to produce the related company's products and could not be used to produce subject merchandise. Further, the finished products to be produced from these inputs are also clearly stated on these documents. Our review of importations made under the scheme confirmed that the imported inputs were inputs to the related company's products and could not have been used to produce the subject merchandise. Therefore, we find that benefits from this scheme are tied to non-subject merchandise.

3. Pre-Shipment Export Financing

The loan applications and accompanying list of purchase orders from the related company's customers in foreign markets which served as the basis for the loans plainly showed that the products being ordered were the related company's own products.

4. Post-Shipment Export Financing

The loan applications and attached invoices clearly showed that the financing was to enable GEL's related company to extend credit on sales of its products to customers in foreign markets.

5. Duty Drawback of Excise Taxes

The applications, approvals and licenses of GEL's related company clearly showed that the inputs for which duty drawback was claimed were inputs to be used in the production of the related company's products. Our review of importations made under the scheme confirmed that the imported inputs were inputs to the related company's products and could not have been used to produce the subject merchandise.

6. Exemption From the Tax on Interest on Export Credits

During the POI, GEL's related company was not required to pay the interest tax on export credits. GEL's related company received export credits under the Pre-Shipment and Post-Shipment Export Financing programs discussed above. As explained above, these loan programs were tied to the production and sale of GEL's related company's products. Because the interest tax exemption was granted with respect to interest on loans found to be tied to GEL's related company's products, the benefit from the interest tax exemption is also tied to those products.

7. Special Benefits for Trading Houses and Super Star Trading Houses

Although GEL's related company had trading house status during the POI, it did not use its special import license to import restricted merchandise nor did it sell this license during the POI. Because GEL's related company did not benefit from this license during the POI, it was not necessary to determine whether benefits to companies with Trading Houses and Superstar Trading House status are tied to the products produced and sold by these companies.

8. Income Tax Exemption Scheme

During the POI, GEL's related company received benefits under section 80HHC of the Income Tax Exemption Scheme, which provides an

income tax exemption for the profits earned on export sales. Respondents argue that the Department verified that section 80HHC benefits are tied to the production and export of non-subject merchandise. Because section 80HHC provides income tax exemptions to companies based on their total export profits, without regard to the products which earned the profits, we determine that 80HHC benefits are untied export subsidies. See Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom: Final Results of Countervailing Duty Administrative Review, 62 FR 53306, 13–16 (October 14, 1998); Final Affirmative Countervailing Duty Determination: Certain Pasta from Turkey, 61 FR 30366, 70 (June 14, 1996); Final Negative Countervailing Duty Determination: Silicon Metal from Brazil, 56 FR 26988 (June 21, 1991).

We normally attribute a subsidy received by a company to the products produced by that company. However, as discussed above, untied subsidies received by one company may be allocated to a related company, if the company receiving the subsidies transfers them to the company producing the subject merchandise. In GEL's case, as discussed above, its related company provided loans and financing for machinery and technical advice on non-commercial terms. These non-commercial transactions indicate that a portion of the untied subsidies received by GEL's related company should be allocated to GEL.

To determine the portion attributable to GEL, we first calculated the benefit received by GEL's related party under the Income Tax Exemption Scheme. We then calculated GEL's share by multiplying the total benefit by GEL's share of the total sales of both companies. We used this method to determine GEL's share because, although this is an export subsidy to GEL's related company, it should not be considered an export subsidy to GEL for allocation purposes. This is because it was not GEL's exports that gave rise to the portion of the benefit which GEL received but, rather, the short-term loans it received from its affiliate on terms inconsistent with commercial considerations. Since the portion of the subsidy transferred to GEL is untied, and the benefit to GEL is calculated using GEL's total sales, we have used total sales of the two companies as the basis for calculating the share to be allocated to each company. For the countervailable subsidy to GEL, *see* section below on the Transfer of Income Tax Exemption Scheme Benefits to GEL.

