

## **I. Appendix 4- Omani Countervailable Subsidies**

1. The Complainant has identified 9 Omani subsidy programs that may benefit Omani PET Resin Producers. A complete list of these programs along with their source is available in Public Attachment 1 to Appendix 4.<sup>1</sup>
2. 7 of the subsidy programs listed in Public Attachment 1 to Appendix 4 and described below were included in the US Department of Commerce (“DOC”) recent final determination with respect to certain polyethylene terephthalate resin from Oman (“**US PET Resin from Oman**”).<sup>2</sup> In light of the recent finding of the DOC that certain programs described below constituted countervailable subsidies, the Complainant underlines the importance of these programs to the present complaint. The DOC period of inquiry (“**POI**”) was January 1, 2014 to December 31, 2014, a mere 10 months prior to the commencement of the present period of inquiry. As such, it is reasonable to assert that the programs investigated by the DOC would be in place up to and through October 1, 2015. The remaining 2 programs which may ostensibly provide a benefit to Omani PET Resin producers are listed, in conjunction with their source Decision, in the aforementioned Public Attachment 1 to Appendix 4.

### **A. Background**

#### **1. Omani PET Resin Industry**

3. The Government of Oman “GOO” plays an active role in the promotion of industry and export in the plastics sector of Oman. The GOO has stated the intent to diversify the national economy away from oil revenue towards alternate sectors, including PET Resin.
4. The Omani Centre for Investment Promotion and Export Development was created by Royal Decree 59/96 in 1996 to facilitate foreign direct investment and the export of Omani

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<sup>1</sup> See Public Attachment 1: to Appendix 4 List of Omani Programs Potentially Conferring Actionable or Prohibited Subsidies.

<sup>2</sup> Public Attachment 2: US DOC, *Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Polyethylene Terephthalate from the Sultanate of Oman* (March 4, 2016)

products. The purpose of this government-funded institution is to promote the export of Omani non-oil goods globally.<sup>3</sup>

5. The GOO's most recent 5-year plan (2016-2020) targets the manufacturing industry as a prime development sector. The plan specifically supports the Liwa Plastics Industries Complex, and the production of polyethylene through government spending and projects.<sup>4</sup>

## **B. Omani Subsidy Programs to be countervailable by the US**

6. The US Department of Commerce has found Omani subsidy programs to be countervailable in their Final Determination of the countervailing duty investigation of certain polyethylene terephthalate resin from Oman.<sup>5</sup> Programs 1 -3 listed below were deemed to be used during the DOC's period of investigation, while 4-7 were determined not to be used.

### ***1. Provision of Electricity for Less than Adequate Remuneration***

7. Electricity is government owned, controlled and regulated in Oman.<sup>6</sup> The GOO sets different rates for different end users, for example commercial or industrial. PET Resin producers are billed under the industrial rate, wherein rates are higher in the summer and lower in the winter, according to the DOC PET Resin inquiry.<sup>7</sup> Furthermore, this program was determined to be countervailable in the DOC's Final Determination regarding *Carbon Steel Welded Pipe*.<sup>8</sup>

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<sup>3</sup> Public Attachment 3: Omani Centre for Investment Promotion and Export Development Website.

<sup>4</sup> Public Attachment 4: Oman Arab National Bank "Oman's Ninth Five Year Development Plan (2016-2020) Prudent and Realistic Goals" page 4.

<sup>5</sup> Public Attachment 2: US DOC, *Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Polyethylene Terephthalate from the Sultanate of Oman* (March 4, 2016)

<sup>6</sup> Public Attachment 2: US DOC, *Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Polyethylene Terephthalate from the Sultanate of Oman* (March 4, 2016) page 4.

<sup>7</sup> *Ibid.*

<sup>8</sup> Public Attachment 5: US DOC *Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman* (October 15, 2012) at 7-8.

8. The Complainant submits that the provision of electricity is a financial contribution under s. 2(1.6)(c) of SIMA as the supply of electricity at less than market value and confers a benefit in the amount saved compared to market values of electricity within the meaning of s. 36 of the SIMR. It is specific under s. 2(7.2)(a) of SIMA as specific rates are applied to certain industries, commercial businesses or residential homes.

### ***2. Provision of Land or Leases for Land for LTAR***

9. According to the DOC's inquiry regarding Omani PET Resin, OCTAL rents land in a "free zone" via a usufruct agreement from the Salalah Free Zone Company SAOC (SFZC).<sup>9</sup> SFZC was established by, and is owned by, the government to pursue the objective of economic development.
10. The Complainant submits that OCTAL's lease of land from the SFZC constitutes the provision of a good, and is a financial contribution as defined by s. 2(1.6)(c) of SIMA. This provision of land or leases for land is specific under s. 2(7.2)(b) of SIMA as it is contingent upon export performance.

### ***3. Provision of GOO-Funded Non-General Infrastructure***

11. GOO explained that prior to the construction of the SFZ, the area was completely undeveloped. The infrastructure provided is not general in nature, because it was not provided for broad societal welfare, but rather for certain industries.<sup>10</sup>
12. The GOO-funded non-general infrastructure development by the SFZC to prepare the SFZ site, constitutes a provision of goods or services other than general infrastructure, and thus a financial contribution,<sup>11</sup> within the meaning of s. 2(1.6)(c) of SIMA. This provision is

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<sup>9</sup> Public Attachment 2: US DOC, *Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Polyethylene Terephthalate from the Sultanate of Oman* (March 4, 2016) page 6. See also, Public Attachment 6: Octal Website "Contact Us" accessed May 15, 2017.

<sup>10</sup> Public Attachment 2: US DOC, *Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Polyethylene Terephthalate from the Sultanate of Oman* (March 4, 2016) p.8.

<sup>11</sup> *Ibid.*

contingent upon export performance and is therefore specific pursuant to s. 2(7.2)(b) of SIMA.

**4. *Exemption from Corporate Income Tax for Companies Located in the Salalah Free Zone***

13. The Free Zone rules grant exemptions from income and other taxes and customs duties for companies, branches and permanent establishments carrying out qualifying projects within the Zone.<sup>12</sup> The exemptions are granted for terms of 10 to 30 years, depending on the individual zone rules, and the exemption may be extendable.<sup>13</sup> Certain entities or activities may be excluded from qualification.
14. The Complainant submits that this tax exemption is a financial contribution within the meaning of s. 2(1.6)(b) of SIMA in that amounts otherwise owing are not collected. It is specific under s. 2(7.2)(a) of SIMA as the subsidy is limited to enterprises within a certain geographic region (SFZ).

**5. *Development Loans for Industrial Projects by the Oman Development Bank***

15. Oman Development Bank (ODB), the Sultanate's leading bank in sustainable development project financing, approved as many as 4,444 development loans across different sectors and governorates in the first 10 months of 2016.<sup>14</sup> The total value of approved loans exceeded OMR39.50 million, according to a bank release.<sup>15</sup> The manufacturing sector topped the list with OMR21.196 million, and accounted for 54% of the total value of the loans. ODB's loan schemes reflect the bank's strategy to encourage investment, diversify sources of income and support select industries.<sup>16</sup>

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<sup>12</sup> Public Attachment 7: PKF Chartered Accountants *Doing Business in the Sultanate of Oman*, page 15.

<sup>13</sup> Public Attachment 8: Price Waterhouse Cooper *Doing Business in Oman* (2016) page 5.

<sup>14</sup> See Public Attachment 9: Times of Oman, *Oman Development Bank approves OMR40m worth of loans* (Dec. 18, 2016).

<sup>15</sup> *Ibid.*

<sup>16</sup> Public Attachment 9: Times of Oman, *Oman Development Bank approves OMR40m worth of loans* (Dec. 18, 2016).

16. The Complainant submits that these loans constitute a financial contribution under s. 2(1.6)(a) of SIMA as a direct transfer of funds. This grant is industry specific and is therefore specific pursuant to s. 2(7.2)(a) of SIMA.

**6. *Export Credit Discounting Subsidy (“Post-Shipment Financing Loans”)***

17. The Export Credit Guarantee Agency of Oman (“ECGA”) is the national export credit agency of the Sultanate. Exporters whose sales are insured by ECGA can discount their export bills with commercial banks and ECGA provides a 1% rebate on the export sales it has insured.<sup>17</sup>
18. The Complainant submits that these export loans, aimed financing exports, constitute a financial contribution under s. 2(1.6)(a) of SIMA as a direct transfer of funds. The program is specific under s. 2(7.2)(b) of SIMA as it is contingent upon export performance.

**7. *Pre-Shipment Export Credit Guarantees***

19. Oman’s Export Credit Guarantee Agency (ECGA) subsidizes a percentage of the interest rate applicable to the export sales that it ensures through a Post-Shipment Financing Scheme.<sup>18</sup>
20. The Post-Shipment Financing Scheme provided by Oman’s ECGA is a financial contribution pursuant to paragraph 2(1.6) (a) of SIMA, as it involves the direct transfer of funds or liabilities or the contingent transfer of funds or liabilities. It is determined to be a specific subsidy under paragraph 2(7.2)(b) of SIMA as it is contingent upon export performance and therefore constitutes a prohibited subsidy as defined in subsection 2(1) of SIMA.
21. The Complainant submits that the 7 programs described above have conferred contributions to the Omani PET resin producers in the form of countervailable subsidies. In light of the DOC’s finding that the aforementioned programs are countervailable, the

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<sup>17</sup> Public Attachment 10: US GPO, Federal Register, Vol. 77, No. 63, s. IV(A), April, 2012.

<sup>18</sup> Public Attachment: 11: Export Credit Guarantee Agency of Oman, Issue No.1/2003, accessed June 1, 2017.

CBSA may similarly determine that Omani PET resin producers have received financial benefits pursuant to this complaint.

22. The Complainant has identified a further 2 Oman subsidy programs that may benefit Omani PET Resin Producers.<sup>19</sup> A complete list of these programs along with their source is available in Public Attachment 1 to Appendix 4.

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<sup>19</sup> Public Attachment 1: 1 to Appendix 4 List of Omani Programs Potentially Conferring Actionable or Prohibited Subsidies.

## List of Attachments

Tab #	Description
Public Attachment 1	List of Omani Programs Potentially Conferring Actionable or Prohibited Subsidies
Public Attachment 2	US DOC, Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Polyethylene Terephthalate from the Sultanate of Oman (March 4, 2016)
Public Attachment 3	Omani Centre for Investment Promotion and Export Development Website
Public Attachment 4	Oman Arab National Bank “Oman’s Ninth Five Year Development Plan (2016-2020) Prudent and Realistic Goals”
Public Attachment 5	US DOC Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman (October 15, 2012)
Public Attachment 6	Octal Website “Contact Us” accessed May 15, 2017
Public Attachment 7	PKF Chartered Accountants Doing Business in the Sultanate of Oman
Public Attachment 8	Price Waterhouse Cooper Doing Business in Oman (2016)
Public Attachment 9	Times of Oman, Oman Development Bank approves OMR40m worth of loans (Dec. 18, 2016)
Public Attachment 10	US GPO, Federal Register, Vol. 77, No. 63, s. IV(A), April, 2012
Public Attachment 11	Export Credit Guarantee Agency of Oman, Issue No.1/2003, accessed June 1, 2017

Listing of Omani PET Resin Programs

Program Name	Program Description (Source is Decision in Column 4)	Reason for specificity	Decisions where program was countervailed	Subsidy Range
Development Loans for Industrial Projects by the Oman Development Bank	Oman Development Bank (ODB), the Sultanate’s leading bank in sustainable development project financing, approved as many as 4,444 development loans across different sectors and governorates in the first 10 months of 2016. The total value of approved loans exceeded OMR39.50 million, according to a bank release. The manufacturing sector topped the list with OMR21.196 million, and accounted for 54 per cent of the total value of loans.	This grant is industry specific, as they aim to encourage economic growth, and is therefore specific pursuant to s. 2(7.2)(a) of SIMA.	United States-Polyethylene Terephthalate;	Not used during POI (United States Polyethylene Terephthalate)
Export Credit Discounting Subsidy (“Post-Shipment Financing Loans”)	The Export Credit Guarantee Agency of Oman (“ECGA”) is the national export credit agency of the Sultanate. Exporters whose sales are insured by ECGA can discount their export bills with commercial banks and ECGA provides a one percent subsidy on the export sales it has insured.	The program is specific under s. 2(7.2)(b) of SIMA as it is contingent upon export performance.	United States-Polyethylene Terephthalate;United States-Circular Welded Carbon-Quality Steel Pipes; Canada-Certain Carbon Steel Welded Pipe;	Not used during POI (United States Polyethylene Terephthalate) Not used during POI (United States-Circular Welded Carbon-Quality Steel Pipes) 0.08% (Canada-Certain Carbon Steel Welded Pipe)
Pre-shipment Export Credit Guarantees	Oman’s Export Credit Guarantee Agency (ECGA) subsidizes 1% of the interest rate applicable to the export sales that it ensures through a Post-shipment Financing Scheme. The Post-shipment Financing Scheme provided by Oman’s ECGA is actionable as a financial contribution pursuant to paragraph 2(1.6)(a) of SIMA, in that it involves the direct transfer of funds or liabilities or the contingent transfer of funds or liabilities.	It is determined to be a specific subsidy under paragraph 2(7.2)(b) of SIMA as it is contingent upon export performance.	United States-Polyethylene Terephthalate; United States-Circular Welded Carbon-Quality Steel Pipes;	Not used during POI (United States Polyethylene Terephthalate); Not used during POI (United States-Circular Welded Carbon-Quality Steel Pipes)
Soft Loans for Industrial Projects under Royal Decree 17/97	Low-interest loans provided through a program run by Oman’s Ministry of Commerce and Industry.	The program is specific under s. 2(7.2)(a) of SIMA as it is limited to certain projects and industries.	United States-Circular Welded Carbon-Quality Steel Pipes;	0.10% (United States-Circular Welded Carbon-Quality Steel Pipes)

Direct Transfer of Funds - Loan



Listing of Omani PET Resin Programs

Program Name	Program Description (Source is Decision in Column 4)	Reason for specificity	Decisions where program was countervailed	Subsidy Range
Provision of Electricity for LTAR	Electricity is government owned, controlled and regulated in Oman. The GOO sets different rates for different users, for example commercial or industrial. PET Resin producers are billed under the Industrial rate, wherein rates are higher in the summer and lower in the winter. The provision of electricity is a financial contribution under s. 2(1.6)(c) of SIMA as the supply of electricity at less than market value.	This provision of electricity is specific under s. 2(7.2)(a) of SIMA as specific rates are applied to certain industries, commercial businesses or residential homes.	United States-Polyethylene Terephthalate; United States-Circular Welded Carbon-Quality Steel Pipes;	0.42% (United States Polyethylene Terephthalate) 0.06% (United States-Circular Welded Carbon-Quality Steel Pipes)
Provision of Land or Leases for Land for LTAR	OCTAL rents land in a "free zone" via a usufruct agreement from the Salalah Free Zone Company SAOC (SFZC). SFZC was established by, and is owned by, the government to pursue the objective of economic development. Therefore, OCTAL's lease of land from the SFZC constitutes the provision of a good, and is a financial contribution as defined by s. 2(1.6)(c) of SIMA.	This provision of land or leases for land is specific under s. 2(7.2)(b) of SIMA as it is contingent upon export performance.	United States-Polyethylene Terephthalate; United States-Circular Welded Carbon-Quality Steel Pipes;	0.07% (United States Polyethylene Terephthalate) 0.92% (United States-Circular Welded Carbon-Quality Steel Pipes)
Provision of GOO-Funded Non-General Infrastructure	GOO explained that prior to the construction of the SFZ, the area was completely undeveloped. The infrastructure provided is not general in nature, because it was not provided for broad societal welfare, but rather for certain industries. The GOO-funded non-general infrastructure development by the SFZC to prepare the SFZ site, constitutes the provision of goods or services other than general infrastructure, and thus a financial contribution, within the meaning of s. 2(1.6)(c) of SIMA.	This provision of GOO-funded non-general infrastructure is contingent upon export performance and constitutes a specific subsidy under s. 2(7.2)(b) of SIMA.	United States-Polyethylene Terephthalate	0.10% (United States Polyethylene Terephthalate)

Government provides goods or services or purchases goods

Listing of Omani PET Resin Programs

Program Name	Program Description (Source is Decision in Column 4)	Reason for specificity	Decisions where program was countervailed	Subsidy Range
Exemption from Corporate Income Tax for Companies Located in the Salalah Free Zone	The respective zone rules grant exemption from income and other taxes and customs duties for companies, branches and permanent establishments carrying out qualifying projects within the zone. The exemptions are granted for terms of 10 to 30 years, depending on the individual zone rules, and the exemption may be extendable. Certain entities or activities may be excluded from qualification.	It is specific under s. 2(7.2)(a) of SIMA as the subsidy is limited to enterprises within a certain geographic region (SFZ).	United States-Polyethylene Terephthalate;	Not used during POI (United States Polyethylene Terephthalate)
Tariff Exemptions on Imported Equipment, Machinery, Materials and Packaging Materials	OCTAL's imports into the SFZ receive duty free treatment because the SFZ is "outside the customs territory of Oman" and therefore imports received in the zone are not subject to customs duties. Generally, duty exemptions constitute a financial contribution in the form of revenue forgone by the government.	It is specific under s. 2(7.2)(a) of SIMA as the subsidy is limited to certain equipemtn and machiney.	United States-Circular Welded Carbon-Quality Steel Pipes;	3.05% (United States-Circular Welded Carbon-Quality Steel Pipes)

Government Revenue Foregone




UNITED STATES DEPARTMENT OF COMMERCE  
International Trade Administration  
Washington, D.C. 20230

