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DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-862]

Countervailing Duty Investigation of Certain Polyethylene Terephthalate Resin from India: Preliminary Affirmative Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination with Final Antidumping Duty Determination

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers/exporters of certain polyethylene terephthalate (PET) resin from India. The period of investigation is January 1, 2014, through December 31, 2014. Interested parties are invited to comment on this preliminary determination.

DATES: Effective Date: **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Yasmin Nair or Angelica Townshend, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3813 or (202) 482-3019, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Investigation

The merchandise covered by this investigation is PET resin. The merchandise subject to this investigation is properly classified under subheading 3907.60.00.30 of the Harmonized

Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.¹

Methodology

The Department is conducting this countervailing duty (CVD) investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we preliminarily determine that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.² For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.³ The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://trade.gov/enforcement>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

¹ For a complete description of the Scope of the Order, *see* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, “Decision Memorandum for the Preliminary Determination in the Countervailing Duty Investigation of Certain Polyethylene Terephthalate Resin from India,” dated concurrently with this notice (Preliminary Decision Memorandum).

² *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

³ *See* Preliminary Decision Memorandum.

The Department notes that, in making this preliminary determination, we relied, in part, on facts available and, because one respondent did not act to the best of its ability to respond to the Department's requests for information, we drew an adverse inference where appropriate in selecting from among the facts otherwise available with respect to that respondent.⁴ For further information, see "Use of Facts Otherwise Available and Adverse Inferences" in the accompanying Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final CVD determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of PET resin from India based on a request made by Petitioners.⁵ Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than December 21, 2015,⁶ unless postponed.

Preliminary Affirmative Determination of Critical Circumstances

On July 16, 2015, Petitioners filed a timely critical circumstances allegation, pursuant to section 773(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of PET resin from India.⁷ We preliminarily determine that critical circumstances do not exist for Dhunseri Petrochem Ltd., but do exist for JBF Industries Limited,

⁴ See sections 776(a) and (b) of the Act.

⁵ DAK Americas, LLC; M&G Chemicals; and Nan Ya Plastics Corporation, America (collectively, Petitioners); see also Letter from Petitioners dated, July 31, 2015.

⁶ We note that the current deadline for the final AD determination is December 20, 2015, which is a Sunday. Pursuant to Department practice, the signature date will be the next business day, which is Monday, December 21, 2015. See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

⁷ See Letter from Petitioners dated July 16, 2015

and the all-others companies. A discussion of our determination can be found in the Preliminary Decision Memorandum at the section, “Critical Circumstances.”

Preliminary Determination and Suspension of Liquidation

We preliminarily determine the countervailable subsidy rates to be:

Exporter/Producer	Subsidy Rate (Percent)
Dhunseri Petrochem Ltd (formerly Dhunseri Petrochem and Tea Ltd) (collectively, Dhunseri)	5.50
JBF Industries Limited	115.04
All-Others	5.50

In accordance with sections 703(d)(1)(B) and (d)(2) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of PET resin from India that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit for such entries of merchandise in the amounts indicated above. Moreover, because we preliminarily find that critical circumstances exist with respect to JBF Industries Ltd. and all other exporters or producers not individually examined, in accordance with section 703(e)(2)(A) of the Act, we are directing CBP to apply the suspension of liquidation to any unliquidated entries entered, or withdrawn from warehouse for consumption by these companies, on or after the date which is 90 days prior to the date of publication of this notice in the **Federal Register**.

Sections 703(d) and 705(c)(5)(A) of the Act state that for companies not investigated, we will determine an all-others rate by weighting the individual company subsidy rate of each of the companies investigated by each company’s exports of subject merchandise to the United States, excluding rates that are zero or *de minimis* or any rates determined entirely on the facts available. In this investigation, the only rate that is not zero or *de minimis* or determined entirely on facts

available is the rate calculated for Dhunseri. Consequently, the rate calculated for Dhunseri is also assigned as the “all-others” rate.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted by Dhunseri and the Government of India (GOI) prior to making our final determination.

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed for this preliminary determination within five days of the date of public announcement of this determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments for all non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.⁸ A table of contents, list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically filed request for a hearing must be received successfully in its entirety by the Department’s electronic records system, ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.⁹ Requests should contain the party’s name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold

⁸ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

⁹ See 19 CFR 351.310(c).

the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date and time to be determined. Parties will be notified of the date and time of any hearing. The hearing will be limited to issues raised in the respective briefs.¹⁰

International Trade Commission Notification

In accordance with section 703(f) of the Act, we will notify the International Trade Commission (ITC) of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

DATED: August 7, 2015.

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

¹⁰ *Id.*

Appendix

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Government of India Programs

- a) Pre- and Post-Shipment Export Financing
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C. Programs For Which Additional Information Is Needed

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Recommendation

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