Programs Determined To Be Countervailable

With regard to GEL, based on the information provided in the responses and the results of verification, we find the following programs to be countervailable:

A. Export Promotion Capital Goods Scheme

The Export Promotion Capital Goods Scheme (EPCGS) provides for a reduction or exemption of customs duties and an exemption from excise taxes on imports of capital goods. A reduction of customs duties and an exemption from excise taxes are provided under the Concessional EPCGS. Under this scheme, producers may import capital goods at reduced rates of duty and must undertake to earn convertible foreign exchange equal to four times the value of the capital goods within a period of five years. 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 interest on the amount of the payment. (*See* the section below on the *Excise Tax Exemption under the EPCGS* for our treatment of this tax exemption.)

In 1995, GEL received a license under the Concessional EPCGS to import certain machinery to be used in the production of ERT. GEL met the portion of its export undertaking applicable to the POI and has not had to pay duty or interest on the duty reduction which it received under the EPCGS.

The customs duty reduction under the EPCGS represents revenue foregone by the GOI and confers a benefit on GEL. In addition, the duty reduction benefit is specific because its receipt was contingent upon anticipated export performance. Therefore, we determine that duty reduction under the EPCGS is a countervailable subsidy within the meaning of section 771(5) of the Act.

Petitioners claim that GEL did not receive a benefit from the duty exemption under the EPCGS until GEL satisfied its export obligation as required by the scheme. Petitioners state that because GEL's exports during the POI served to satisfy this export obligation, GEL realized the entire duty exemption during the POI. Petitioners also claim that the benefit cannot be allocated to the period before GEL began commercial production because allocating a benefit to a pre-production period would create a loophole in the countervailing duty law because the subsidy could not be countervailed during a period when nothing was exported.

Respondents claim that it is the Department's established practice to expense customs duty exemptions in the year of receipt. Respondents cite Porcelain-on-Steel Cookingware from Mexico: Final Results of Countervailing Duty Administrative Review (57 FR 562, 564; January 7, 1992) (Cookingware from Mexico), as a case in which the Department rejected the Government of Mexico's claim that the benefit of an import duty exemption on machinery should be allocated over the useful life of the machinery. Respondents assert that in this case, the Department should follow its usual practice and expense the benefit in the year of receipt.

GEL may be obligated to pay the duties on its imported capital equipment in each year or in any given year during the five-year period following importation. Thus, we find that the waived duties are properly viewed as a contingent liability loan because GEL has the use of funds from the waived duties interest free for a five-year period, assuming it meets its export obligation. Where a government provides a long-term, interest free loan and the obligation for its repayment is contingent upon subsequent events, our practice is to treat any balance on the loan outstanding during a year as an interest-free short-term loan (in the amount of the duty waived) that is rolled over each year. (*See* Final Negative Countervailing Duty Determination: Fresh Atlantic Salmon from Chile, 63 FR 31437, 42–43 (June 1998); *see* also section 351.505(d)(1) of the Countervailing Duty Regulations. Although GEL met the portion of its export obligation applicable to the POI, we cannot be certain at this point that it will continue to do so in the future. Therefore, we have considered the full amount of the customs duty reduction to be an interest free loan that was outstanding during the POI.

In Cookingware from Mexico, although exporters were subject to forfeiting a portion of benefits if they sold production domestically, receipt of the benefits was not dependent upon exporting a specified amount, the duty exemption received by the company was not contingent on the company's meeting an export obligation for a number of years, nor did it require that duty be paid if the company failed to meet the export obligation. Therefore, the Department did not treat the duty exemption as a contingent liability but countervailed the full amount of the exemption in the POR. As described above, however, the duty exemption under the EPCGS, is contingent on a company's meeting a specific export obligation for a period of five years.

Therefore, we properly countervailed it as a short-term interest-free loan, which is rolled over for a period of five years.

Because we consider the loans to be rolled over from year to year, we used a short-term interest rate as our benchmark for measuring the subsidy. We calculated the benefit as the difference in the interest that GEL paid on the zero-rate loan received as a result of the duty reduction under the EPCGS and the interest GEL would have paid at the benchmark rate. We divided this benefit by GEL's total exports of all products because the capital equipment imported under the Concessional EPCGS was used in the production of all of GEL's products. On this basis, we calculated a subsidy of 1.53 percent ad valorem.