C-523-811  
Investigation  
**Public Document**  
E&C/OIV: TEM

**DATE:** March 4, 2016

**MEMORANDUM TO:** Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

**FROM:** Christian Marsh   
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Countervailing Duty Investigation of Certain Polyethylene  
Terephthalate Resin from the Sultanate of Oman: Issues and Decision  
Memorandum for the Final Negative Determination

## I. SUMMARY

The Department of Commerce (Department) determines that countervailable subsidies are not being provided above the *de minimis* level to producers and exporters of certain polyethylene terephthalate resin (PET Resin) from the Sultanate of Oman (Oman), as provided for in section 705 of the Tariff Act of 1930, as amended (the Act). The mandatory respondents in this investigation are OCTAL SAOC - FZC and OCTAL Holding SAOC (collectively, OCTAL), and the Government of the Sultanate of Oman (GSO). Petitioners are DAK Americas, LLC, M&G Chemicals, and Nan Ya Plastics Corporation, America, (collectively, Petitioners). Below is the complete list of issues in this investigation for which we received comments from interested parties:

### Tariff Liability Issues

- Comment 1: Whether the Absence of Duty Liability Based on OCTAL's Location in the SFZ Is a Countervailable Subsidy
- Comment 2: Whether Petitioners' Subsidy Allegations Regarding OCTAL's Tariff Exemptions Were Properly Alleged

### Provision of Land for Less than Adequate Remuneration (LTAR) Issues

- Comment 3: Whether the Department Should Recalculate the Land for LTAR Rate with a Revised Benchmark
- Comment 4: Whether the Provision of Land for LTAR to OCTAL Is an Export Subsidy
- Comment 5: Whether The Department Should Recalculate the Land for LTAR Rate to Adjust for OCTAL's Expenses to Develop the Land



### Provision of Infrastructure for LTAR Issues

- Comment 6: Whether the Department Should Continue to Find that OCTAL Benefited from GSO Non-General Infrastructure Funding in The Salalah Free Zone (SFZ)
- Comment 7: Whether GSO Non-General Infrastructure Funding in the SFZ Is An Export Subsidy
- Comment 8: Whether the Department Miscalculated the GSO Non-General Infrastructure Funding Subsidy

### Provision of Electricity for LTAR Issues

- Comment 9: Whether the Department Should Revise Its Electricity for LTAR Benchmark
- Comment 10: Whether the Provision of Electricity for LTAR Is Specific

### Miscellaneous Issues

- Comment 11: Whether the Department Should Countervail OCTAL's Lease with Salalah Port Services Company SAOG (SPSC).
- Comment 12: Whether The Department Should Have Investigated Other Potential Countervailable Subsidies

## **II. BACKGROUND**

### A. Case History

On August 14, 2015, we published the *Preliminary Determination* for this investigation.<sup>1</sup> On October 13, 2015, we issued a post-preliminary analysis memorandum.<sup>2</sup> We conducted verifications of the questionnaire responses submitted by OCTAL and the GSO, between October 25 and 29, 2015.<sup>3</sup> We received case briefs from Petitioners and a joint brief by the GSO and OCTAL on December 24, 2015.<sup>4</sup> We received rebuttal briefs from Petitioners and a joint rebuttal brief by the GSO and OCTAL on December 31, 2015.<sup>5</sup>

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<sup>1</sup> See *Certain Polyethylene Terephthalate Resin From the Sultanate of Oman: Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*, 80 FR 48808 (August 14, 2015) (*Preliminary Determination*).

<sup>2</sup> See Memorandum from Abdelali Elouaradia to Christian Marsh, "Post-Preliminary Determination Decision Memorandum in the Countervailing Duty Investigation; Certain Polyethylene Terephthalate (PET) Resin from the Sultanate of Oman," dated October 13, 2015.

<sup>3</sup> See Memoranda from Robert Bolling and Thomas Martin to File, "Countervailing Duty Investigation: Certain Polyethylene Terephthalate (PET) Resin from the Sultanate of Oman: Verification Report: the Government of the Sultanate of Oman," (GSO Verification Report) and "Countervailing Duty Investigation: Certain Polyethylene Terephthalate (PET) Resin from the Sultanate of Oman: Verification of the Questionnaire Responses of OCTAL SAOC - FZC," (OCTAL Verification Report) dated December 16, 2015.

<sup>4</sup> See Letter to The Honorable Penny Pritzker, "Case Brief of the Government of the Sultanate of Oman and OCTAL SAOC FZC: Certain Polyethylene Terephthalate (PET) Resin from the Sultanate of Oman," dated December 24, 2015; "Before the International Trade Administration of the U.S. Department of Commerce, Certain Polyethylene Terephthalate Resin from the Sultanate of Oman, Petitioners Case Brief," dated December 24, 2015.

<sup>5</sup> See Letter to The Honorable Penny Pritzker, "Rebuttal Brief of the Government of the Sultanate of Oman and OCTAL SAOC FZC: Certain Polyethylene Terephthalate (PET) Resin from the Sultanate of Oman," dated December 31, 2015;

## **B. Period of Investigation**

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

## **III. SCOPE OF THE INVESTIGATION**

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

The merchandise subject to this investigation is 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.

## **I. SUBSIDIES VALUATION**

### **A. Allocation Period**

The Department normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise. Pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's Table of Class Lives and Recovery Periods, the AUL for production assets in the chemical industry, the category applicable to PET resin, is 9.5 years, which is rounded to establish an AUL of 10 years in this investigation.<sup>6</sup>

### **B. Attribution of Subsidies**

The Department's regulations at 19 CFR 351.525(b)(6)(i) state that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) directs the Department to attribute subsidies received by certain other companies to the combined sales of those companies if (1) cross-ownership exists between the companies, and (2) the cross-owned companies produce the subject merchandise, are a holding or parent company of the subject company, produce an input that is primarily dedicated to the production of the downstream product, or transfer a subsidy to a cross-owned company.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This regulation states that this standard will normally be

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"Before the International Trade Administration of the U.S. Department of Commerce, Certain Polyethylene Terephthalate Resin from the Sultanate of Oman, Petitioners Rebuttal Brief," dated December 31, 2015.

<sup>6</sup> See U.S. Internal Revenue Service Publication 946 (2013), "Appendix B - Table of Class Lives and Recovery Periods," submitted in the Petition at Petition Vol. III-C at 6-1 and CVD Exhibit O-4.

met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations. The Court of International Trade (CIT) has upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.<sup>7</sup>

OCTAL identified its parent holding company, OCTAL Holding SAOC as a cross-owned company.<sup>8</sup> For purposes of this investigation, we examined subsidies provided to OCTAL and OCTAL Holding SAOC.

### **C. Denominators**

In accordance with 19 CFR 351.525(b)(1)-(5), the Department considers the basis for the respondent's receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondent's export or total sales. The denominators we used to calculate the countervailable subsidy rates for the various subsidy programs described below are explained in each relevant section below.<sup>9</sup>

## **II. ANALYSIS OF PROGRAMS**

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

### **A. Programs Determined To Be Countervailable**

#### *1. Provision of Electricity for LTAR:*

The provision of electricity is regulated, owned, and controlled completely by the GSO, which sets out standard rates for different categories of users (*e.g.*, industrial, commercial, residential) applicable to all consumers in Oman.<sup>10</sup> These rates to final customers are determined and approved by the Council of Ministers.<sup>11</sup> The Commercial Permitted Tariff is a flat rate charge for all hours, while the Industrial Tariff varies by season (higher in summer than in winter months).<sup>12</sup> OCTAL reported that seven of the 10 electric meters at its production facilities are designated to be billed at the industrial rate, and were billed at that rate during the POI.<sup>13</sup> Its other meters are designed to be billed at the Commercial Permitted Tariff.

<sup>7</sup> See *Fabrique de Fer de Charleroi SA v. United States*, 66 F. Supp. 2d 593, 603 (CIT 2001).

<sup>8</sup> See Letter from OCTAL, "Affiliation Response of OCTAL SAOC - FZC: Polyethylene Terephthalate (PET) Resin from Oman," dated April 30, 2015 (OQR1) at 4.

<sup>9</sup> See Memorandum from Thomas Martin to the File, "Countervailing Duty Investigation of Certain Polyethylene Terephthalate Resin from Oman: OCTAL's Final Determination Analysis Memorandum," dated concurrently with this memorandum (Final Determination Analysis Memorandum).

<sup>10</sup> See Letter from GSO, "GSO's CVD Questionnaire Response: Certain Polyethylene Terephthalate (PET) Resin from the Sultanate of Oman," dated June 5, 2015 (GQR1) at 38.

<sup>11</sup> *Id.* at 40.

<sup>12</sup> *Id.*

<sup>13</sup> See Letter from OCTAL, "OCTAL's CVD Questionnaire Response: Certain Polyethylene Terephthalate (PET) Resin from the Sultanate of Oman," dated June 5, 2015 (OQR3) at 21 and Exhibits 18 and 20.

The Department has previously found the GSO's provision of electricity at the industrial rate, which is conditioned on possessing an industrial license, to confer a countervailable subsidy.<sup>14</sup> Consistent with our determination in *CWP from Oman*, we determine that this program constitutes a financial contribution in the form of a provision of a good or service by the GSO, pursuant to section 771(5)(D)(iii) of the Act.<sup>15</sup> Additionally, we determine that the GSO's provision of electricity at the industrial rate is *de jure* specific under section 771(5A)(D)(i) of the Act because it is expressly limited to certain industrial enterprises (defined by law as enterprises whose basic objective must be to convert raw material into fully-manufactured or semi-manufactured products or to convert semi-manufactured products to fully-manufactured products<sup>16</sup>), and excludes commercial enterprises, the military, the government, residences, the agriculture and fishing industries, and the tourism industry.<sup>17</sup> To be eligible for the industrial rate, a company must have an industrial license, a letter of recommendation from the Ministry of Commerce and Industry, and meet a stipulated power factor.<sup>18</sup> OCTAL met these requirements.<sup>19</sup>

Because OCTAL pays less under the industrial rate than it would under other rates, it receives a benefit pursuant to section 771(5)(E)(iv) of the Act and 19 CFR 351.511(a). Section 351.511(a)(2) of the Department's regulations sets forth the regulatory structure for identifying comparative benchmarks for determining the extent of a benefit flowing from the provision of a government good or service provided for LTAR. Under 19 CFR 351.511(a)(2)(i), the Department's preference is to use market prices from actual transactions within the country under investigation. As explained above, however, the provision of electricity in Oman is regulated, owned, and controlled completely by the GSO (*i.e.*, market prices are not available). Under 19 CFR 351.511(a)(2)(ii), we next look to world market prices where we can reasonably conclude that such a price would be available to users in Oman. While Petitioners placed electricity prices on the record that are available in Jordan and Iraq,<sup>20</sup> there is no evidence on the record that these prices are available to users in Oman. When there is no world market price available to purchasers in the country in question, we assess whether the government price is consistent with market principles, in accordance with 19 CFR 351.511(a)(2)(iii). Here, we determine that the rate charged to commercial users is sufficiently consistent with market principles to provide a benchmark for measuring the benefit under this program, pursuant to 19 CFR 351.511(a)(2)(iii).<sup>21</sup> However, given that the evidence shows that certain distortions are caused by the GSO's practice of not adjusting the rates for long periods of time, we have inflated the commercial user rate using consumer price indices to adjust for those

<sup>14</sup> See *Circular Welded Carbon-Quality Steel Pipe From the Sultanate of Oman: Final Affirmative Countervailing Duty Determination*, 77 FR 64473 (October 22, 2012) (*CWP from Oman*), and accompanying Issues and Decision Memorandum (IDM) at 5-6.

<sup>15</sup> See 19 CFR 351.511(a)(1) and (2).

<sup>16</sup> See GQR1 at 9.

<sup>17</sup> *Id.* at 38-40.

<sup>18</sup> See OQR3 at 24.

<sup>19</sup> See also Letter from OCTAL, "OCTAL's Second Supplemental CVD Questionnaire Response: Certain Polyethylene Terephthalate (PET) Resin from the Sultanate of Oman," dated July 6, 2015 (OQR4) at 16-17.

<sup>20</sup> See Letter from Petitioners, "Investigation of Certain Polyethylene Terephthalate Resin from the Sultanate of Oman - Petitioners' Submission of Factual Information Regarding Adequacy of Remuneration," dated July 10, 2015 at 6.

<sup>21</sup> See *CWP from Oman*, and accompanying IDM at 7-8.

distortions.<sup>22</sup> We have applied the calculated benefit as a ratio of OCTAL's total sales in the POI as a recurring benefit, as OCTAL pays electricity bills for its production facilities monthly.<sup>23</sup> We used OCTAL's total sales rather than export sales since the industrial license is not issued with respect to a company's exporting status. On this basis, we determine that OCTAL received a countervailable subsidy of 0.42 percent *ad valorem* under this program.<sup>24</sup>

## 2. *Provision of Land or Leases for Land for LTAR*

The GSO reported that most industries in Oman are located in either industrial estates or free trade zones installed on land which is GSO property.<sup>25</sup> OCTAL is located in the SFZ, which is one such property.<sup>26</sup> Free zones such as the SFZ are designated geographic areas within Oman aimed at economic development.<sup>27</sup> OCTAL rents the land via a usufruct agreement from the Salalah Free Zone Company SAOC (SFZC), a state-owned company established by Royal Decree, which operates the SFZ.<sup>28</sup> Given that the SFZC was established by, and is owned by, the government to pursue the objective of economic development, we determine that the SFZC is an "authority" as defined by section 771(5)(B) of the Act. Further, we determine that OCTAL's lease of land from the SFZC constitutes the provision of a good, and is therefore a financial contribution as defined by section 771(5)(D)(iii) the Act. Finally, we find that the program is contingent upon export performance, and, thus, constitutes an export subsidy within the meaning of section 771(5A)(B) of the Act. *See* Comment 4 below for additional details.

As described above, section 351.511(a)(2) of the Department's regulations sets forth the regulatory structure for identifying comparative benchmarks for determining whether a government good or service is provided for LTAR. The Department's preference is to use market prices from actual transactions within the country under investigation. In this instance, we used a simple average of two private lease agreements for industrial areas in Salalah, which the GSO obtained from public records.<sup>29</sup> We find that these rates are market prices from actual transactions within the country under investigation, and thus usable as benchmarks under 19 CFR 351.511(a)(2)(i). The rates are also contemporaneous with the POI. We have applied the calculated benefit as a ratio of OCTAL's total export sales in the POI as a recurring benefit, as OCTAL pays rent for its production facilities on an annual basis.<sup>30</sup> We used OCTAL's total export sales because we found the program to be an

<sup>22</sup> See Letter from GSO, "GSO's CVD Supplemental Questionnaire Response: Certain Polyethylene Terephthalate (PET) Resin from the Sultanate of Oman," dated July 6, 2015 (GQR2) at Exhibit 10 at 16; Memorandum from Thomas Martin to The File, "Preliminary Determination Calculation Memorandum for OCTAL SAOC - FZC and OCTAL Holding SAOC," dated August 7, 2015, at Attachment 3.

<sup>23</sup> See OCTAL Verification Report at 9.

<sup>24</sup> See Final Determination Analysis Memorandum.

<sup>25</sup> See GQR1 at 16.

<sup>26</sup> *Id.* at Exhibit 5.

<sup>27</sup> *Id.* at 8.

<sup>28</sup> See GQR1 at Exhibits 5 and 6.

<sup>29</sup> See Letter from GSO to The Honorable Penny Pritzker, "Re: GSO's New Subsidy Allegation (NSA) Questionnaire Response: Certain Polyethylene Terephthalate (PET) Resin from the Sultanate of Oman," dated August 24, 2015, (First NSA Questionnaire Response) at 15, Exhibit NSA-7 and NSA-8.

<sup>30</sup> See OQR3 at 17.



export subsidy, as noted above. On this basis, we determine that OCTAL received a countervailable subsidy of 0.07 percent *ad valorem* under this program.<sup>31</sup>

### 3. *Provision of GSO-funded Non-General Infrastructure*

The GSO reported that the SFZ is a free trade zone established by Royal Decree, which has the purpose of attracting foreign investment and helping to diversify the Omani economy.<sup>32</sup> SFZC manages the development of the zone to: (1) provide an attractive business environment; (2) attract investment; and (3) perform certain administrative functions within the zone that normally will be handled by other GSO agencies for companies operating outside the zone.<sup>33</sup>

At the SFZ's inception in 2006, the SFZ site, and OCTAL's site specifically, was nothing more than virgin, undeveloped land.<sup>34</sup> The GSO's Ministry of Finance (MOF) approved Omani Rial (OMR) 11 million in 2006, and another OMR 51 million in 2010 "to develop and prepare the infrastructure and service facilities."<sup>35</sup> These funds were to provide the necessary capital for the SFZC to meet payroll and overhead costs, acquire vehicles and equipment, and commission business and technical studies that were required to meet the planning objective of the zone.<sup>36</sup> The GSO submitted details of these expenditures.<sup>37</sup> The GSO stated that neither OCTAL, nor its cross-owned affiliate Octal Holding SAOC, applied for, accrued, or received these funds.<sup>38</sup> The GSO claims further that OCTAL was the first investor in the SFZ, and performed its own site development in the zone to set up its operations.<sup>39</sup> On July 6, 2015, OCTAL submitted details of these expenditures.<sup>40</sup>

In 2013, the SFZC issued an executive report, which was the first report issued by the company.<sup>41</sup> In the section entitled Business Action Plan, the SFZC stated that, due to reasons of location, competitive costs, and world-class port facilities, the company has targeted three export-oriented industry sectors to achieve objectives in line with Oman's policy to achieve sustainable development: chemicals and material processing, manufacturing and assembling, and logistics and distribution.<sup>42</sup> The company described the chemical and materials processing sector to encompass certain building materials, certain metal and non-metal mineral resources, and plastics.<sup>43</sup> Regarding plastics, the

<sup>31</sup> See Final Determination Analysis Memorandum.