B. Transfer of Income Tax Exemption Scheme Benefits to GEL

As discussed above, GEL's related company received an income tax exemption under section 80HHC of the Income Tax Exemption Scheme on profits from exports during the POI. The 80HHC exemption received by GEL's related company represents revenue foregone by the GOI. In addition, the exemption is specific within the meaning of section 771(5A)(B) of the Act because it is contingent on export performance. Therefore, we determine that the 80HHC exemption received by GEL's related company during the POI is a countervailable subsidy within the meaning of section 771(5) of the Act.

As explained above in the Income Tax Exemption Scheme section, the benefit of the 80HHC exemption is attributable to both GEL and its related company. Accordingly, we have calculated the subsidy for ERT by dividing the amount of the income tax savings from the 80HHC attributable to GEL by GEL's total sales of all products. On this basis, we calculated a subsidy of 0.18 percent ad valorem for GEL during the POI.

Programs Determined To Be Not Countervailable

A. Exemption From Excise Tax on Imports of Capital Goods

In addition to providing for a reduction or exemption of customs duties, the EPCGS also provides for an exemption from excise duties on imports of capital goods. In its February 16, 1999 response, GEL reported that its benefit under the EPCGS was the sum of the customs duty reduction and the excise duty exemption. However, at verification, GEL officials claimed that the excise duty exemption was not a benefit because had GEL not received the exemption but instead paid the excise duty, it would then have received excise credits in the amount of the excise duty payment. Specifically, when GEL purchases inputs or capital goods in the domestic market or in foreign markets (other than under the EPCGS), GEL pays the excise duty or tax. When GEL sells finished products in the domestic market, it collects the excise tax from its customers and remits it to the GOI. In computing the amount of excise tax it must remit to the GOI, GEL gets a credit for the amount of excise taxes it paid on its purchases of inputs and capital goods. In this way, manufacturers are ultimately not burdened by the excise tax. It is essentially a tax on the consumer.

Petitioners claim the Department should not offset the benefit of the excise tax exemption on imports of capital equipment under the EPCGS because respondents did not claim this offset until verification. In addition, petitioners state that the Department's practice precludes consideration of the secondary tax effect on the subsidy provided by the EPCGS.

Respondents claim that at verification, GEL provided information that demonstrates that the excise duty exemption should not be considered a subsidy because payment of the tax results in a credit that can be used against excise taxes owed. In Ball Bearings and Parts Thereof from Thailand: Final Results of Countervailing Administrative Review (60 FR 52371, 52373; October 6, 1995) (Bearings from Thailand—Final), the Department stated that under the VAT system, companies receive credit for the VAT paid on the purchase of inputs and, as a result, no VAT is effectively paid by companies on these purchases. Therefore, the exemption from the VAT was found not to be a countervailable subsidy.

We do not view the excise tax as a prior stage cumulative tax (*see* item (h) of the Illustrative List of Export Subsidies, Annex I of the Agreement on Subsidies and Countervailing Measures (Illustrative List). The excise tax, like a value added tax, is treated as being passed on to the consumer. (See Ball Bearings and Parts Thereof from Thailand: Preliminary Results of a Countervailing Duty Administrative Review, 60 FR 42532 (August 16, 1995)) (Bearings from Thailand—Preliminary). Indian Companies pay the excise tax on purchases of inputs and capital goods and collect it on sales of finished goods. When a company pays the tax it enters a tax credit in its excise tax book. When a company sells finished goods it enters a debit in its excise tax book. Periodically, the company remits in cash any excess excise tax debits over credits to the GOI and receives a rebate for any excess of tax credits over debits. Therefore, because GEL does not ultimately bear the excise tax, we determine that the exemption from the excise tax under EPCGS is not a countervailable benefit.

B. Drawback of Customs Duties

In the preliminary determination of the companion antidumping duty investigation, the Department found that respondents had not provided sufficient information to demonstrate that drawback was tied to import duties paid and should, therefore, be added to U.S price. (Preliminary Affirmative Determination of Sales at Less Than Fair Value and Preliminary Determination of Critical Circumstances: Elastic Rubber Tape from India (64 FR 5025, 5028; February 2, 1999) (Preliminary Anti-Dumping Determination). On the basis of this finding, petitioners allege that GEL received impermissible drawback and claim that the Department should include this program in its countervailing duty investigation.

Under this program, exporters may file a drawback claim after the exportation of finished goods to recover import duties paid on imported inputs used to produce the export goods. Exporters may claim drawback at the all-industry rate or the brand rate. The all-industry rate is an average rate calculated for a product or group of products. The brand-rates are applicable to products of specified description and technical characteristics, which are exported by specific exporters, and permit reimbursement of actual duties paid. Companies may use the all-industry rate or apply for the brand rate and supply the documentation necessary to establish the brand rate.

In 1997, GEL filed an application for a brand-rate to be used in calculating the drawback on export shipments of ERT for inputs imported prior to the POI. At verification, we examined GEL's drawback application. The application included copies of the import entries on which the drawback was based, which showed payment of customs duties on the imported inputs, a bill of materials showing the quantity of each input used by GEL to produce one metric ton of ERT, the duty per kilogram of each input, and the duty borne by each input per metric ton of ERT. The quantities were certified by company officials and by an outside accountant.

An officer from a regional office of the Central Board of Excise and Customs (CBEC) audited GEL's application. As a result of the audit, the quantity of ERT on which GEL could claim drawback

was reduced because the quantity of inputs imported by GEL was sufficient for the production of only this reduced quantity. In addition, the drawback rate was adjusted downward slightly to take into account waste.

At verification, we were unable to review the audit of GEL's application because GOI officials indicated that it had been archived. Instead, we reviewed two recent audits of brand rate drawback applications from other companies producing products other than ERT to determine how the GOI audited these applications. Each of the audits appeared thorough, took several days to complete, and were described in detail in a lengthy audit report. The quantities of inputs necessary to produce a given quantity of each of these companies' outputs was checked by the CBEC officer against each company's actual stock issuance records and batch production cards.

The drawback of customs duties paid on inputs, which are consumed in the production of goods for export, is a permissible rebate and not countervailable provided it is not excessive. (*See* Item (i) of the Illustrative List: *See* Ball Bearing from Thailand—Final). Based on our review of GEL's application for brand rate drawback and the GOI's procedures for auditing such claims, we determine that GEL's adjusted brand rate of drawback provides a non-excessive rebate of customs duties paid on imported inputs, *i.e.*, the duty rebates which GEL received on exports of its finished products did not exceed the duty paid on the imported inputs. Therefore, we determine that the drawback received by GEL under the brand rate of drawback is not countervailable.

Because GEL submitted a published input/output norm with its drawback application, petitioners claim that GEL's drawback claim was based on standard input/output norms rather than on the quantities of inputs GEL actually used to produce a unit of ERT. Therefore, they assert, drawback paid on these inputs is based on an estimate of the duties paid rather than on actual duties. Petitioners also claim that based on this standard norm, GEL's exports qualify for drawback whether the ERT is produced from imported or domestic inputs.

GEL is the only producer of ERT in India. The bill of materials listing the quantities of each input needed to produce a unit of ERT was based on GEL's own production experience. (*See* the March 19, 1999, verification report on GEL, Exhibit 35 at page 3). At verification, we found that auditors from the regional offices of CBEC audit the applications of companies applying for brand-rate drawback. We also found that they audited the input/output ratios based on companies' actual usage as reflected on inventory and production records. The reason that the GOI publishes norms is so they can be disseminated to customs offices throughout the country.

We disagree with petitioners' claim that GEL may receive drawback even if it uses domestic inputs. At verification we found that GEL had applied to receive drawback on a certain quantity of ERT exports. The GOI reduced this quantity to correspond to the quantity GEL was able to produce based on the quantities of inputs it had imported. In addition, GEL was required to include with its application copies of the import entries of each of the imported inputs indicating that duties had been paid on these inputs. Thus, it is clear that GEL's inputs were imported inputs and not domestic ones.

C. Advance Licenses

The Advance Licenses Program allows for the duty-free importation of inputs to be incorporated into finished products for export. Companies importing under advance licenses are obligated to export the products produced using the duty-free imports. GEL received an advance license late in 1997. With this license, GEL was authorized to import duty free a given quantity of the raw materials needed to produce ERT and was obligated to export the ERT produced with these inputs. The quantity to be exported was also specified on the license.