<sup>32</sup> See First NSA Questionnaire Response at 1.

<sup>33</sup> *Id.* at 4.

<sup>34</sup> See also Letter from GSO to The Honorable Penny Pritzker, "Re: GSO's Supplemental New Subsidy Allegation (NSA) Questionnaire Response: Certain Polyethylene Terephthalate (PET) Resin from the Sultanate of Oman," dated September 9, 2015 (Second NSA Questionnaire Response); at 4.

<sup>35</sup> See First NSA Questionnaire Response at 2-3.

<sup>36</sup> *Id.* at 4.

<sup>37</sup> *Id.* at Exhibit NSA-1.

<sup>38</sup> *Id.* at 3, 6.

<sup>39</sup> *Id.* at 5.

<sup>40</sup> See OQR4 at Exhibits 22 and 23.

<sup>41</sup> No similar report was issued in the POI; See GQR1 at 26 and Exhibit 15.

<sup>42</sup> See GQR1 at Exhibit 15, "Salalah Free Zone Executive Report 2013," at 25, 28.

<sup>43</sup> *Id.* at Exhibit 15, "Salalah Free Zone Executive Report 2013," at 28; See also Letter from GSO to The Honorable Penny Pritzker, "Re: The GSO's Response to the Department's New Subsidy Allegation (NSA) Second Supplemental CVD Questionnaire: Certain Polyethylene Terephthalate (PET) Resin from the Sultanate of Oman," dated September 23, 2015 (Third NSA Questionnaire Response) at Exhibit 1, "Strategic and business plan developed by A.T. Kearney," slides 67, 76.

company stated that “(t)hrough enhancing processes of producing caustic soda, chlorine, ethylene, propylene and methanol, it is possible to produce key derivatives” such as “PVC, HDPE, LLDPE, LDPE, polyester and PET products and adhesives thereby allowing additional opportunities of petrochemical development in Oman . . .”<sup>44</sup> Regarding OCTAL’s PET production specifically, the company stated that “(t)he factory employs 657 persons including 140 Omanis. . . (which is) in line with the directives of the Government for the support of national manpower . . .”<sup>45</sup>

Although the government provision of goods and services normally constitutes a financial contribution, a financial contribution does not exist in the case of government provision of general infrastructure.<sup>46</sup> General infrastructure is infrastructure that is created for the broad societal welfare of a country, region, state, or municipality. The preamble to the Department’s regulations explains that any infrastructure that does not satisfy this public welfare concept is not general infrastructure and is potentially countervailable: “(t)he provision of industrial parks and ports, special purpose roads, and railroad spur lines, to name some examples..., that do not benefit society as a whole does not constitute general infrastructure and will be found countervailable if the infrastructure is provided to a specific enterprise or industry and confers a benefit.”<sup>47</sup> For example, interstate highways, schools, health care facilities, sewage systems, or police protection would constitute general infrastructure if we found that they were provided for the good of the public and were available to all citizens and members of the public.<sup>48</sup>

As stated above, the GSO explained that prior to the construction of the SFZ, the area was completely undeveloped. We find that the infrastructure provided is not general in nature, because it was not provided for broad societal welfare, but rather for certain industries. Therefore, we find that the GSO-funded non-general infrastructure development by the SFZC<sup>49</sup> to prepare the SFZ site, constitutes the provision of goods or services other than general infrastructure, and thus a financial contribution, within the meaning of section 771(5)(D)(iii) of the Act. Additionally, we find that the program is contingent upon export performance and, thus, constitutes a specific export subsidy within the meaning of section 771(5A)(B) of the Act under the same reasoning that we found the provision in Land in the SFZ to be export-contingent. Finally, we determine that the provision of this infrastructure confers a benefit to the enterprises, including OCTAL, operating in the SFZ, satisfying section 771(5)(E)(iv) of the Act.<sup>50</sup> In measuring the benefit from this program, we have treated the GSO’s costs of constructing the infrastructure in the SFZ as non-recurring grants in each year in which the costs were incurred. To calculate the benefit conferred during the POI, we applied the Department’s standard grant methodology. We calculated a ratio of benefit to apply to OCTAL using the same methodology we used in the *Preliminary Determination*, i.e., by dividing the total investments of all companies in the zone until the end of the POI, by the total investments

<sup>44</sup> See GQR1 at Exhibit 15, “Salalah Free Zone Executive Report 2013,” at 30.

<sup>45</sup> *Id.* at 54.

<sup>46</sup> See section 771(5)(D)(iii) of the Act.

<sup>47</sup> See *CVD Preamble*, 63 FR at 65378.

<sup>48</sup> See *Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils From the Republic of Korea*, 64 FR 30636 (June 8, 1999) at Comment 13.

<sup>49</sup> In the *Preliminary Determination*, we found that the SFZC is an “authority” within the meaning of section 771(5)(B) of the Act.

<sup>50</sup> See GQR1 at Exhibit 15, “Salalah Free Zone Executive Report 2013,” at 28; See also Third NSA Questionnaire Response at Exhibit 1, “Strategic and business plan developed by A.T. Kearney,” slides 67, 76.

attributable to OCTAL, as reported by GSO. We applied this ratio to each of the GSO's yearly investments over the period 2012 through 2014. The investments in 2012 and 2013 do not pass the "0.5" test, pursuant to 19 CFR 351.524(b)(2); thus, the contributions in 2012 and 2013 are allocated to those years, and no benefit from those years is allocated to the POI.<sup>51</sup> We allocated the GSO's 2014 infrastructure investments over a 10-year allocation time period. *See* the allocation period discussion under the "Allocation Period" section, above. We used as our interest rate OCTAL's long-term rate.<sup>52</sup> We divided the total benefit attributable to 2014 by OCTAL's total 2014 export sales, concurrent with the POI. We used OCTAL's export sales rather than total sales because we have determined the program to be an export subsidy, as discussed above. On this basis, we determine that OCTAL received a countervailable subsidy of 0.10 percent *ad valorem* under this program.<sup>53</sup>

## **B. Programs Determined Not To Confer A Benefit During The POI**

### *Exemption from Corporate Income Tax for Companies Located in the Salalah Free Zone (SFZ)*

According to Article 3 of Royal Decree (RD) 56/2002 Promulgating the Free Zones Law, as well as Article 3 of Royal Decree (RD) 62/2006 Regarding the Establishment of Salalah Free Zone, and Article 24 of Ministerial Decree (MD) 15/2011 Issuing the Regulation of Salalah Free Zone as amended by Ministerial Decree (MD) 45/2011, OCTAL is entitled to a corporate tax and filing exemption as a free zone company.<sup>54</sup> However, OCTAL also reported that for the 2013 tax year it had no taxable income to which the exemption provided for in these provisions could be applied. Under 19 CFR 351.509(a), an income tax benefit is equal to the difference between the income tax actually paid and the income tax that would have paid absent the program. Because OCTAL had no profit in 2013, it had no taxable income, and did not pay income taxes. Thus, although OCTAL was eligible for the program, we determine that no benefit exists during the POI under this program.

## **C. Programs Determined To Not Be Countervailable**

### *Tariff Exemptions on Imported Equipment, Machinery, Raw Materials and Packaging Materials*

According to Article 3 of Royal Decree (RD) 56/2002 Promulgating the Free Zones Law, as well as Article 3 of Royal Decree (RD) 62/2006 Regarding the Establishment of Salalah Free Zone, and Article 24 of Ministerial Decree (MD) 15/2011 Issuing the Regulation of Salalah Free Zone, as amended by Ministerial Decree (MD) 45/2011, OCTAL's imports into the SFZ receive duty free treatment because the SFZ is "outside the customs territory of Oman" and therefore imports received in the zone are not subject to customs duties. Generally, duty exemptions constitute a financial contribution in the form of revenue foregone by the government.<sup>55</sup> However, if raw materials and equipment do not enter the customs territory of Oman, the Department considers that they are not

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<sup>51</sup> *See* Final Determination Analysis Memorandum.

<sup>52</sup> *See* OCTAL Verification Report at 9.

<sup>53</sup> *See* Final Determination Analysis Memorandum.

<sup>54</sup> *See* OQR4 at Exhibits 5-8.

<sup>55</sup> *See* section 771(5)(d)(ii) of the Act and 19 CFR 351.510(a)(1).

dutiable and thus no revenue is foregone.<sup>56</sup> Consistent with this policy, we determine that this program does not provide a financial contribution because there is no revenue foregone within the meaning of section 771(5)(D)(ii) of Act.

#### **D. Programs Determined Not To Be Used**

1. *Development Loans for Industrial Projects by the Oman Development Bank*
2. *Export Credit Discounting Subsidy*
3. *Pre-Shipment Export Credit Guarantees*

### **III. CALCULATION OF THE ALL-OTHERS RATE**

Consistent with section 705(c) of the Act, the Department did not calculate an all-others rate because it did not reach an affirmative final determination.

### **IV. ANALYSIS OF COMMENTS**

#### **Tariff Liability Issues**

#### **Comment 1: Whether the Absence of Duty Liability Based on OCTAL's Location in the SFZ is a Countervailable Subsidy**

##### **Petitioners' Arguments**

- In finding the GSO did not forgo any revenue, the Department erred as a matter of law because OCTAL did avoid duty liability ordinarily attached to the goods that it imported into the SFZ. The provision of the SFZ program is a financial incentive to companies in the SFZ amounting to a financial contribution within the meaning of section 771(5)(D)(ii) of the Act.
- Although the Department determined that the SFZ is outside of Omani customs territory, the record supports that the SFZ is governed by Omani customs law, and laws governing which companies may operate in the zone, and what they may import into the zone.
- While the Department stated that it was following the rule in *Welded Steel Pipe from Vietnam*, the present facts are more similar to *PET Film from India*, where the tariff exemption was found to be countervailable because tariff liability was contingent upon proving that an export requirement had been met. In this instance, Omani customs oversees and approves the entry process of companies operating within the SFZ, and the tariff exemption is contingent upon their compliance.

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<sup>56</sup> See *Circular Welded Carbon-Quality Steel Pipe From the Socialist Republic of Vietnam: Final Negative Countervailing Duty Determination*, 77 FR 64471 (October 22, 2012) and the accompanying IDM at Comment 3 (*Welded Pipe from Vietnam*).

### GSO/OCTAL Rebuttal

- The Customs laws of Oman state that no duty liability exists on goods brought into a free zone. It is not an exemption, but rather an absence of a revenue obligation. A potential revenue obligation is triggered by goods that leave the zone and enter the customs territory of Oman. The Department verified such entries and withdrawals.
- The laws governing the SFZ clearly place it outside the customs territory of Oman. The SFZ was established as a free zone under customs law and remains part of the sovereign territory of Oman. The fact that certain restrictions and laws apply uniformly across free zones and the rest of Oman alike does not place free zones on the same plane with the customs territory of Oman.
- The SFZC is not restricted to importing a limited number of materials into the zone, but it would raise suspicions if such materials appeared unrelated to any activity upon which OCTAL established its operations as a SFZ company. But even if this were true, it is unclear how the lack of any general right or privilege to import into the SFZ transforms the SFZ into a part of the customs territory of Oman.
- The facts of *Welded Pipe from Vietnam* are identical to the facts on the record of this proceeding, where the Department's decision rested on the free zone at issue being subject to rigorous customs enforcement measures that ensure goods entering the free trade area are accounted for through exportation or entry into the country's customs territory and, in the latter case, appropriate duties are collected. The Department explored this at verification, and found no discrepancies and no indication that enforcement measures were not rigorous. The Department's reconciliation of OCTAL raw material imports, production, and exports showed no material discrepancies that could suggest withdrawals from the zone where duties were not paid.
- The facts of *PET Film from India* are distinguishable, in that there was no evidence that the producers in question operated outside the customs territory of India. Further, the Indian producers remained liable for the import duties contingent on an export requirement, indicating that a duty obligation was incurred when goods entered the free zone. In this case, customs enforcement relates to negligence or fraud penalties associated with the value of the entries themselves, or the value of any duties, rather than export-contingent duty liability.

### GSO/OCTAL Arguments

- Merchandise imported into the SFZ is not exempt from tariffs, because the SFZ is outside of the customs territory of Oman. Merchandise would only be dutiable at the time of entry into the customs region. Because there is no duty exemption, there can be no forgone revenue in a subsidy context, and thus, no financial contribution.
- Even if OCTAL is entitled to a duty exemption, all records show that OCTAL paid duties when owed.

### Petitioners' Rebuttals

- Royal Decree No. 56/2002 exempts imports from customs duties while the goods remain in the SFZ. This is an acknowledged financial incentive to the companies within the SFZ, and is a financial contribution within the meaning of section 771(5)(D)(ii) of the Act.
- The fact that Omani customs law continues to apply in the SFZ (such as those governing who may import and what may be imported into the SFZ, as well as the free trade agreement with

the United States) supports that there is some form of contingent liability that attaches to goods upon importation into the SFZ, supporting a finding of a financial contribution.

- OCTAL benefited from import tariff exemptions on equipment, machinery, and raw materials used in exported products - tariffs that should have been otherwise paid but for the company's location in the SFZ. The Department should countervail this, as well as the delayed payment of duties on goods sold into the customs territory of Oman, which amounts to an interest-free loan.

### **Department's Position:**

We agree with GSO/OCTAL. As stated above, according to Article 3 of Royal Decree (RD) 56/2002 Promulgating the Free Zones Law, as well as Article 3 of Royal Decree (RD) 62/2006 Regarding the Establishment of Salalah Free Zone, and Article 24 of Ministerial Decree (MD) 15/2011 Issuing the Regulation of Salalah Free Zone as amended by Ministerial Decree (MD) 45/2011, OCTAL's imports into the SFZ receive duty free treatment because the SFZ is "outside the customs territory of Oman" and therefore imports received in the zone are not subject to customs duties, and thus no revenue is foregone.<sup>57</sup> Petitioners' argument that this case is similar to facts in *PET Film from India*, where a tariff exemption was found to be countervailable because tariff liability was contingent upon proving that an export requirement had been met, is not analogous as there is no specific SFZ requirement that all imported materials must be exported. Merchandise entering and leaving the zone must be administered by Oman customs in the same manner as merchandise entering and leaving the Port of Salalah itself, as such merchandise is imported into or exported from Oman. As noted by Petitioners, the Department reviewed the procedures at the SFZ, and observed the administration of the zone by both the SFZC and Oman customs at the verification of the GSO. The Department found at verification that there were no discrepancies with the information reported by the GSO.<sup>58</sup> As such, merchandise entering the zone is not dutiable. Therefore, for the Final Determination, the Department has found that this program does not provide a financial contribution.

### **Comment 2: Whether Petitioners' Subsidy Allegations Regarding OCTAL's Tariff Exemptions Were Properly Alleged**

#### GSO/OCTAL Argument

- The Department initiated an investigation on tariff exemptions limited to enterprises that hold an industrial license pursuant to the Standard Industrial Management Regulations Law of the Cooperation Council for the Arab States of the Gulf (GCC), promulgated in Oman by Royal Decree No. 61/2008. OCTAL did not use this program because its operations are outside of the customs territory of Oman, in the SFZ. Although Petitioners later sought to place the circumstances under which OCTAL receives duty free treatment within the confines of their subsidy allegation, there is a clear distinction between the two. Petitioners could have advanced a timely new subsidy allegations after the submission of initial information by the GSO and OCTAL, but did not. The Department operated in disregard of the law and its own

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<sup>57</sup> See *Circular Welded Pipe from Vietnam* and the accompanying IDM at Comment 3.

<sup>58</sup> See GSO Verification Report at 8-10.

regulations, as well as its obligations to the World Trade Organization, by making broad inquiries beyond the scope of the tariff exemption investigation that it had initiated.

#### Petitioners' Rebuttal

- The Petition clearly alleged a benefit with respect to duty-free imports into the SFZ. Moreover, the SFZ advises and assists investors in obtaining all necessary licenses, including industrial licenses.
- Whether or not the program at issue was properly alleged, the Department had not only the right, but the affirmative obligation, to investigate such a program upon the discovery of evidence indicating possible use by and benefit to OCTAL.

#### **Department's Position:**

We agree with Petitioners. In the Oman CVD Initiation Checklist,<sup>59</sup> we stated "Petitioners allege that under the Standard Industrial Management Regulations Law (SIMR) of the Cooperation Council for the Arab States of the Gulf (GCC), promulgated in Oman by Royal Decree No. 61/2008 (which supersedes the previous law), the GSO provides import tariff exemptions for equipment, machinery, parts, raw materials, semi-manufactured materials and packing materials to select Omani industrial enterprises, and that duty-free imports are also one of the investment incentives provided in the SFZ." The Department acknowledges that the sentence, which was intended to be a description of the tariff exemption program applicable to OCTAL, is somewhat ambiguous regarding whether the investigated program pertains to the industrial license program that the Department investigated in *CWP from Oman*,<sup>60</sup> or to duty-free incentives offered by the SFZ. However, that ambiguity does not render the initiation invalid. If the information is sufficient to indicate the possibility of a countervailable subsidy, it is appropriate to initiate an investigation to more fully develop the record and determine whether or not such a subsidy in fact exists. In this instance, regardless of any ambiguity with respect to the information available at initiation, OCTAL and the GSO self-reported the SFZ tariff program. In light of the information contained in the questionnaire responses and based on the guidelines established under section 775 of the Act and 19 CFR 351.311(b), the Department acted within its authority to examine the SFZ tariff program within this proceeding and sought additional information from the GSO and OCTAL. However, because the Department did not find the program to be countervailable, the arguments presented by GSO/OCTAL are moot.