In Certain Iron-Metal Castings from India: Final Results of Countervailing Duty Administrative Review (62 FR 32297, 32306; June 13, 1997) (1995 Castings Final), the Department found the advance license system to accomplish what a drawback system is intended to accomplish, *i.e.*, to allow finished products produced with imported inputs to be exported free of the import duties assessed on the imported inputs. In the 1995 Castings Final, the Department concluded that because the imported inputs were used to produce castings which were subsequently exported, the duty-free importation of these inputs under the advance license was not a countervailable subsidy.

GEL's advance license allows for the duty-free importation of the inputs needed to produce ERT. We verified that GEL did not transfer this license but used it to import inputs that were subsequently used in the production of ERT. At verification, we reviewed customs entries of imported inputs, entries in GEL's inward shipping register, entries in GEL's stock receipt and issuance register and in GEL's batch production card to confirm that imported inputs were used by GEL to produce ERT. From our examination of the import entries and these inventory control records, it was clear that GEL used the imported inputs to produce ERT. It was also clear from our review of export entries that GEL was exporting the ERT produced from the imported inputs thereby satisfying its export obligation under the license. Because GEL used the duty-free imported inputs to produce ERT which was subsequently exported, we do not consider the Advance License program to be countervailable.

Petitioners argue that the advance license is based on standard input/output norms rather than on a producer's actual input/output experience and, therefore, under the Department's practice, countervailable. Further, petitioners indicate that under the Advance License Scheme, inputs are merely assumed to be imported.

Citing Iron Metal Castings from India, respondents argue that Advance Licenses were found not to be countervailable because the Advance License Scheme is a drawback scheme which provides duty rebates commensurate with the duties paid on imported inputs used to produce the exported product.

We agree with respondents that the Advance License Program has been found not countervailable in the past because under this program the drawback of import duties was not excessive. *See* 1995 Castings Final. Despite petitioners' assertions, the Advance License is not based on standard input/output norms. GEL's Advance License specified the quantity of inputs permitted to be imported under the license and the quantity of finished goods to be exported. As explained above, in the section of this notice on Duty Drawback on Exports, we found at verification that the bill of materials (input/output formula) which GEL used was based on its actual experience not a standard norm. This input output/formula was also used to determine GEL's obligation under the Advance License. Therefore, we find that GEL used actual production experience rather than a standard norm for purposes of the Advance License Scheme. Also, under the Advance License Scheme, inputs are not merely assumed to be imported, but must be demonstrated to be imported on the basis of evidence of importations of the inputs required to produce the export product.

Programs Determined Not To Be Used

Based upon the information provided in the responses and our verification, we determine that GEL did not apply for or receive benefits under the following programs during the POI:

A. Passbook Scheme/Duty Entitlement Passbook Scheme.

B. Export Processing Zones/Export Oriented Units Programs.

C. Income Tax Exemption Scheme.

D. Pre-Shipment Export Financing.

E. Post-Shipment Export Financing.

F. Import Mechanism (Sale of Import Licenses).

G. Exemption of the Interest Tax on Export Credits.

H. Re-discounting of Export Bills Abroad.

I. Programs Operated by the Small Industries Development Bank of India.

J. Special Imprest Licenses.

K. Market Development Assistance.

L. Special Benefits to Export Houses, Trading Houses and Super Star Trading Houses.

M. Duty Drawback on Excise Taxes.

N. Pre-Shipment Export Financing in Foreign Currency.

Programs Determined Not To Exist

Based on information provided by the GOI and the results of verification, we determine that the following program does not exist: Preferential Freight Rates.

Interested Party Comments

Comment 1: Use of Facts Available

Petitioners argue that GEL's related company did not properly respond to the Department's questionnaire. Therefore, if the Department determines that any of the financial transactions between the two parties were made on terms inconsistent with commercial considerations, the Department should apply adverse facts available. Petitioners claim that in its January 11, 1999 questionnaire to GEL's related company, the Department informed GEL's related company that it must either respond to the questionnaire by February 11, 1999, or risk facts available being used if it determined that the transactions between the two companies were not on commercial terms. GEL, on behalf of its related company, responded late to the Department on February 16, 1999. In this late submission, petitioners argue that GEL listed the programs used by its related company rather than providing a full description, and merely stated that all of the benefits received were directly tied to non-subject merchandise. In addition, petitioners argue that GEL's related company failed to certify the submission.

Petitioners assert that GEL has falsely certified its responses by simply asserting that the financial transactions with its related company were made on commercial terms and subsequently not responding to the Department's questionnaire. If GEL and its related company had been more forthright in their initial responses, petitioners claim they would have been able to comment fully on the issues and the Department would have been able to issue supplemental questionnaires more readily. Because of these failures, facts available is warranted.

Petitioners assert that at a minimum, the Department should apply facts available to the related company's use of the EPCGS program because GEL never completely answered the Department's questions regarding this program. As such, it is unclear whether the related company benefitted from this program. Petitioners argue that the Department should make adverse inferences regarding certain transactions between GEL and its related company and find that benefits transferred to GEL from the affiliate's use of the EPCGS.

Respondents assert that petitioners' request that the Department apply facts available to GEL is unfounded. They state that they have cooperated fully in this investigation by responding to all of the Department's requests for information and cooperating fully during verification.

Regarding petitioners' claim that GEL failed to accurately respond to the Department's September 18, 1998 questions regarding the EPCGS program, respondents assert that their responses were accurate and complete. Respondents argue that GEL responded that it did not use or benefit from the EPCGS program during the POI based on the Department's previous treatment of such programs as benefitting companies at the time the duty on imports was actually paid. Because GEL received benefits from this program outside of the POI, it did not report the benefits. However, respondents point out that they did provide the information once the Department informed the company of its possible change in methodology.

Respondents also argue that GEL should not be penalized for petitioners' failure to include the Drawback of Customs Duties program and Advance License Scheme in their petition. Because these programs have been previously found not countervailable by the Department, respondents claim that petitioners are required to provide new evidence to suggest that the Department's prior decisions were incorrect or that the programs are otherwise countervailable. Petitioners provided no such evidence.

Furthermore, according to respondents, GEL's related company should not be penalized for not providing a separate response to the Department's questionnaire. Because the related company believed its financial transactions with GEL were made on commercial terms and all of the programs it used were tied to the production and export of non-subject merchandise, it was unnecessary for it to respond on its own.

Respondents point out that they filed a certificate of accuracy on March 4, 1999, regarding its February 16, 1999 response.

DOC Position

We disagree with petitioners' claim that GEL's related company did not respond adequately to our countervailing duty questionnaire and that its response was not filed on time. Based on the evidence, pursuant to section 776(a) of the Act, we find that facts available are unwarranted because respondents did not (1) withhold information, (2) did not fail to provide information by the due dates required in the form and manner requested or (3) did not significantly impede the investigation. The February 16, 1999 questionnaire response of GEL's related company was filed timely. The original due date for this response was extended from February 11, 1999 to February 16, 1999, by the case analyst in a telephone conversation with respondents. Thus, although petitioners were not notified of the extension as they should have been, respondents were timely in their submission.

Although respondents did not initially file a certification of accuracy with the related company's questionnaire response, they did file one on March 6, 1999. We do not find this delayed certification, in and of itself, grounds for applying fact available under section 776(a) of the Act. Moreover, the related company's response, which was filed as an exhibit to GEL's February 16, 1999 SQR, did contain a certificate (in proper form) of accuracy from GEL. Moreover, both GEL and the related company responded to our questionnaires and were fully cooperative at verification. Furthermore, at verification, we were able to confirm the accuracy of their responses. Therefore, we find no basis for using facts available in this case.

We also disagree with petitioners' assertion that GEL falsely certified its responses by simply asserting that the financial transactions with its related company were on terms consistent with

commercial considerations. Although GEL maintained that it had no commercially inconsistent transactions, as defined in the questionnaire, with related companies in its questionnaire response, GEL did inform the Department of financial transactions it had with its related company by briefly listing them in its response and thereafter supplied the Department with additional information as requested, which we later verified. Because GEL was forthright in its response regarding these transactions, we see no grounds for applying facts available in this circumstance.

Petitioners are mistaken in stating that capital goods which GEL's related company transferred to GEL were imported under the EPCGS. At verification, we confirmed that all of the capital goods imported under the EPCGS by the related company were tied to the production of the related company's products. The capital goods in question were identified in Attachment 3 of GEL's December 23, 1998 questionnaire response. As we confirmed at verification, these capital goods could not be used in producing the related company's merchandise but were produced by GEL's related company for GEL and sold to GEL at market prices. These capital goods were not imported under the EPCGS. (*See* the March 16, 1999 verification report on GEL's related company at page 9.)