#### **Provision of Land for LTAR Issues**

#### **Comment 3: Whether the Department Should Recalculate the Land for LTAR Rate with a Revised Benchmark**

#### Petitioners' Argument

- In the *Preliminary Determination*, the Department measured OCTAL's usufruct rental rate against six industrial land rental offers. At verification, OCTAL disclosed a previously unreported 2009 pipeline easement between the SFZC and OCTAL. This rate provides a

<sup>59</sup> See Countervailing Duty Investigation Initiation Checklist: Certain Polyethylene Terephthalate Resin from the Sultanate of Oman, dated March 30, 2015 (Oman CVD Initiation Checklist), at 8.

<sup>60</sup> See *CWP from Oman* and the accompanying IDM at Comments 1, 2 and 3.

more accurate “Tier One” benchmark than the six industrial land rental offers because it results from an actual transaction in Oman, pursuant to 19 CFR 351.511(a)(2)(i), and is contemporaneous with OCTAL’s original lease agreement.

- If the Department does not use the pipeline easement as the benchmark, the Department should modify its preliminary calculation by excluding the land offer submitted by the GSO, because it was an offer for commercial rather than industrial land, which is not comparable to OCTAL’s land.

#### GSO/OCTAL Rebuttal

- Using the rate OCTAL pays for a pipeline easement situated in the SFZ as the benchmark for the remaining land undermines the entire premise behind investigating whether OCTAL receives land within the SFZ for LTAR.

#### GSO/OCTAL Argument

- If the Department does not revise its calculation using the usufruct rental rates obtained at verification as benchmarks, the next best alternative from a comparability standpoint would be to use the lease prices found in the private leases submitted by the GSO, which reflect industrial land (warehouses) in less developed Salalah, near OCTAL, as opposed to land in highly developed Muscat, far removed from OCTAL’s operations. The Department should adjust these rates to account for OCTAL’s investments in developing the land.
- Petitioners’ proposed land price benchmarks from the Kingdom of Saudi Arabia relate to land for purchase, specifically private industrial cities where land is “offered on a freehold basis,” not leases. The same source from Petitioners provides lease rates, but the source explicitly states that rates are subsidized. Beyond this, Petitioners offer no basis for suggesting general market conditions in the Kingdom of Saudi Arabia and in Oman are in any way comparable.

#### Petitioners’ Rebuttal

- The Department should either consider as the land for LTAR benchmark OCTAL’s rental rate for the pipeline easement, or modify the preliminary calculation to eliminate the commercial land rental offer submitted by the GSO.
- The Department cannot use as land lease rate benchmarks the usufruct lease rates obtained from the Ministry of Housing at verification because they are government land rates that are not consistent with market principles. The Department cannot use as land lease rate benchmarks the two sample private leases that the GSO submitted to the record, because the GSO itself stated that these properties are not comparable to OCTAL’s land, and they are not a sufficiently reliable representative sample to be a basis for a land benchmark, due to the lack of a land registration requirement in Oman.

#### **Department’s Position:**

We agree with GSO/OCTAL in part. To determine whether a financial contribution in the form of a good provided for LTAR confers a benefit within the meaning of section 771(5)(E)(iv) of the Act, the Department follows the benchmarking criteria described in 19 CFR 351.511(a)(2), which sets forth the basis for identifying appropriate market-determined benchmarks for measuring the adequacy of remuneration for the government-provided good or service. These potential



benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports, or competitively run government auctions) (Tier One); (2) world market prices that would be available to purchasers in the country under investigation (Tier Two); or (3) an assessment of whether the government price is consistent with market principles (Tier Three). As provided in our regulations, the preferred benchmark in the hierarchy is an observed market price from actual transactions within the country under investigation. This is because such prices generally would be expected to reflect most closely the prevailing market conditions of the purchaser under investigation.

After the *Preliminary Determination*, at the request of the Department, the GSO submitted two private lease agreements for industrial areas in Salalah, which it obtained from public records.<sup>61</sup> Both are dated within 2014. These rates are Tier One benchmarks, and are thus superior to all other potential benchmarks on the record. We do not agree with Petitioners' claim that the rates are not comparable to OCTAL's land, as we find the fact that they apply to industrial land in Salalah, similar to OCTAL's land in the SFZ, to indicate sufficient comparability. Whether or not the two rates are a representative sample, based on these facts alone, the rates are superior to what Petitioners offer. While the Department will sometimes use offer prices when that is what is available on the record of a case, we find that completed and actual transaction prices are a preferable benchmark under the regulation. The 2009 pipeline easement between the SFZC and OCTAL does not represent a Tier One benchmark, as suggested by Petitioners, because there is nothing on the record to suggest that it is reflective of a market price. The pipeline easement transaction is a government price, specifically, a transaction between OCTAL and the same GSO authority providing the alleged land for LTAR subsidy to be compared to the benchmark. Because we are using a Tier One benchmark, the Tier Two benchmarks proposed by Petitioners are irrelevant. In any event, we note that the proposed land price benchmarks from the Kingdom of Saudi Arabia are plainly not available in Oman, under the Tier Two criteria. Thus, the two private lease agreements for industrial areas in Salalah, submitted by GSO, are the best information on the record for establishing a benchmark, and we have used them as the benchmark in our final determination.

Regarding GSO/OCTAL's contention that the Department should adjust land rental rates to account for OCTAL's investments in developing the land, we disagree. Specifically, adjustments to land rent due to OCTAL's investments in developing the land were negotiated between OCTAL and the SFZC.<sup>62</sup> Thus, these expenses did not impact OCTAL's POI expenses.<sup>63</sup> For a proprietary discussion regarding this determination, *see* Final Determination Analysis Memorandum. *See also* Comment 5, below.

#### **Comment 4: Whether the Provision of Land for LTAR to OCTAL Is An Export Subsidy**

##### Petitioners' Argument

- The Department based its determination that the SFZC's provision of land in the SFZ is specific as an export subsidy within the meaning of section 771(5A)(B) of the Act based on Ministerial Decision No. 15/2011, dated February 16, 2011, which expressly limited the SFZ

<sup>61</sup> See First NSA Questionnaire Response at 15, Exhibit NSA-7 and NSA-8.

<sup>62</sup> See OQR3 at 17.

<sup>63</sup> *Id.*

to enterprises which export 70 percent of their products. However, that regulation was amended later that same year to remove the 70 percent export requirement. Instead, the Department should determine specificity of this subsidy on the same basis as the Department's post-preliminary determination that the GSO's provision of non-general infrastructure to OCTAL was specific because the recipients of the infrastructure are limited to industries in the SFZ to enable those industries to build and operate.

GSO/OCTAL did not make a specific rebuttal argument to this comment.

#### GSO/OCTAL Argument

- The Department found in the *Preliminary Determination* that the provision of land in the SFZ is specific as an export subsidy based on a provision of Ministerial Decision 15/2011 that was repealed by Ministerial Decision 45/2011. There is no information on the record to support that any export contingency applied to the provision of land in the SFZ.
- There is no distinct legal regime in Oman from which to conclude that the provision of zone land use rights is regionally specific.
- Land rental rates for usufruct agreements for industrial land executed by the Ministry of Housing outside of any zone or industrial estate, which the Department found at verification, are very comparable to the prices charged to OCTAL, indicating no specificity and no benefit.

#### Petitioners' Rebuttal

- The Department has found in previous investigations that the provision of land for LTAR in specially designated zones constitutes a countervailable subsidy, and is often an incentive to encourage investment in both well-defined areas like a trade zone, or general areas.
- GSO/OCTAL's argument is moot because the Department found specificity within the meaning of section 771(5A)(D)(iii)(I) of the Act, by finding that OCTAL benefited as part of the plastics industry that the GSO targeted for investment in the SFZ.

#### **Department's Position:**

Petitioners and GSO/OCTAL are both correct that the export contingency upon which the Department found specificity pursuant to section 771(5A)(B) of the Act in the *Preliminary Determination* was subsequently repealed and not in effect during the POI.<sup>64</sup> However, there is still substantial evidence on the record to indicate that the provision of land for LTAR is an export subsidy.

The *CVD Preamble* to our regulations discusses a situation in which a government considers multiple criteria in deciding whether to award a subsidy. The *CVD Preamble* states, in relevant part:

if exportation or anticipated exportation was either the sole condition or one of several conditions for granting {a subsidy} to a firm, we would consider any benefits provided under the program to the firm to be export subsidies unless the firm in question can clearly demonstrate that it had been approved to receive the benefits

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<sup>64</sup> See GQR1 at Exhibit 7.

solely under non-export-related criteria. In such situations, we would not treat the subsidy to that firm as an export subsidy.<sup>65</sup>

Given that the program's application form solicits information on export activity (*e.g.*, applicants' total export sales and key markets served), we find that the exportation or anticipated exportation is one of several conditions for granting this subsidy. Accordingly, this program is contingent upon export performance and, thus, constitutes a specific export subsidy within the meaning of section 771(5A)(B) of the Act.<sup>66</sup>

Additionally, in 2013, the SFZC issued an executive report, which was the first report created by the company.<sup>67</sup> In the section entitled Business Action Plan, the SFZC stated that, due to reasons of location, competitive costs, and world-class port facilities, the company has targeted three export-oriented industry sectors to achieve objectives in line with Oman's policy to achieve sustainable development: chemicals and material processing, manufacturing and assembling, and logistics and distribution.<sup>68</sup> The company described the chemical and materials processing sector to encompass certain building materials, certain metal and non-metal mineral resources, and plastics.<sup>69</sup> Regarding plastics, the company stated that "(t)hrough enhancing processes of producing caustic soda, chlorine, ethylene, propylene and methanol, it is possible to produce key derivatives" such as "PVC, HDPE, LLDPE, LDPE, polyester and PET products and adhesives thereby allowing additional opportunities of petrochemical development in Oman . . .".<sup>70</sup> This targeting of export-oriented sectors, one of which includes the production of PET products, further supports the conclusion that the provision of land at LTAR constitutes an export subsidy.

Moreover, the purpose of the free zone is to provide industrial and commercial land for companies who chiefly, if not exclusively, make export sales. As discussed in Comment 1 above, the SFZ is outside of Oman customs territory. The purpose of such zones is to provide industrial land for business enterprises that export, because companies that intend to sell product in Oman would be required to pay duties in Oman anyway on a higher value-added product; for such companies there is other industrial land in Oman. If there is, in fact, little difference in rent costs between land in industrial estates in Oman and rent costs in the SFZ as GSO/OCTAL claims, clearly a company that locates outside of customs territory chiefly intends to export. Even if rent costs between land in industrial estates in Oman and rent costs in the SFZ are similar, this only means that the benefits resulting from countervailable subsidies are marginal. This provides additional support for the conclusion that the provision of land at LTAR constitutes an export subsidy.

Thus, due to the solicitation of export information in the free zone application, and in light of the zone's business plan and the nature of the free zone, we find that the provision of land for LTAR is contingent upon export performance and, thus, constitutes an export subsidy.

<sup>65</sup> See *CVD Preamble*, 63 FR at 65381

<sup>66</sup> See GQR3 at Exhibit 1.

<sup>67</sup> No similar report was issued in the POI; See GQR1 at 26 and Exhibit 15.

<sup>68</sup> See GQR1 at Exhibit 15, "Salalah Free Zone Executive Report 2013," at 25, 28.

<sup>69</sup> *Id.* at Exhibit 15, "Salalah Free Zone Executive Report 2013," at 28; See also Third NSA Questionnaire Response at Exhibit 1, "Strategic and business plan developed by A.T. Kearney," slides 67, 76.

<sup>70</sup> See GQR1 at Exhibit 15, "Salalah Free Zone Executive Report 2013," at 30.

## **Comment 5: Whether the Department Should Recalculate the Land for LTAR Rate to Adjust for OCTAL's Expenses to Develop the Land**

### GSO/OCTAL Argument

- OCTAL had to do its own site development simply to bring the land to a condition under which construction on the site could occur, which the Department verified. OCTAL's rent payment was for more than adequate remuneration. OCTAL's decision to locate in the SFZ was plainly driven by other considerations than rent.

### Petitioners' Rebuttal

- The Department should not adjust OCTAL's lease rate to account for OCTAL's investments developing the land, because these expenses were already accounted for through a provision in OCTAL's lease. Further, while GSO/OCTAL claim that OCTAL's infrastructure investments were verified, OCTAL provided the Department with two invoices for excavation work that OCTAL paid for. This does not amount to a verification of all of OCTAL's infrastructure expenditures.
- GSO/OCTAL offer conflicting explanations for their lease terms by arguing that OCTAL's superior lease terms were simultaneously the result of both the market reflecting the SFZ's lack of desirability (being undeveloped and far from Muscat), and special compensation for OCTAL's willingness to invest in developing its SFZ site (which OCTAL chose because of its desirability). Either way, OCTAL benefited from preferential lease terms designed to support its particular operations.

### **Department's Position:**

We agree with Petitioners. As we stated above in Comment 3, adjustments to land rent due to OCTAL's investments in developing the land were negotiated between OCTAL and the SFZC.<sup>71</sup> These expenses did not impact OCTAL's POI expenses.<sup>72</sup> For a proprietary discussion of these remaining expenses, *see* Final Determination Analysis Memorandum.<sup>73</sup> The Department accepted some documentary support at verification for OCTAL's claim that the company incurred infrastructure construction expenses while it built its facilities.<sup>74</sup> GSO/OCTAL has not made clear what connection these expenses have to their land rent, or explained why such expenses would impact POI expenses.

While we agree with OCTAL that many factors may weigh into a company's decision in selecting its site of operations other than rent, this has no bearing on whether or not a government authority provided land rental for LTAR. As stated above in our response to Comment 4, even if rent costs between land in industrial estates in Oman and rent costs in the SFZ are similar, this only means that the benefits resulting from countervailable subsidies are marginal. Therefore, for the final determination, the Department has not adjusted its provision of Land for LTAR calculation to adjust for OCTAL's expenses that relate to land development.

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<sup>71</sup> *See* GQR1, at 17.

<sup>72</sup> *Id.*

<sup>73</sup> *See* Final Determination Analysis Memorandum.

<sup>74</sup> *See* OCTAL Verification Report at Exhibit VE-7.

### **Provision of Infrastructure for LTAR Issues**

#### **Comment 6: Whether the Department Should Continue to find that OCTAL Benefited from GSO Non-General Infrastructure Funding in the SFZ**

##### **Petitioners' Argument**

- OCTAL's claims that SFZC-funded infrastructure is not relevant to OCTAL's operations is not supported due to GSO's failure to provide planning documents contemporaneous with establishment of the SFZ. The failure of the GSO to provide these documents warrants the application of adverse facts available (AFA).
- OCTAL cannot assert that its own infrastructure work represents the universe of infrastructure it utilized and benefited from within the SFZ. The supporting documentation that it provided to the Department at verification demonstrates a subsidy arrangement for OCTAL's own work on its site in addition to the infrastructure development in the rest of the SFZ that the GSO financed and from which OCTAL and the plastics industry also benefited.

##### **GSO/OCTAL Rebuttal**

- There is no master development plan for the SFZ dating to 2006. The basic purpose and vision of the SFZ is set forth in the Free Zones Law promulgated by Royal Decree No. 56/2002, the SFZC regulations promulgated in 2011, and the strategic action plan developed between 2010 and 2012. This planning happened beyond the year in which OCTAL entered the land and began site development, which supports OCTAL's claim that it did not benefit from the GSO with respect to infrastructure development. The Department cannot conclude that OCTAL was the recipient of any benefit flowing from infrastructure funding to develop other sites in the SFZ, much of which has yet to be expended.
- Because OCTAL had to build its own infrastructure in developing its site of operations, and the Department has calculated a land for LTAR subsidy using benchmark rates for developed land, the Department is already capturing both the alleged land use rights subsidy and alleged infrastructure subsidy in the land for LTAR subsidy calculation.

##### **GSO/OCTAL Argument**

- The Department failed to define the infrastructure at issue, in the context of the subsidy allegation. Nonetheless, the infrastructure such as roads and electrical power generation actually used by OCTAL either preexisted the SFZ, or was actually paid for by OCTAL itself, where OCTAL required improvements to meet its needs. OCTAL built its own water and sewage treatment facilities. The infrastructure that OCTAL uses is not the infrastructure referred to in the SFZC 2013 Executive Report.
- Many of the countervailed expenditures are at the Adhan site, which is three kilometers away and thus geographically removed from OCTAL's operations at the Raysut site of the SFZ.

##### **Petitioners' Rebuttal**

- GSO/OCTAL confuse the issue by attempting to artificially segregate OCTAL's operations from the rest of the SFZ. For example, OCTAL's use of the one-stop-shop customs services provided by the SFZ is a benefit provided to all investors in the zone. The Department used

a ratio that reflected OCTAL's portion of the overall infrastructure expenditure, taking into account that OCTAL is not the sole beneficiary of the SFZ's infrastructure expenditures.

### **Department's Position:**

We agree with GSO/OCTAL in part. In response to the Department's questionnaires after the *Preliminary Determination*, GSO submitted: (1) a 2011 business plan created by A. T. Kearney, a management consulting firm; and (2) a 2012 Final Land Use and Utilities Master Plan.<sup>75</sup> The GSO claimed that these were the only such planning documents generated since the inception of the SFZ in 2006, and naturally such planning would only occur after the creation of the SFZ's formative regulations in 2011.<sup>76</sup> The Department did not find any additional SFZ planning documents at verification.