We agree with respondents' claim that they should not be penalized for failure to include the Drawback of Customs Duties and the Advance License schemes in their response. Because the petition did not allege that respondent benefitted from Drawback of Customs Duties and the Advance License schemes, the original questionnaire did not include questions about the Advance License or the Drawback of Customs Duties. The subject of drawback arose only after the preliminary determination in the antidumping investigation where the Department disallowed respondents' claim that drawback be added to the U.S. price. (*See* Preliminary Anti-dumping Determination). It was not until after the preliminary determination in this investigation that petitioners alleged these programs. Because their allegation was timely, however, we then sent a supplementary questionnaire to respondent with regard to this scheme. In an SQR dated February 16, 1999, GEL reported that it had imported natural rubber under the Advance License Scheme to be used in the production of elastic rubber tape for export. At verification, as described above, we reviewed this scheme fully. Therefore, we conclude that the information provided by respondents on these programs was adequate and that use of facts available is not warranted.

We also agree with respondents' claim that GEL's related company should not be penalized for not providing a separate questionnaire response. As required under section 782(e) of the Act, the Department cannot decline to consider information necessary to the determination even though it may not meet all of the requirements established provided that the information is submitted by the deadline, can be verified, is not so incomplete that it cannot be used, and the interested party has demonstrated that it has acted to the best of its ability. As described above, because GEL and its affiliate answered our questionnaire and supplemental responses in a timely fashion, and the information was verified and usable, we find that GEL and its affiliate acted to the best of their ability. Therefore, facts available are unwarranted. Pursuant to section 776(a) of the Act, even though GEL did not provide a full description of the programs its related company benefitted from during the POI, GEL did provide sufficient timely information. This permitted us to verify fully whether any of the benefits received by GEL's related company were tied to its products and not transferred to GEL. Therefore, we find that GEL's related company responded sufficiently and we find no basis for using facts available in this determination.

Comment 2: Excise Rebates

Petitioners argue that the Department should countervail the excise rebates reported in GEL's 1997/98 financial statements. They assert that because GEL failed to provide a copy of its financial statements for the POI in a timely manner, the Department was unable to fully investigate whether the line item entitled ''Other Income'' from ''Excise Rebate Received Export'' constitutes a countervailable subsidy. Therefore, the Department should apply facts available and countervail these rebates.

DOC Position

We disagree with petitioners since we received GEL's financial statements in sufficient time to review them prior to verification. At verification, we confirmed that the excise rebates referred to in the financial statements were, in fact, permissible rebates of the excise tax, as discussed above in the *Exemption from Excise Tax under the EPCGS* section of this notice.

Comment 3: Income Tax Exemption Scheme

Respondents argue that the Income Tax Exemption Scheme (''ITES'') is tied to the production of the related company's products such that the benefits earned under a tax deduction from ITES could be attributed to a related company. Respondents cite to section 351.525(b)(5) of the countervailing duty regulations saying that ''subsidies tied to the production, sale, or export of a particular product will be attributed only to that product.'' Respondents also state that in cross-ownership situations, only untied subsidies may be allocated to a subsidiary. Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Canada, 62 FR 54972, 54981 (Oct. 22, 1997). Respondents further point to Final Negative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Laminated Hardwood Trailer Flooring (LHF) from Canada, 62 FR 5201, 5202 (February 4, 1997) to state the fact that even when the Department treats several companies as one, it will not countervail a subsidy that was received for non-subject merchandise. Finally, respondents argue that because of the Department's position on fungibility of money, the Department would refuse ''to trace the use of specific funds to determine whether the funds were used for their stated purpose.''

DOC Position

It is the Department's consistent and long-standing practice to attribute the benefit from an export subsidy that is not tied to a particular product or market to all export sales. See *e.g.*, Certain Iron-Metal Castings From India; Final Results and Partial Rescission of Countervailing Duty Administrative Review; 63 FR 64050, 055 (Nov. 18, 1998); Final Affirmative Countervailing Duty Determination: Certain Pasta from Turkey, 61 FR 30366, 30370 (June 1996). Where, as here, the tax exemption applies to all export profits, we find that it is not tied to a particular product or market and therefore is an untied export subsidy. *See* Silicon Metal From Brazil (tax exemption from profits of export sales a subsidy to all exports).