We also agree with GSO/OCTAL and their contention that most of the SFZ's infrastructure investments, which increased starting in 2012, occurred after OCTAL's start up, and notably, after the SFZ's strategic planning was apparently completed.<sup>77</sup> That the bulk of the funding should begin only after strategic planning is both logical and reasonable. Moreover, any benefit received by OCTAL for infrastructure investments would only accrue upon the completion of an infrastructure project.<sup>78</sup> Additionally, for the final determination, the Department has recalculated OCTAL's benefit to include only funding for completed infrastructure<sup>79</sup> (*see* Comment 8, below).

Regarding GSO/OCTAL's arguments that SFZ expenditures three kilometers away cannot impact OCTAL, the argument is moot since the Department has now excluded these projects from its calculation on another basis. The remaining expenses clearly relate to infrastructure and would pertain to OCTAL, based upon the SFZC's description of the expenses. For a proprietary discussion of these remaining expenses, *see* Final Determination Analysis Memorandum.<sup>80</sup>

Regarding GSO/OCTAL's argument that the Department is double-counting this benefit in its provision of Land for LTAR calculation, *see* Comment 8, below.

### **Comment 7: Whether GSO Non-General Infrastructure Funding in the SFZ Is *De Facto* Specific**

#### GSO/OCTAL Argument

- The infrastructure referred to in the SFZC 2013 Executive Report is not for the exclusive use of OCTAL or any specific investor in the SFZ, and thus is merely an extension of general infrastructure normally provided by government for the public good.

#### Petitioners' Rebuttal

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<sup>75</sup> See Third NSA Questionnaire Response at 3, Exhibits 1 and 2.

<sup>76</sup> *Id.* at 2.

<sup>77</sup> See OCTAL Verification Report at 9.

<sup>78</sup> See GSO Verification Report at 10-11.

<sup>79</sup> See Final Determination Analysis Memorandum.

<sup>80</sup> *Id.*

- There is no requirement that the SFZC's infrastructure investment be directly related to OCTAL, rather the statute provides that a subsidy is specific if actual recipients of the subsidy, whether considered on an enterprise or industry basis, are "limited in number." In this instance, the recipients of the infrastructure investments were specific industries, including the plastics industry, to meet their specific needs and not just provide for the general welfare.
- GSO/OCTAL willfully failed to submit the master development plan because GSO/OCTAL stated that it contained sensitive information. This prevented the Department from determining how OCTAL's own site development interacted with the rest of the SFZ's infrastructure.

### Department's Position:

We disagree with GSO/OCTAL that the infrastructure in question is general. As described above, general infrastructure is infrastructure that is created for the broad societal welfare of a country, region, state, or municipality. However, the infrastructure provided here is not general in nature, because it was not provided for broad societal welfare, but rather for certain industries.

Further, we find that the provision of infrastructure by the GSO was contingent upon export performance, within the meaning of section 771(5A)(B) of the Act. The *CVD Preamble* to our regulations discusses a situation in which a government considers multiple criteria in deciding whether to award a subsidy. The *CVD Preamble* states, in relevant part: if exportation or anticipated exportation was either the sole condition or one of several conditions for granting {a subsidy} to a firm, we would consider any benefits provided under the program to the firm to be export subsidies unless the firm in question can clearly demonstrate that it had been approved to receive the benefits solely under non-export-related criteria. In such situations, we would not treat the subsidy to that firm as an export subsidy.<sup>81</sup> The SFZC's application form for tenant "investors" solicits information on export activity (*e.g.*, applicants' total export sales and key markets served).<sup>82</sup> As with the provision of the land program described above, for the final determination, we find that the program is contingent upon export performance and, thus, constitutes an export subsidy within the meaning of section 771(5A)(B) of the Act.

Furthermore, in 2013, the SFZC issued an executive report, which was the first report created by the company.<sup>83</sup> In the section entitled Business Action Plan, the SFZC stated that, due to reasons of location, competitive costs, and world-class port facilities, the company has targeted three export-oriented industry sectors to achieve objectives in line with Oman's policy to achieve sustainable development: chemicals and material processing, manufacturing and assembling, and logistics and distribution.<sup>84</sup> The company described the chemical and materials processing sector to encompass certain building materials, certain metal and non-metal mineral resources, and plastics.<sup>85</sup> Regarding

<sup>81</sup> See *CVD Preamble*, 63 at 65381

<sup>82</sup> See GQR3 at Exhibit 1.

<sup>83</sup> No similar report was issued in the POI; See GQR1 at 26 and Exhibit 15.

<sup>84</sup> See GQR1 at Exhibit 15, "Salalah Free Zone Executive Report 2013," at 25, 28.

<sup>85</sup> *Id.* at Exhibit 15, "Salalah Free Zone Executive Report 2013," at 28; see also Third NSA Questionnaire Response at Exhibit 1, "Strategic and business plan developed by A.T. Kearney," slides 67, 76.

plastics, the company stated that “(t)hrough enhancing processes of producing caustic soda, chlorine, ethylene, propylene and methanol, it is possible to produce key derivatives” such as “PVC, HDPE, LLDPE, LDPE, polyester and PET products and adhesives thereby allowing additional opportunities of petrochemical development in Oman . . .”<sup>86</sup>

Thus, the Department finds that the non-general infrastructure built in the free zone by the SFZC was built for the benefit of export-oriented zone tenants, which further supports the idea that the provision of such infrastructure constitutes an export subsidy.

### **Comment 8: Whether the Department Miscalculated the GSO Non-General Infrastructure Funding Subsidy**

#### Petitioners’ Argument

- While the Department concluded in its post-preliminary determination that the GSO provided OMR 11 million in 2006, and OMR 51 million in 2010 of funding for infrastructure in the SFZ, GSO officials confirmed at verification that the MOF made an additional disbursement of OMR 4.3 million in 2008. The Department should include this financial contribution in its benefit calculation.

#### GSO/OCTAL Rebuttal

- The MOF conveys the funds on a project-by-project basis, contingent upon the receipt by the MOF of the SFZC’s quarterly cash flow statements to demonstrate actual needs. The OMR 4.3 million alluded to by the SFZC official at verification came from the initial capitalization of OMR 10.8 million in 2006.

#### GSO/OCTAL Argument

- By calculating a provision of land for LTAR subsidy and an infrastructure provision subsidy, the Department is double-counting any alleged benefit because land values would normally incorporate the utility value associated with being near infrastructure and services. The Muscat values used in the Department’s provision of land for LTAR comparison would capture all of the intrinsic value associated with being near infrastructure and services in Muscat, which is the largest, most developed municipality in Oman.
- The Department should not be using OMR 62 million for infrastructure expenditure as the base figure from which any allocation is made to OCTAL, because this amount has not been fully expended. Any figure should be much smaller, reflecting actual expenditures.
- OCTAL submitted to the Department a table showing the funding allocated to specific infrastructure projects, and the funds actually expended. Because several investment projects were not completed as of the end of the POI, the infrastructure at issue was not yet available for use.
- Many items covered by the funding at issue cannot be construed as “infrastructure.”

#### Petitioners’ Rebuttal

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<sup>86</sup> See GQR1 at Exhibit 15, “Salalah Free Zone Executive Report 2013,” at 30.



- The GSO's allocation of OMR 51 million in 2010 was to develop and prepare the infrastructure and service facilities, and if these funds have been used or committed for that purpose, this amount should be used as the basis for the benefit calculation.
- The infrastructure subsidy is a non-recurring benefit treated in the same manner as an equity infusion or grant, separate and distinct in both form and purpose from OCTAL's preferential lease rate, which is a recurring benefit tied to OCTAL's site investment.
- The Department found at verification that the MOF made an additional disbursement of OMR 4.3 million in 2008 that the GSO failed to report. The Department should consider these funds to have been fully expended during the POI under an AFA analysis.

### **Department's Position:**

We agree with GSO/OCTAL in part. In the post-preliminary analysis,<sup>87</sup> the Department allocated the committed MOF funding to the SFZC over the AUL.<sup>88</sup> However, as GSO/OCTAL states, and as examined at verification by the Department, the MOF did not immediately transfer all of the allotted funding to the SFZC.<sup>89</sup> Moreover, the Department found the SFZC to be the authority, and OCTAL the beneficiary. Thus, any benefit received by OCTAL for infrastructure investments would accrue upon the completion of an infrastructure project. OCTAL reported to the Department which of the infrastructure construction expenses at issue either were accrued monthly and not assigned to specific projects, or were for projects completed prior to the end of the POI. The Department has recalculated OCTAL's benefit to include only these expenses. These remaining expenses clearly relate to infrastructure, based upon SFZC's own description of the expenses. For a business proprietary discussion of these expenses, *see* Final Determination Analysis Memorandum.

GSO/OCTAL's claim that land rental rates take into account the level of infrastructure already built on the land and its vicinity, is true to the extent that such factors, along with other market forces, will influence land prices.<sup>90</sup> However, the effect cannot be precisely identified or predicted, and would be open to speculation. Moreover, GSO/OCTAL's argument is purely theoretical in nature; Respondents point to no evidence in either the usufruct agreement or in the benchmarks applied by the Department in this case that the remaining infrastructure expenses that we consider to be countervailable are double-counted in the provision of land for LTAR calculation.

Regarding Petitioners' claim of an additional disbursement of OMR 4.3 million in 2008, Respondents are correct that the funding referred to in the verification report was an installment of the committed funding.<sup>91</sup> For the final determination, the Department has assigned the OMR 4.3 million funding to the extent that it applies to projects completed prior to the end of the POI, based on the SFZC cash flow information submitted by GSO.<sup>92</sup>

<sup>87</sup> See Memorandum from Abdelali Elouaradia to Christian Marsh, "Post-Preliminary Determination Decision Memorandum in the Countervailing Duty Investigation; Certain Polyethylene Terephthalate (PET) Resin from the Sultanate of Oman," dated October 13, 2015 (Post-Preliminary Determination).

<sup>88</sup> See Post-Preliminary Determination.

<sup>89</sup> See GSO Verification Report at 10.

<sup>90</sup> In fact, the level of land rent negotiated between OCTAL and the SFZC was linked to OCTAL's excavation and soil improvements at the site completed over the term of the usufruct agreement. See OQR3 at 17.

<sup>91</sup> See GSO Verification Report at 10.

<sup>92</sup> See First NSA Questionnaire Response at Exhibit NSA-1.

## **Provision of Electricity for LTAR Issues**

### **Comment 9: Whether the Department Should Revise its Electricity for LTAR Benchmark**

#### **Petitioners' Argument**

- The Omani commercial electricity rate, which the Department used as the benchmark to measure the adequacy of remuneration of the industrial electricity rate, is not consistent with market principles, as the GSO has left the same rates unchanged and in effect since the 1980s. Failing to make any rate adjustments over such an extended period of time defies rational market principles. Prices are never adjusted to cover changes in electricity generation and supply costs. Rather, GSO provides annual subsidies to the electrical suppliers to cover their shortfalls. AER's 2014 Annual Report states that this subsidy amounted to OMR 291.1 million in 2014.
- Due to GSO's complete control over the Omani electricity market, the Department should look to benchmarks that are not available to consumers in the country under investigation, specifically the monthly export prices between Turkey to Iraq and Egypt to Jordan during the POI.

#### **GSO/OCTAL Rebuttal**

- Electricity average unit values of exports from Turkey to Iraq and from Egypt to Jordan are not rationally related to the market in Oman, and Petitioners have not shown that such prices would be available to purchasers in Oman. The use of the Omani commercial electricity rate as the benchmark in the preliminary results was justified in prior proceedings on the basis of record evidence that 90 percent of the subsidy provided to electricity suppliers is recovered from the prices they charge in the residential category.
- The subsidy provided to electricity suppliers in Oman permits the Department to calculate what would be a market rate. The subsidy does change from year to year, indicating what a market return would look like if the rates were adjusted and the subsidy foregone.

#### **GSO/OCTAL Argument**

- If the Department continues to calculate a countervailable benefit, it should inflate the prevailing industrial tariff rate by 2.02 Baisas and use that figure as the market benchmark because it reflects a cost recovery market benchmark from within the country in question. This is the amount of the subsidy received by the Dhofar Power Company in 2014 to make up its cost shortfall, allocated to non-residential electricity sectors on a per kilowatt hour basis.
- Alternatively, the Department could continue to employ the Oman commercial tariff as its benchmark, consistent with its past practice.
- The electricity prices in Iraq or Jordan submitted by Petitioners are flawed as benchmarks as Petitioners have not provided any information regarding the basis upon which the electricity is being exported and supplied, such as stage or level of distribution, or whether it is being provided on an emergency basis given the special circumstances within the regions in question. The preamble to the Department's CVD regulations specifically uses electricity as an example where it is not reasonable to conclude that a world market price would be available to an in-country purchaser.

### Petitioners' Rebuttal

- GSO/OCTAL's proposed benchmark based on the Dhofar Power Company's cost shortfall from which it obtains its subsidy, however, is a cost-to-government approach, not the benefit-to-recipient framework established in the statute, the Department's regulations, and *CWP from Oman*. The level of subsidization highlighted by GSO/OCTAL's analysis only supports Petitioners' argument that GSO's complete control over the Omani electricity market disqualifies the in-market commercial tariff rate from use by the Department as a benchmark.
- The Department has previously used land benchmarks from India to measure the adequacy of remuneration for land in Vietnam, and so the Department may use the external electricity benchmark data placed on the record by Petitioners.

### **Department's Position:**

For this final determination, we are continuing to use the commercial electricity rate as the benchmark rate to measure the benefit from the industrial rate, but we are adjusting that commercial rate.

At verification, the Department discussed the system of rates and subsidies in Oman with officials from the Authority for Electricity Regulation (AER).<sup>93</sup> The officials explained that the rates were set by a high level of government, and that even though AER is the regulatory body in charge of Oman's electricity sector, it does not have the ability to change any rates, regardless of their analysis of the sector.<sup>94</sup> Because the rates were already in effect and were reissued concurrently with the formation of AER in 2004, officials did not know the process involved in setting these rates.<sup>95</sup> Therefore, the Department was not able to gather any information at verification regarding the setting of these rates.

Pursuant to 19 CFR 351.511(a)(2)(ii), the Department will only use a Tier Two benchmark based on world market prices where it is reasonable to conclude that the good or service is actually available to the purchaser in the country under investigation. The Department has specifically stated that electricity prices from other countries are normally not available to purchasers in the country under investigation, due to the unique nature of electricity.<sup>96</sup> As stated above, there is no evidence on the record that rates available in Iraq or Jordan are available in Oman. Therefore, we determine that we cannot rely on any world market prices on the record as a benchmark for determining whether electricity is provided for LTAR.

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<sup>93</sup> See GSO Verification Report at 6.

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> See *CVD Preamble*, 63 FR at 65377: "Paragraph (a)(2)(ii) provides that, if there are no useable market-determined prices stemming from actual transactions, we will turn to world market prices that would be available to the purchaser. We will consider whether the market conditions in the country are such that it is reasonable to conclude that the purchaser could obtain the good or service on the world market. For example, a European price for electricity normally would not be an acceptable comparison price for electricity provided by a Latin American government, because electricity from Europe in all likelihood would not be available to consumers in Latin America."

Where the government is the sole provider of a good or service, and there are no world market prices available or accessible to the purchaser, we will assess whether the government price was set in accordance with market principles through an analysis of such factors as the government's price-setting philosophy, costs (including rates of return sufficient to ensure future operations), or possible price discrimination. There is no hierarchy in these factors and we may rely on one or more of them in any particular case.<sup>97</sup> The regulations do not specify how the Department is to conduct such a market principles analysis. By its nature, the analysis depends upon available information concerning the market sector at issue and, therefore, must be developed on a case-by-case basis.

As noted above, AER officials did not know the process involved in setting the electricity tariffs.<sup>98</sup> Thus, the record contains no information that the Department can analyze about Oman's price-setting methods. However, we can analyze whether there is any apparent price discrimination in the rates. While our specificity finding does indicate some price discrimination among industrial users (between those with industrial licenses and those without), there is no indication on the record indicating any discrimination in the other rates. In particular, the commercial rate appears to be available to all commercial users and thus usable as a benchmark. As noted above, given the distortions caused by the GSO's practice of not adjusting electricity tariffs for long periods of time, for the final determination, we have inflated the rate using consumer price indices.<sup>99</sup>

GSO/OCTAL's suggestion that we calculate a benchmark using the distributor cost shortfall and corresponding electricity subsidy paid by the MOF does not yield an accurate estimated market rate for Oman, based on the evidence that Respondents themselves submitted. The GSO submitted a paper published by AER in 2009 which provided a detailed analysis demonstrating that static electricity rates cause greater demand, and increased costs to meet the demand, which causes ever increasing subsidies.<sup>100</sup> Thus, based on record evidence, the distributor cost shortfall is not reflective of a market rate, but rather reflects the market distortion caused by the GSO's practice of setting static electricity rates.

#### **Comment 10: Whether the Provision of Electricity for LTAR Is Specific**

##### GSO/OCTAL Argument

- Because the tariff charged to all industrial users across Oman is the same, and OCTAL pays this rate, it is not specific within the meaning of section 771(5A) of the Act. The difference in the subsidies received by each regional utility supplier is due to customer mix and the characteristics of their respective distribution systems.

##### Petitioners' Rebuttal

- The Department previously determined in *CWP from Oman* that the GSO's provision of electricity at the industrial rate is specific in accordance with section 771(5A)(D)(i) of the Act because it is limited to a specific customer class eligible for the industrial user rate if certain conditions are met.

<sup>97</sup> See *CVD Preamble*, 63 FR at 65378.

<sup>98</sup> See GSO Verification Report at 6.

<sup>99</sup> See Final Determination Analysis Memorandum.

<sup>100</sup> See GQR2 at Exhibit 10, at 31.

## Department's Position:

We agree with Petitioners. The GSO's provision of electricity at the industrial rate is conditioned on OCTAL's having an industrial license<sup>101</sup> and, hence, is *de jure* specific as a result of industrial licenses being limited, as a matter of law, to certain enterprises or industries. The GSO's provision of electricity at the industrial rate is *de jure* specific under section 771(5A)(D)(i) of the Act because it is limited, as stated above, to industrial enterprises (defined by law as enterprises whose basic objective must be to convert raw material into fully-manufactured or semi-manufactured products or to convert semi-manufactured products to fully-manufactured products<sup>102</sup>), and excludes commercial enterprises, the military, the government, residences, the agriculture and fishing industries, and the tourism industry. To be eligible for the industrial user rate, a company must have a letter of recommendation from the Ministry of Commerce and Industry and meet a stipulated power factor.<sup>103</sup> Moreover, in the case of OCTAL specifically, various ministries that have authority over specific areas of regulatory administration reviewed its industrial license application, and the approval of all of these agencies was required prior to OCTAL receiving its industrial license.<sup>104</sup>

## Miscellaneous Issues

### **Comment 11: Whether the Department Should Countervail OCTAL's Lease with Salalah Port Services Company SAOG (SPSC)**

#### Petitioners' Argument

- The GSO did not cooperate to the best of its ability in providing the information necessary for the Department to determine whether the SPSC provided OCTAL with land for LTAR. The SPSC holds usufruct rights to Salalah port land through a concession agreement with the GSO, and SPSC executed a subusufruct lease with OCTAL. The GSO refused to provide full responses to the Department's questions regarding this agreement that would allow the Department to determine whether the agreement provided a countervailable subsidy. Accordingly, the Department should apply AFA to find that OCTAL received land from the SPSC, an authority within the meaning of section 771 (5)(B) of the Act, for LTAR, and that the benefit was specific to OCTAL.

#### GSO/OCTAL Rebuttal

- The parameters of the Department's individual subsidy investigations must have an evidentiary foundation and conform to certain procedural formalities before engaging in further inquiries. The Department initiated an investigation into the provision of land in the SFZ for LTAR. There is no evidence that the land lease with the SPSC meets any of the elements of a countervailable subsidy, whether in terms of financial contribution, benefit, or

<sup>101</sup> See GSO Verification Report at 6.

<sup>102</sup> See GQR1 at 9.

<sup>103</sup> See OQR3 at 24.

<sup>104</sup> These agencies were the Ministry of Environment and Climatic Affairs for environmental impact, the Directorate General of Civil Defense which administers occupational health and safety regulations, the Ministry of Manpower which administers labor regulations, and the General Directorate for Standards and Metrology, regarding the building standards for its industrial facility. See GSO Verification Report at 3.

specificity. The GSO nonetheless provided responses to the Department's standard questions appendix with respect to the SPSC lease, and thus Petitioners claims that the GSO failed to cooperate in relation to the SPSC are absolutely without merit.

- While the Department's regulations require the Department to examine a practice that appears to provide a countervailable subsidy during the course of an investigation, Petitioners point to nothing on the record, whether in their deficiency comments or in their case brief, that offers the appearance of a financial contribution, benefit, or specificity in relation to the SPSC lease.

### **Department's Position:**

We disagree with Petitioners that the GSO did not cooperate to the best of its ability in providing the information necessary for the Department to determine whether the SPSC provided OCTAL with land for LTAR. The Department requested OCTAL's lease with the SPSC, and requested from the GSO a response to the Department's questionnaire with respect to the lease.<sup>105</sup> OCTAL and the GSO responded to the Department's requests.<sup>106</sup> Petitioners claimed that the GSO's responses to the Department were deficient,<sup>107</sup> but did not file a timely subsidy allegation regarding the lease. We disagree that the responses were deficient. Rather, we found the information submitted by GSO and OCTAL to be sufficient for our analysis. The Department evaluated whether the lease at issue constituted: (1) the provision of goods or services constituting a financial contribution, within the meaning of section 771(5)(D)(iii) of the Act; (2) the provision of goods or services that is specific to a group of enterprises or industries within the meaning of section 771(5A)(D) of the Act; and (3) the provision of goods or services that confers a benefit, within the meaning of section 771(5)(E)(iv) of the Act. Based upon the information provided by the GSO and OCTAL, the Department did not have a basis for finding a countervailable subsidy with respect to OCTAL's lease with the SPSC. The Department additionally notes that Petitioners have not claimed, even in their case brief, that OCTAL's lease with the SPSC constitutes a countervailable subsidy. Finally, nothing occurred at the verification of the GSO and OCTAL that would cause the Department to change its *Preliminary Determination*.

### **Comment 12: Whether the Department Should Have Investigated Other Potential Countervailable Subsidies**

#### Petitioners' Argument

- Pursuant to 19 CFR 351.311(b), the Department has an affirmative obligation to investigate a potentially countervailable practice if sufficient time exists to do so. Petitioners raised the possibility of certain countervailable loan programs in their July 16, 2015 deficiency

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<sup>105</sup> See Letter from Robert Bolling to OCTAL, "Re: Investigation of Polyethylene Terephthalate Resin from the Sultanate of Oman: Countervailing Duty Questionnaire," dated June 22, 2015 at 4; See Letter from Robert Bolling to GSO, "Re: Investigation of Polyethylene Terephthalate Resin from the Sultanate of Oman: Countervailing Duty Questionnaire," dated June 22, 2015 at 6.

<sup>106</sup> See OQR4 at Exhibit 9; See QQR3 at 7.

<sup>107</sup> See Letter from Petitioners to the Secretary of Commerce, "Investigation of Certain Polyethylene Terephthalate Resin from the Sultanate of Oman - Petitioners' Deficiency Comments on the Government of the Sultanate of Oman's Supplemental Questionnaire Responses," dated July 20, 2015 at 5.

comments.<sup>108</sup> The Department initiated an investigation into a new subsidy allegation and issued several questionnaires just prior to and continuing after issuance of the *Preliminary Determination* in August 2015. Thus, the Department erred by overlooking or ignoring record evidence indicating countervailable subsidies.

#### GSO/OCTAL Rebuttal

- Petitioners have not established even the appearance of a financial contribution to OCTAL, or supported a claim that any banking entities are government authorities, with respect to any of OCTAL's loans.

#### **Department's Position:**

We disagree with Petitioners that the Department overlooked or ignored record evidence indicating countervailable subsidies with respect to OCTAL's loans. The Department requested that OCTAL provide a list of all banking entities with which it has loans.<sup>109</sup> OCTAL responded to the Department's request.<sup>110</sup> The Department evaluated, based on information on the record, whether any of these loans were loans provided by a government authority for less than the amount OCTAL would pay on a comparable commercial loan that it could actually obtain on the market, under section 771(5)(E)(ii) of the Act. Based on the record evidence, the Department did not have a basis for finding that any of these loans were financial contributions from a government authority within the meaning of section 771(5)(B)(iii) of the Act. Finally, nothing occurred at the verification of OCTAL that would cause the Department to change its *Preliminary Determination*.<sup>111</sup>

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<sup>108</sup> See Letter from Petitioners to the Secretary of Commerce, "Re: Investigation of Certain Polyethylene Terephthalate Resin from the Sultanate of Oman - Petitioners' Deficiency Comments on OCTAL's Supplemental Questionnaire Responses," dated July 16, 2015 (July 16 Deficiency Comments) at 3.

<sup>109</sup> See Letter from Robert Bolling to OCTAL, "Re: Investigation of Polyethylene Terephthalate Resin from the Sultanate of Oman: Countervailing Duty Questionnaire," dated June 22, 2015 at 5.

<sup>110</sup> See QOR2 at 16.

<sup>111</sup> See OCTAL Verification Report at 11.

## V. RECOMMENDATION

We recommend approving all of the above positions and adjusting all related countervailable subsidy rates accordingly. If these Department positions are accepted, we will publish the final determination in the *Federal Register* and will notify the U.S. International Trade Commission of our determination.

✓  
Agree                      Disagree

Paul Piquado  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

4 MARCH 2016  
Date



s/About-Ithraa



## ➤ Vision

To be recognized as the best destination for investment and trade in the world

## ➤ Mission

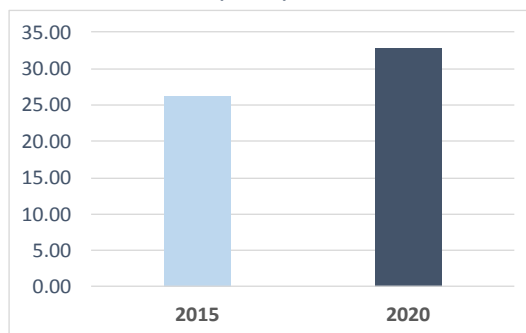
To attract sustainable investment and promote the export of Omani non-oil goods and services that support Oman's ambition for growth and prosperity

# Oman's Ninth Five-Year Development Plan (2016-2020)

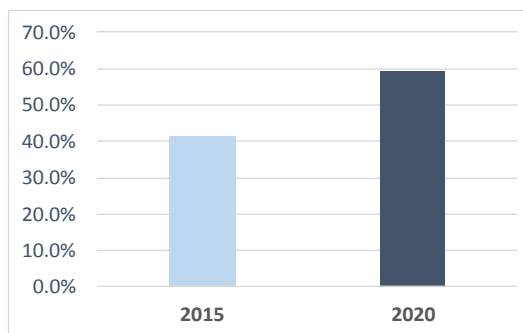
*Prudent and realistic goals*

Key Figures	Actual Average (2011 - 2015)	Estimated Average (2016 - 2020)
Average crude price (\$/barrel)	96.7	55.0
Crude Production (000 barrels per day)	935.0	990.0
GDP at constant prices (growth rate)	3.3	2.8
Oil activities (growth rate)	2.3	0.2
Non-oil activities (growth rate)	5.8	4.3
Investments as % of GDP	27.2	28.0
Inflation (%)	1.9	2.9

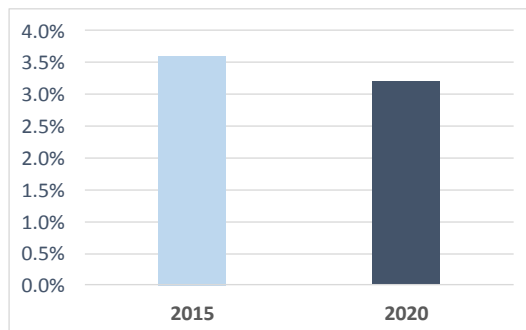
GDP at Current Prices (RO bn)



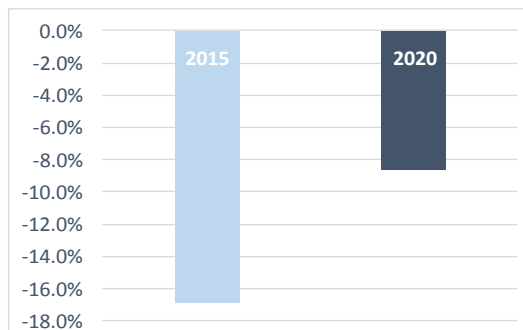
Private Sector contribution in local investments



Real GDP growth rate %



Surplus / (Deficit) % of GDP



Source: Media, Plan Statement, OABINVEST

### Key Goals

- ❖ To achieve an average annual GDP growth rate of 3%
- ❖ To reduce the contribution of oil in GDP at current prices from 44% in 8<sup>th</sup> five year plan to 26%.
- ❖ To maintain inflation rate within safe levels at an average of 2.9%.
- ❖ Focus on private sector and activate the public-private partnerships (PPPs)
- ❖ Create job opportunities
- ❖ Focus on SMEs

### Key promising Sectors

- ❖ Manufacturing
- ❖ Transportation and logistics
- ❖ Tourism
- ❖ Fisheries
- ❖ Mining

### Key Challenges

- ❖ Volatility and low oil prices.
- ❖ Creating jobs
- ❖ Geopolitical tensions in the region.
- ❖ Acceleration of the diversification process
- ❖ Minimize the elasticity towards external shocks.

### Key developments

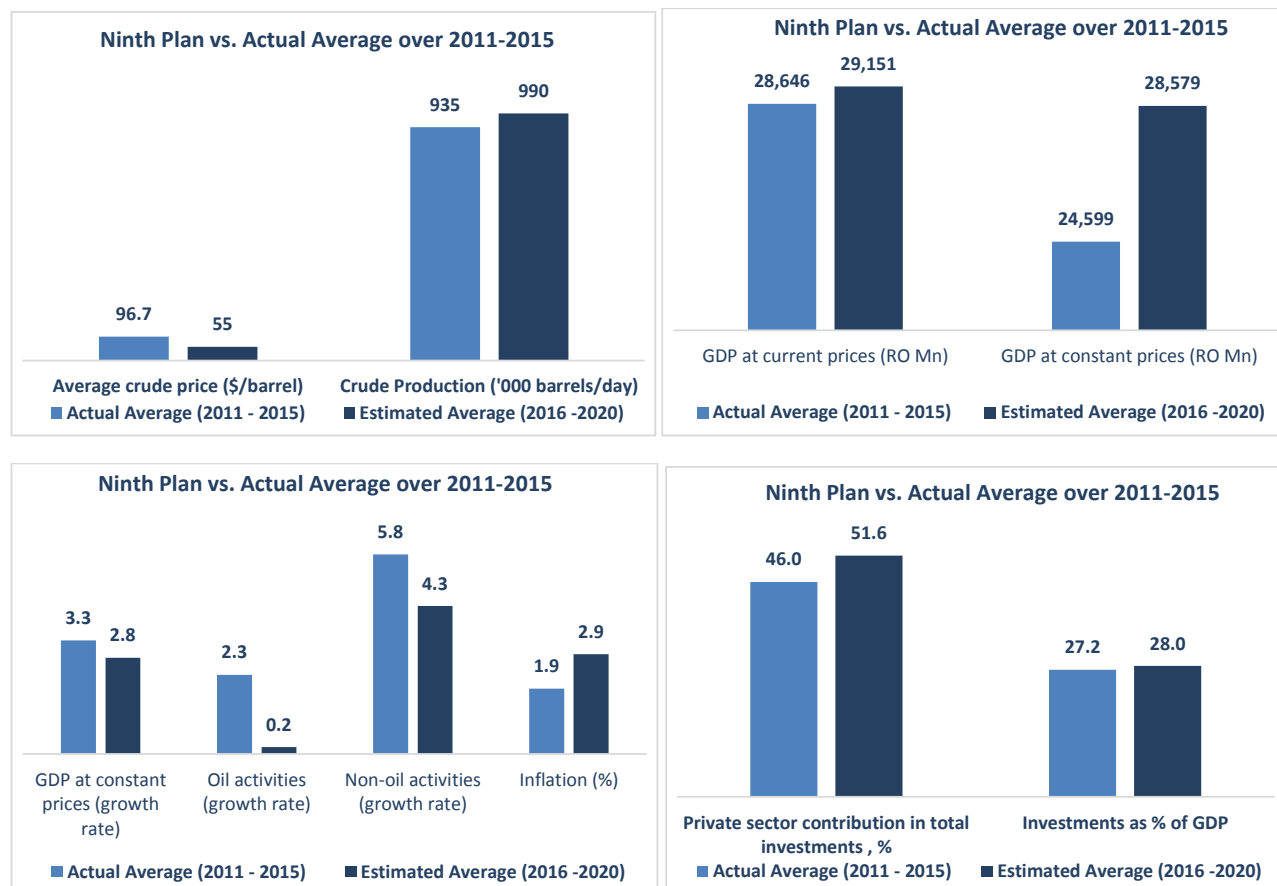
- ❖ Prioritizing of spending on projects
- ❖ Establishment of general department within the Supreme Council for Planning to coordinate with ministries and specialized institutions.
- ❖ Dynamic plan; goals and procedures are subject to changes on developments
- ❖ Key projects through the public private partnerships (PPPs)
- ❖ New projects to be considered after first three years.

## Summary

The 9<sup>th</sup> Five-Year Plan for the Sultanate, which is the last of the series of 5-Year Plans for the Vision 2020, reflects prudent and realistic goals. Many items have been revised when compared with actual averages observed over 2011-2015. The aim is to cut non-core expenditure in favour of additional attention towards investment spending on selected key programs and projects. Private sector role is the backbone of the plan and the government have already been engaged in supporting this view through either the public private partnerships (PPPs) or providing additional facilities.

As per the Ninth plan statement, total targeted investments at RO 41bn to be funded by 52% from private investments with the balance coming from public investments. The private investments shall be in commodities production activities (32.6%), services activities (37%) and 29% in infrastructures. Targeted projects for private sector (on either individual or partnership basis) cover Oman railway, tourism structures within Port Sultan Qaboos, Port Khasab, South Batinah Logistics Area, some fisheries projects, Ad Dhahirah Economic Area and Shinas Port. Historically, the government succeeds in engaging private sector in vital sectors such as power and water. Thus, we expect similar achievements in the current and upcoming plans.

## The Ninth Vs the Eight



Source: Plan Statement, OABINVEST, Media

## The promising sectors

The 9<sup>th</sup> Five-Year Plan (2016-2020) maintains focus on economic diversification, welfare and social benefits enhancement, and at the same time drive to boost the private sector. To support this view, five prime sectors are targeted. These are: 1) manufacturing, 2) transportation and logistics, 3) tourism, 4) fisheries and 5) mining. Over 500 programs and policies to be activated in relation to those sector. The reason for choosing these five sector in our view is mainly its untapped potential and country's determination to transform from an oil producing country to a diversified mix. Apart from that these sectors have the ability of creating significant number of jobs, bearing also in mind the low Omanization rates. Oman is a commodity rich country and further exploration into the mining sector would be utmost important in the wake of further subsidy cuts to reduce operating costs. Last but not the least, geographical location of Oman, has placed it as business and logistic hub for traffic across continents of Europe, Asia and Africa.