We disagree with respondents that all subsidies received by GEL's affiliate were tied to the production and sale of products produced by GEL's affiliate. As described above, although six of the seven programs investigated were tied to the particular products produced by GEL's affiliate, we find the ITES, which

exempts all of a firm's export profits from the income tax, is not tied to a particular product.

In determining whether a benefit is or is not tied, we examine whether the company's application, the government's approval notice, and the benefits disbursal documents specify the product or products that qualify to receive the benefit. If the production and sale of a particular product is specified on these documents, we generally regard the benefit as tied to that product. In the case of this scheme, we saw no evidence at verification of the application or approval forms for receipt of the benefit because the benefit was claimed directly on the income tax return.

As discussed elsewhere in this notice, because there were transactions between GEL and its affiliate, which we find were not on market terms, we find both companies have benefitted from this subsidy. Respondents do not dispute that it is the Department's practice to allocate subsidies in between related parties where the subsidies are untied nor the Department's authority in this regard. *See* e.g., Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Final Results of Countervailing Duty Administrative Review, 62 FR 53306, 3313–16 (Oct. 1998); Final Negative Countervailing Duty Determination: Certain Laminated Hardwood Trailer Flooring From Canada, 62 FR 5201, 02 (Feb. 1997); Final Affirmative Countervailing Duty Determination: Steel Wire Rod From Canada, 62 FR 54972 (Oct. 1997). Rather, respondents agree that our practice of allocating only untied subsidies between two companies is consistent with the Department's basic principle of tying.

Respondents rely upon the Department's new regulations for the proposition that export subsidies are tied subsidies which may be attributed only to products exported by the company directly receiving the subsidy. While we note that these regulations are not in effect for this investigation, there is nothing in our view, as discussed above, of how to treat export subsidies that is contradicted by our new regulations. *See* 19 CFR 351.525(b)(2). In addition, respondents themselves acknowledge that under our new regulations we have codified our practice of allocating untied subsidies between related companies (*i.e.*, companies with cross-ownership) in a circumstance where one company is not producing subject merchandise. *See* 19 CFR 351.525(b)(6)(v).

Verification

In accordance with section 782(i) of the Act, we verified the information used in making our final determination. We followed our standard verification procedures, including meeting with government officials and examination of relevant government records and original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit (Room B–099 of the Main Commerce Building).

Summary

In accordance with section 705(a)(3) of the Act, we determine that the total estimated net countervailable subsidy rate is 1.71 percent ad valorem which is *de minimis*. Therefore, we determine that no countervailable subsidies are being provided to the production or exportation of elastic rubber tape from India. Pursuant to section 705(c)(2) of the Act, this investigation will be terminated upon publication of the final negative determination in the **Federal Register**.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination.

Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to Administrative Protective Order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

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

Dated: April 12, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–9761 Filed 4–16–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041499A]

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This request is being submitted under the emergency processing procedures of the Paperwork Reduction Act.

Agency: National Oceanic and Atmospheric Administration.

Title: Large Pelagic Fishing Survey.

Agency Form Number(s): None.

OMB Approval Number: None.

Type of Request: New collection—emergency clearance requested.

Burden: 4,752 hours.

Number of Respondents: 21,500 (multiple responses).

Avg. Hours Per Response: Ranges between 2 and 15 minutes depending on the requirement.

Needs and Uses: The Large Fishing Survey consists of dockside and telephone surveys of recreational anglers and headboats fishing for large pelagic species (tunas, sharks, and billfish) in the Atlantic Ocean. The summer fisheries for bluefin tuna and marlin begin in June. Catch monitoring in these two fisheries and collection of catch and effort statistics for all large pelagic fish is required under the Atlantic Tunas Convention Act and the Magnuson-Stevens Fishery Conservation and Management Act. Information collected through the survey is essential for the U.S. to meet its reporting obligation to the International Commission for the Conservation of Atlantic Tunas.

Affected Public: Individuals, businesses or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent no later than April 30, 1999 to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: April 12, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–9727 Filed 4–16–99; 8:45 am]

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