### 1. Manufacturing:

It is estimated to contribute 15% to the GDP by 2020 (Oman vision). The 1H'15 contribution stood at 9.3% while 10% for FY'14. It is worth stating that the average annual growth rate during the 8<sup>th</sup> five-year plan stood at 18.4%.

The major ongoing project within the sector is Liwa Plastic Industries Complex, which is expected to create around 13,000 jobs (1,000 direct, 12,000 indirect). Key facts about the project:

- Will contribute by 2 – 3% to GDP.
- The total cost is around \$ 6.4bn, to be funded by international financial institutions (60%), local banks (20%) and government as well as Oman Oil Company (20%).
- It will result in Oil Refineries and Petroleum Industries Co (Orpic) contribution to GDP to reach 9% by 2020.
- It will enable Oman, for the first time, to produce polyethylene. This form of plastic is rated high in terms of global demand. It represents 40% of the total plastic applications worldwide.

### 2. Transportation and logistics

Oman continues to focus on establishing itself as major trans-shipment center for traffic across continents of Europe, Asia and Africa. One of the key goals is to place Oman within top 30 in the World Bank Logistic Performance Index by 2020. In FY'14, the country was ranked 59 out of 160. The country is well placed to act as a redistribution point for east and central Africa. According to Oman Logistics Strategy (SOLS) 2040, handling shipments, with a particular focus on efficiency and cost is to remain under focus. Moreover, the strategy aims to double employment by 2020 to 80,000 jobs. It also looks for doubling the industry's contribution to the economy to RO 3bn by 2020. As per the Ninth plan statement, transportation, storage and telecom shall grow on annual average at constant prices by 5% during the plan.

Key projects within the sector include:

- Duqm, the sleeping giant
  - Billions of dollars to be invested.
  - Port, dry dock complex, an international airport, industrial and special economic zone are some of the projects in addition to Duqm refinery.
  - The Special Economic Zone launched much initiative to attract private investors resulting in many on ground key investments.
- Oman Rail Project
  - The estimated total length of the Oman National railway network is 2135km
  - The total investments is projected between RO 5 – 6bn.
- The South Al Batinah Logistics Area
  - It is 95 square kilometers in size

- it includes four main activities: logistics services, commercial activities, light industries and public services
- full development to be completed by 2030

In addition to above, the ongoing expansion in Muscat International Airport, establishing new airports, ports, free zones and infrastructure are few to name about the hyperactivities within transport and logistic sector.

### **3. Tourism**

As per ministry of tourism, tourism sector direct contribution to the GDP is expected to increase from around 2% to 5% by 2020. The added value of the sector reached RO 724mn by the end of 2014, the same sources stated. The strategy for tourism is based on two foundations 1) a series of tourist facilities in one location, 2) the distinctive tourist experiences. It is expected that more than 100,000 jobs will be created within the sector by 2024. There are around 39 projects in various stages of design, construction or tendering including, Oman Exhibition and Convention Centre, Wadi Bani Habib and the Al Hoota Cave redevelopment, the Duqm frontier town and Ras Al Hadd development. The country emphasis on archaeology, conservation, and natural beauty is a key distinguishing factors from its neighbors.

Key projects within the sector include:

- Madinat Al Irfan
  - It is a mixed used development project and investments to be in billions of dollars.
  - It is expected to generate notable inbound revenues, and through Public Private Partnerships model, it is targeted to contribute around RO 450-500mn annually to the GDP upon completion
- The waterfront development around Port Sultan Qaboos
  - It is a partnership between the private sector and pension investment funds
  - Planned investments around RO 500mn
  - Expected to provide 12,000 direct jobs and 7,000 indirect jobs
  - Shall attract 70% of the tourists visiting the port to tour the Sultanate

### **4. Fisheries**

The focus is mainly to boost fisheries production from currently around 200,000 tonnes per year to around 480,000 tonnes by 2020 and to create additional 20,000 jobs, as per Under-Secretary for Fisheries Wealth. It is expected that by 2020, the direct return from fishing and fish processing activities to be around RO 739.2mn. Key projects within the sector include the Duqm Fishery Harbour with estimated investments of RO 100mn in addition to the adjoining industrial fisheries cluster.

### **5. Mining**

Although, mining and quarrying contributed only 0.4% to the GDP in 2014 and 0.5% in 1H'15, the mining sector increased by 20% YoY in 2015. The new mining law shall ease the procedures and attract more investments in the sector. Moreover, the discovery of sizeable reserves of minerals such as gold, copper and rare earth shall boost the growth in the coming years. Key projects within the sector include mineral processing and refining facilities in the Port of Duqm's industrial zone. On different note, it is worth stating that port of Duqm plans to start export of minerals for the first time in February. The port has already set up facilities of its break bulk terminal for exporting 50,000 tonnes of dolomite as the first shipment. Another key development is related to recent key move about the launching of RO 100mn mining development company called Mining Development through a partnership between government' funds, Oman oil company and Oman National Investments Development Company (Tanmia). As per the plan statement, it is expected to register an average increase of 6% during the plan in constant prices.

## Appendix

9th Five-Year Development Plan ( 2016 -2020) estimates						
RO'mn unless stated otherwise	2016	2017	2018	2019	2020	Average
<b>Average Daily production ('000 barrels)</b>	990	990	990	990	990	990
<b>Average price (\$/Barrel)</b>	45	55	55	60	60	55
<b>Revenues</b>						
Net Oil Revenues	4,560	5,490	5,480	6,020	6,010	5,512
y-o-y %		20.4%	-0.2%	9.9%	-0.2%	
% of Total Revenue	53.0%	56.0%	53.2%	54.2%	53.2%	53.9%
Gas Revenues	1,590	1,675	1,840	1,950	2,050	1,821
y-o-y %		5.3%	9.9%	6.0%	5.1%	
% of Total Revenue	18.5%	17.1%	17.9%	17.6%	18.1%	17.8%
Current Revenues	2,400	2,575	2,920	3,070	3,180	2,829
y-o-y %		7.3%	13.4%	5.1%	3.6%	
% of Total Revenue	27.9%	26.3%	28.3%	27.7%	28.1%	27.7%
Capital Revenues	20	25	25	25	25	24
y-o-y %		25.0%	0.0%	0.0%	0.0%	
% of Total Revenue	0.2%	0.3%	0.2%	0.2%	0.2%	0.2%
Capital Repayments	30	35	35	35	35	34
y-o-y %		16.7%	0.0%	0.0%	0.0%	
% of Total Revenue	0.3%	0.4%	0.3%	0.3%	0.3%	0.3%
<b>Total Revenues</b>	<b>8,600</b>	<b>9,800</b>	<b>10,300</b>	<b>11,100</b>	<b>11,300</b>	<b>10,220</b>
y-o-y %		14.0%	5.1%	7.8%	1.8%	
<b>Public Expenditures</b>						
Current Expenditures	8,700	9,060	9,640	10,065	10,385	9,570
y-o-y %		4.1%	6.4%	4.4%	3.2%	
% of Total Public Expenditure	73.1%	71.3%	72.5%	72.4%	73.7%	72.6%
Investment Expenditures	2,650	3,050	3,100	3,245	3,095	3,028
y-o-y %		15.1%	1.6%	4.7%	-4.6%	
% of Total Public Expenditure	22.3%	24.0%	23.3%	23.3%	22.0%	23.0%
Participation and Other Expenses	550	590	560	590	620	582
y-o-y %		7.3%	-5.1%	5.4%	5.1%	
% of Total Public Expenditure	4.6%	4.6%	4.2%	4.2%	4.4%	4.4%
<b>Total Public Expenditures</b>	<b>11,900</b>	<b>12,700</b>	<b>13,300</b>	<b>13,900</b>	<b>14,100</b>	<b>13,180</b>
y-o-y %		6.7%	4.7%	4.5%	1.4%	
<b>Deficit</b>	<b>(3,300)</b>	<b>(2,900)</b>	<b>(3,000)</b>	<b>(2,800)</b>	<b>(2,800)</b>	<b>(2,960)</b>
% of Total Revenues	38.4%	29.6%	29.1%	25.2%	24.8%	29.0%

Source: Plan's Statement, Media, OABInvest

## Investment Management Group – Oman Arab Bank



39<sup>th</sup> International Trophy for Quality  
Awarded to Oman Arab Bank SAOC  
By Trade Leaders' Club

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حائز على جائزة أفضل شركة وساطة مالية  
من سوق مسقط للأوراق المالية  
لستة سنوات متتالية



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**UNITED STATES DEPARTMENT OF COMMERCE**  
**International Trade Administration**  
Washington, D.C. 20230

C-523-802  
Investigation  
POI: 1/1/10 - 12/31/10  
**Public Document**  
AD/CVD-01: SK/SB

DATE: October 15, 2012

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Import Administration

THROUGH: Christian Marsh   
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Determination in  
the Countervailing Duty Investigation of Circular Welded Carbon-  
Quality Steel Pipe from the Sultanate of Oman (Oman)

## **I. Summary**

The mandatory respondent in this investigation is Al Jazeera Steel Products Co. SAOG (Al Jazeera). The petitioners are Wheatland Tube Corporation (Wheatland Tube), Allied Tube and Conduit, JMC Steel Group, and United States Steel Corporation.

On April 2, 2012, we published the *Preliminary Determination*.<sup>1</sup> We conducted verification of the questionnaire responses submitted by the Government of the Sultanate of Oman (GSO) and Al Jazeera between June 11, and June 15, 2012, and released verification reports on August 21, for Al Jazeera and on August 23, 2012, for the GSO. The GSO and Al Jazeera, and Wheatland Tube submitted case and rebuttal briefs on September 5, and September 10, 2012, respectively.<sup>2</sup>

The "Analysis of Programs" and "Subsidy Valuation Information" sections below describe the subsidy programs and the methodologies used to calculate the benefits from these programs for our final determination. We have also analyzed the comments submitted by the GSO/Al Jazeera and Wheatland Tube in their case and rebuttal briefs in the "Analysis of Comments" section below, which contains the Department's responses to the issues raised in the briefs. For this Issues and Decision Memorandum, we are using short cites to various references, including administrative determinations, court cases, acronyms, and documents submitted and issued

<sup>1</sup> See *Circular Welded Carbon-Quality Steel Pipe From the Sultanate of Oman: Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*, 77 FR 19635 (April 2, 2012).

<sup>2</sup> The GSO and Al Jazeera jointly submitted case and rebuttal briefs.



### C. Provision of Electricity for LTAR

Electricity in Oman is provided through the Main Interconnected System (“MIS”), which services the north of the country and accounts for 88 percent of the electricity supplied, the Rural Areas Electricity Company (“RAEC”), which services remote rural areas and accounts for three percent of electricity supplied, and the Salalah Power System (Dhofar Power Company SAOG), which services southern Oman and accounts for nine percent of electricity supplied.<sup>29</sup> In the MIS, there is a central purchaser and reseller of electricity, the Oman Power and Water Procurement Company, which is government-owned. RAEC and Dhofar Power Company SAOG are also government-owned.<sup>30</sup> In accordance Article 10 of RD 78/2004, the rates that are charged for electricity are approved by the Council of Ministers.<sup>31</sup> Different rates are established for different customer categories, among them industrial, commercial and residential users. To be eligible for the industrial user rate, a company must have a letter of recommendation from MOCI and meet a stipulated power factor.<sup>32</sup> According to the GSO, letters of recommendation are given to all companies with an industrial license.<sup>33</sup>

We determine that the GSO’s provision of electricity to Al Jazeera at the industrial rate, which is conditioned on the company having an industrial license, confers a countervailable subsidy. The provision of electricity is a financial contribution in the form of the provision of a good or service that confers a benefit to the extent that the electricity is being provided for LTAR. *See* sections 771(5)(D)(iii) and 771(5)(E)(iv) of the Act. Additionally, we determine that the GSO’s provision of electricity at the industrial rate is *de jure* specific under section 771(5A)(D)(i) of the Act because it is expressly limited to certain enterprises or industries, “industrial enterprises” and not included, for example, are enterprises that mined or extracted raw materials but did not convert them into semi-finished or finished products.

To determine whether Al Jazeera received a benefit, we have analyzed potential benchmarks in accordance with 19 CFR 351.511(a). First, we look to whether there are market-determined prices within the country. *See* 19 CFR 351.511(a)(2)(i). As explained above, suppliers of electricity are required by law to charge “permitted tariffs” approved by the Council of Ministers.<sup>34</sup> Therefore, we determine that there are no market-determined prices within Oman to serve as a benchmark. Under 19 CFR 351.511(a)(2)(ii), we next look to world market prices where we can reasonably conclude that such a price would be available to users in Oman. There is no evidence of such prices on the record. Finally, under 19 CFR 351.511(a)(2)(iii), we look to whether the government price is consistent with market principles. The *CVD Preamble* further explains that the Department may analyze such factors as the government’s price setting philosophy, cost (including rates of return sufficient to ensure future operations) or possible price discrimination.<sup>35</sup> As explained above, different electricity rates are set for different user categories in Oman (*i.e.*, industrial, commercial, Ministry of Defense, residential, government,

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<sup>29</sup> *See* GQR at 36-37.

<sup>30</sup> *Id.* at 36 with respect to RAEC and Appendix C.1-3, p. 18 with respect to Dhofar Power Company SAOG.

<sup>31</sup> *See* GQR at Appendix C.1-1.

<sup>32</sup> *Id.* at 37, Appendix C.1-3.

<sup>33</sup> *Id.* at 39.

<sup>34</sup> *See* GQR at 36.

<sup>35</sup> *See CVD Preamble*, 63 FR at 65378.

agricultural and fisheries, and tourism).<sup>36</sup> We determine that the rate charged to commercial users provides a suitable benchmark. *See* Comment 9 below for further discussion of our benchmark.

To calculate the benefit, we compared what Al Jazeera paid for the electricity it purchased at the industrial user rate during the POI to what it would have paid at the commercial user rate. For the months in which the industrial rate was lower than the commercial rate, we found a benefit; for the months in which the industrial user rate was higher than the commercial rate, we calculated a benefit of zero.<sup>37</sup> We then summed the benefits received during the POI and divided then by AL Jazeera's POI sales of pipe.

On this basis, we determine that Al Jazeera received a countervailable subsidy of 0.06 percent *ad valorem* under this program.

#### D. Provision of Land and/or Buildings for LTAR

Al Jazeera leases land in the Sohar Industrial Estate. The Sohar Industrial Estate, like the other industrial estates and free trade zones in Oman, was established on government-owned land and is managed by the PEIE.<sup>38</sup> In order to secure land in an industrial estate, companies must, *inter alia*, obtain an industrial license.<sup>39</sup>

We determine that the GSO's provision of land to AL Jazeera, which is conditioned on the company having an industrial license, confers a countervailable subsidy. The provision of land is a financial contribution in the form of the provision of a good or service that confers a benefit to the extent that the land is being provided for LTAR. *See* sections 771(5)(D)(iii) and 771(5)(E)(iv) of the Act. Additionally, we determine that the GSO's provision of land is *de jure* specific under section 771(5A)(D)(i) of the Act because it is expressly limited to certain enterprises or industries, "industrial enterprises" and not included, for example, are enterprises that mined or extracted raw materials but did not convert them into semi-finished or finished products.

To determine whether Al Jazeera received a benefit, we have analyzed potential benchmarks in accordance with 19 CFR 351.511(a). First, we look to whether there are market-determined prices within the country. *See* 19 CFR 351.511(a)(2)(i). According to the GSO, private persons and Omani corporations are able to own land outside of industrial estates and industrial plots are available for lease.<sup>40</sup> Further, according to the GSO, the rent for such leases is approximately OMR 0.5 per square meter per month.<sup>41</sup>

We determine that this lease rate for industrial plots outside the industrial estates is market-determined and, hence, appropriate as a measure of adequate remuneration under 19 CFR

<sup>36</sup> *See* GQR at Appendix C1-3, p.37.

<sup>37</sup> *See Softwood Lumber from Canada* and accompanying IDM at Comment 43.

<sup>38</sup> *See* GSQR1 at 13.

<sup>39</sup> *See* GVR at 14.

<sup>40</sup> *See* GQR at 44 and GSQR1 at 14.

<sup>41</sup> *See* GSQR1 at 14.

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## Careers



## Doing business in the Sultanate of Oman



### Salalah Free Zone

The Salalah Free Zone provides investors a natural edge in terms of access to their target markets in Europe, Asia, Africa and Australia.

Besides the advantage of having proximity to Salalah Port having capacity of 4.4 million TEU annually, low initial cost of setting up, and a one stop arrangement for licences, permits, visas, customs clearances, etc., Salalah Free Zone offers host of other investment friendly incentives which includes the following:

- A lease for 50 years (renewable for another 50 years)
- 100% foreign ownership
- Zero customs duties on imports and exports
- No minimum capital investment requirement
- No taxes on profits or dividends for 30 years
- No tax on personal incomes
- No restrictions on repatriation of capital, profits and investments
- Low Omanisation requirement levels
- Fast track customs handling and processing

Businesses at Salalah Free Zone can participate in existing export guarantee arrangements provided to Omani companies by Omani financial institutions.

The Salalah Free Zone is being developed in multiple phases. The Salalah Free Zone will offer a mix of industrial, manufacturing, warehousing, logistics, distribution, research and development and office facilities, retail outlets, resorts, and residential space.

The Sohar Free Zone is in process of being developed and is expected to become operational by end 2013.

### Knowledge Oasis Muscat

Knowledge Oasis Muscat (KOM), a public – private sector led initiative, is a technology park that is located about 30 kilometres from Muscat. KOM is the ideal location for technology oriented businesses, hi-tech startups, international call centres, entrepreneurs, small and medium sized enterprises, researchers, as well as established blue chip multinationals, who desire to innovate and flourish within the Gulf setting.

### Main Incentives

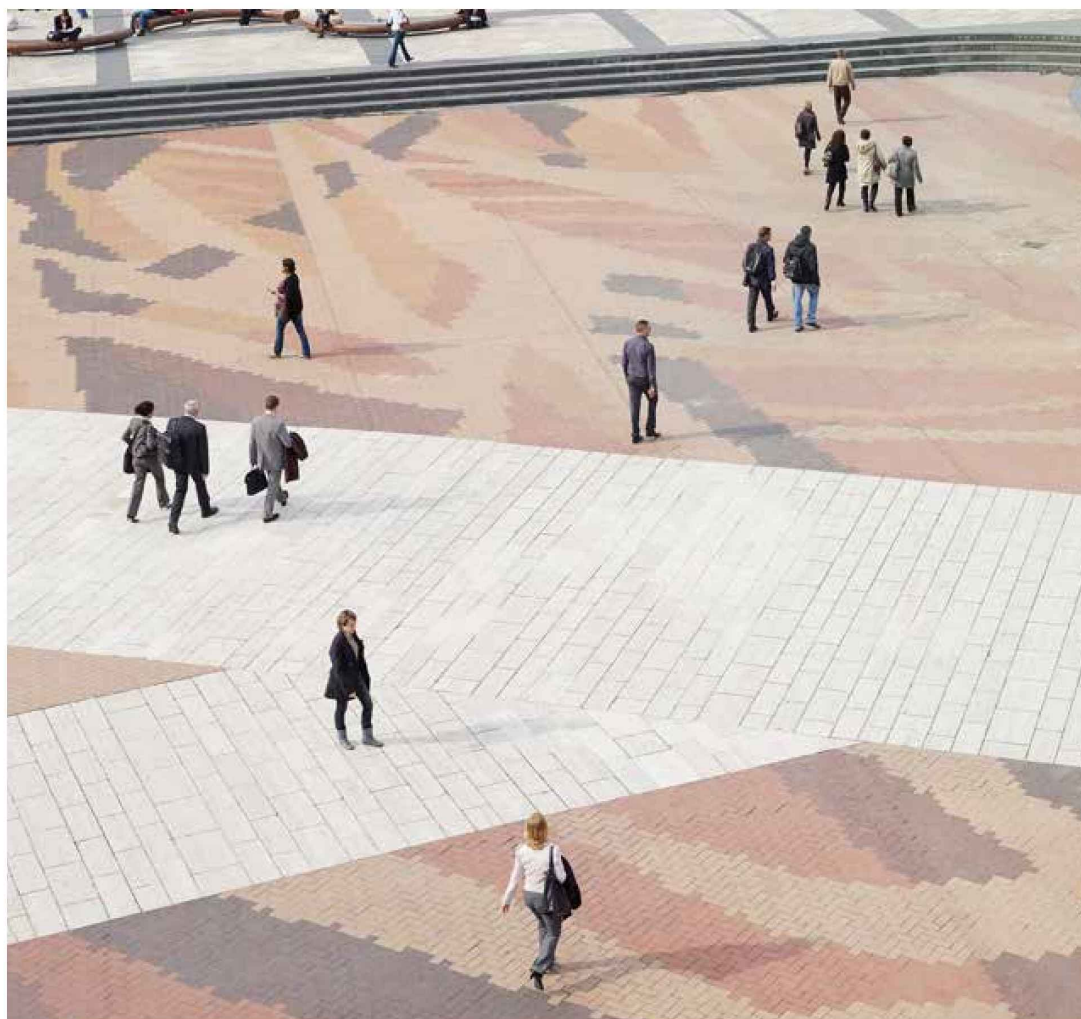
1. 100% foreign ownership (local sponsors not required).
2. Minimum capital investment needed to establish an entity at KOM is Omani Rials 20,000/-
3. High speed Internet access with highly competitive telco rates.



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# ***Doing Business in Oman***

## ***A tax and legal guide***



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### **Joint Stock Company**

Joint stock companies that do not offer their shares for public subscription are known as privately held joint stock companies (SAOC). The minimum share capital required for an SAOC is OMR 500,000 (\$1.3m).

Alternatively, joint stock companies that offer their shares to the public are called publicly held joint stock companies (SAOG). The minimum share capital required for an SAOG is OMR2m (\$5.2m). The 30% local Omani shareholding requirement must also be observed in establishing a joint stock company.

Ownership of stock in SAOGs is through Muscat Securities Market (MSM) trading and regulated by the Capital Market Authority. Foreign investment in banks and other types of financial institutions is governed by the Central Bank of Oman (CBO).

### **Branch**

A foreign company may register a branch in Oman only to execute a contract with the government or a quasi-government body. The branch registration is limited to the duration of the underlying contract. Special dispensation may be given to allow a foreign company to register a branch without a government or semi-government contract if the activity is deemed by the Council of Ministers to be of national importance.

### **Commercial Agency**

Foreign companies without commercial registration in Oman may do business through commercial agents. Agency agreements are formally registered with the Ministry of Commerce and Industry (MOCI) under the Commercial Agency Law.

### **Commercial Representative Office**

A foreign firm may open a commercial representative office in Oman solely for the purpose of marketing and promotion of its products or services. A representative office is not allowed to sell products or services or to engage in other forms of commercial activity. However, it may sponsor and hire employees.

Historically it has taken approximately four to six weeks to incorporate an entity, since there are a number of steps, and supporting documentation which need to be legalized, to complete the incorporation process. However, effort has been made in recent months to make the company registration process more efficient and convenient, including the introduction of the Ministry of Commerce and Industry's e-portal [www.business.gov.om](http://www.business.gov.om), which permits the immediate, online registration of a new company, allowing for the submission of establishment documents post-registration.

### **Free Zones**

There are currently three free zones (Sohar, Salalah and Al Mazunah) in Oman, as well as a special economic zone in Duqm. Each zone has its own features:

#### **Sohar Free Zone**

Full exemption from customs duties on goods imported into the free zone. Businesses may be 100% foreign owned and tax exemptions are allowed for up to 25 years for companies established in this free zone, the free zone also allows relaxed Omanization rates. Located close to Port of Sohar and Sohar Industrial Estate, this free zone is aimed at attracting investment in the metal and steel, food and logistics sectors.

#### **Salalah Free Zone**

Located in the south of the country near to Oman's second city, Salalah, this free zone offers competitive labour and infrastructure costs compared to other regions in order to attract investors in the chemical and material processing, manufacturing, assembly and logistics sectors. Income tax exemptions are available for up to 30 years. Full foreign ownership is permitted and customs exemptions are available. There is no minimum capital required to set up a company located in this free zone and there are relaxed Omanization rates applicable to such companies.

#### **Al Muzunah Free Zone**

This free zone is located in the Dhofar region, in the South West of Oman, to attract investors in the trading, light industry and assistant services sectors. Income tax exemptions are available for up to 30 years. Full foreign ownership is permitted and customs exemptions are available. There is no minimum capital required to set up a company located in this free zone and there are relaxed Omanization rate applicable to such companies. Additionally, Yemeni nationals are permitted to work in the zone without visas or work permits.

#### **Duqm Special Economic Zone (DSEZ)**

With its 1777-sq-km area bordered by an 80-km Arabian Sea coastline, the DESZ is strategically placed as a gateway to and key hub for the Middle East, North and East Africa, and South Asia.

The zone is made up of several areas, namely: port and dry dock, fishing port and fisheries industries, industrial and logistics areas, tourism and educational areas, filters and petrochemicals complex, New Duqm town and Duqm airport. Incentives offered to investors in the special economic zone include competitive land lease rates, a 30 year income tax exemption and full customs exemptions. 100% foreign ownership of businesses is also permitted.



More Articles from



# Oman Development Bank approves OMR40m worth of loans

18 Dec 2016

## The manufacturing sector accounted for 54% of the total value of loans

18 December 2016

Oman Development Bank (ODB), the Sultanate's leading bank in sustainable development project financing, approved as many as 4,444 development loans across different sectors and governorates in the first 10 months of the current year.

The total value of approved loans exceeded OMR39.50 million, according to a bank release.

The number of loans issued during the period from various branches of ODB stood at 4044, marking an increase of 18 per cent over figures for the same period last year, while the total loan amount increased by 22 per cent to reach OMR20.56 million. Also, there was a 4 per cent growth in the number of loans issued from the main branch of ODB, with 400 loans granted during the period whose aggregate value stood in excess of OMR18.94 million.

Region wise, Muscat received 25 per cent of the total loan amount issued during the period at OMR9.93 million. Meanwhile, Musandam saw a 124 per cent growth in the number of loans issued, whose total value surged ahead by 77 per cent compared with last year figures.

Interest-free loans accounted for 30 per cent of the total number of loans granted, with a value exceeding OMR11.69 million, while the total value of loans approved for large projects and their expansions reached OMR7.42 million. Such loans represented 19 per cent of the total number of loans. Working capital loans amounted to OMR9.20 million, with a 23 per cent share of the total number of loans approved by Oman Development Bank during the January-October period.

Further, the manufacturing sector topped the list with OMR21.196 million, and accounted for 54 per cent of the total value of loans. The agriculture and livestock sector came in at second, receiving 15 per cent percent of the total loans, valued at OMR5.976 million. The education sector received 115 loans,

marking an increase of 64 per cent compared with last year, while total loan value increased 18 per cent to touch OMR1.899 million, compared with figures for the same period last year.

The number of loans allotted to the healthcare sector, on the other hand, declined to 12 loans worth OMR563,000, with a 58 per cent fall in value.

Oman Development Bank's loan schemes reflect the bank's strategy to encourage investment, diversify sources of income and achieve self-sufficiency in commodities and goods, apart from creating job opportunities for local people.

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responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: March 27, 2012.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2012-7871 Filed 3-30-12; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-523-802]

#### **Circular Welded Carbon-Quality Steel Pipe From the Sultanate of Oman: Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination**

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

**SUMMARY:** The Department of Commerce preliminarily determines that countervailable subsidies are not being provided to producers and exporters of circular welded carbon-quality steel pipe ("circular welded pipe") from the Sultanate of Oman ("Oman").

**DATES:** *Effective Date:* April 2, 2012.

**FOR FURTHER INFORMATION CONTACT:** Sergio Balbontin or Susan Kuhbach, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-6478 and (202) 482-0112, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Case History**

The following events have occurred since the publication of the Department of Commerce's ("Department") notice of initiation in the **Federal Register**. See *Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the*

*Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigations*, 76 FR 72173 (November 22, 2011) ("Initiation Notice"), and the accompanying Initiation Checklist.

On November 22, 2011, the Department released the U.S. Customs and Border Protection ("CBP") data on imports of subject merchandise during the period of investigation ("POI"), under administrative protective order ("APO") to all parties with APO access. See Memorandum to the File from Joshua Morris, "Release of Customs and Border Protection ("CBP") Data," dated November 22, 2011. We received no comments. The CBP data showed two exporters of subject merchandise: Al Jazeera Tube Mills Company SAOG ("Al Jazeera") and a second company with inconsequential exports because the quantity of exports was extremely small.

On December 16, 2011, the U.S. International Trade Commission ("ITC") published its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized imports of circular welded pipe from India, Oman, the United Arab Emirates, and the Socialist Republic of Vietnam. See *Circular Welded Carbon-Quality Steel Pipe from India, Oman, the United Arab Emirates, and Vietnam*, 76 FR 78313 (December 16, 2011).

On December 19, 2011, the Department postponed the deadline for the preliminary determination in this investigation until March 26, 2012. See *Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 76 FR 78615 (December 19, 2011). In conjunction with this postponement, the Department also postponed the deadline for the submission of new subsidy allegations until February 15, 2012. See Memorandum to the File from Joshua S. Morris, "New Subsidy Allegation Deadline: *Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam*," dated December 15, 2011. This memorandum and others referenced in this determination are on file electronically in Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"), with access to IA ACCESS available in the Department's Central Records Unit ("CRU"), room 7046 of the main Department building.

On December 22, 2011, we issued a countervailing duty questionnaire to the Government of the Sultanate of Oman ("GSO") and to Al Jazeera. We received responses from the GSO and Al Jazeera on February 17, 2012. See February 17, 2012 Questionnaire Response of Al Jazeera Steel Products Co. SAOG ("AJ QR") and February 17, 2012 Questionnaire Response of the Government of the Sultanate of Oman ("GSO QR"). Supplemental questionnaires were sent to the GSO on February 27 and March 1, 2012, and to Al Jazeera on February 27, 2012, and we received responses from Al Jazeera on March 7, 2012, and from the GSO on March 16, 2012. See March 7, 2012 Supplemental Questionnaire Response of Al Jazeera Steel Products Co. SAOG ("AJ SQR") and March 16, 2012 Response of the Government of the Sultanate of Oman to Supplemental Questionnaire and New Subsidies Allegation Questionnaire ("GSO SQR").

One of the petitioning parties, Wheatland Tube, requested two extensions of the deadline for filing new subsidy allegations. As a result, this deadline was extended from February 15 to February 24, and then to February 28, 2012. See Memorandum to the File from Susan Kuhbach, "New Subsidy Allegation Deadline: *Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam*," dated February 6, 2012 and Letter to Interested Parties, dated February 24, 2012.

A new subsidy allegation was received from Wheatland Tube on February 28, 2012. See Letter from Petitioner Wheatland Tube re New Subsidies Allegation and Additional Factual Information, dated February 28, 2012. On March 5, 2012, the Department included the newly alleged subsidy in the investigation. See Memorandum: "New Subsidy Allegations," dated March 5, 2012. On March 6, 2012, the Department sent new subsidy allegation questionnaires to Al Jazeera and the GSO and their responses were received on March 13, 2012, and 16, respectively. See "Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman: Al Jazeera New Subsidies Questionnaire Response," dated March 15, 2012 ("AJ NSQR"), and GSO SQR.

We received pre-preliminary comments from Wheatland Tube on March 14, 2012.

##### **Period of Investigation**

The period for which we are measuring subsidies, i.e., the POI, is January 1, 2010, through December 31, 2010.



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### Scope Comments

In accordance with the preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of that notice. See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997), and *Initiation Notice*, 76 FR 72173. On December 5, 2011, SeAH Steel VINA Corp. ("SeAH VINA"), a mandatory respondent in the concurrent countervailing duty ("CVD") circular welded pipe from Vietnam investigation, filed comments arguing that the treatment of double and triple stenciled pipe in the scope of these investigations differs from previous treatment of these products under other orders on circular welded pipe. Specifically, SeAH VINA claims that the Brazilian, Korean, and Mexican orders on these products exclude "Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil and gas pipelines \*—\*." See, e.g., *Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea, and Taiwan; and Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Order*, 76 FR 66899, 66900 (Oct. 28, 2011). According to SeAH VINA: (i) If the term "class or kind of merchandise" has meaning, it cannot have a different meaning when applied to the same products in two different cases; and (ii) the distinction between standard and line pipe reflected in the Brazil, Korean and Mexican orders derives from customs classifications administered by CBP and, thus, is more administrable.

On December 14, 2011, Allied Tube and Conduit, JMC Steel Group, and Wheatland Tube (collectively, "certain Petitioners") responded to SeAH VINA's comments stating that the scope as it appeared in the *Initiation Notice* reflected Petitioners' intended coverage. Certain Petitioners contend that pipe that is multi-stenciled to both line pipe and standard pipe specifications and meets the physical characteristics listed in the scope (*i.e.*, is 32 feet in length or less; is less than 2.0 inches (50mm) in outside diameter; has a galvanized and/or painted (*e.g.*, polyester coated) surface finish; or has a threaded and/or coupled end finish) is ordinarily used in standard pipe applications. In recent years, certain Petitioners state, the Department has

rejected end-use scope classifications, preferring instead to rely on physical characteristics to define coverage, and the scope of these investigations has been written accordingly. Therefore, certain Petitioners ask the Department to reject SeAH VINA's proposed scope modification.

We agree with certain Petitioners that the Department seeks to define the scopes of its proceedings based on the physical characteristics of the merchandise. See *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China*, 73 FR 31970 (June 5, 2008) and accompanying Issues and Decision Memorandum at Comment 1. Moreover, we disagree with SeAH VINA's contention that once a "class or kind of merchandise" has been established that the same scope description must apply across all proceedings involving the product. For example, as the Department has gained experience in administering antidumping duty ("AD") and CVD orders, it has shifted away from end use classifications to scopes defined by the physical characteristics. *Id.* Thus, proceedings initiated on a given product many years ago may have end use classifications while more recent proceedings on the product would not. Compare *Countervailing Duty Order: Oil Country Tubular Goods from Canada*, 51 FR 21783 (June 16, 1986) (describing subject merchandise as being "intended for use in drilling for oil and gas") with *Certain Oil Country Tubular Goods From the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 3203 (January 20, 2010) (describing the subject merchandise in terms of physical characteristics without regard to use or intended use). Finally, certain Petitioners have indicated the domestic industry's intent to include multi-stenciled products that otherwise meet the physical characteristics set out in the scope. Therefore, the Department is not adopting SeAH VINA's proposed modification of the scope.

### Scope of the Investigation

This investigation covers welded carbon-quality steel pipes and tube, of circular cross-section, with an outside diameter ("O.D.") not more than 16 inches (406.4 mm), regardless of wall thickness, surface finish (*e.g.*, black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or

industry specification (*e.g.*, American Society for Testing and Materials International ("ASTM"), proprietary, or other) generally known as standard pipe, fence pipe and tube, sprinkler pipe, and structural pipe (although subject product may also be referred to as mechanical tubing). Specifically, the term "carbon quality" includes products in which: (a) Iron predominates, by weight, over each of the other contained elements; (b) the carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

- (i) 1.80 percent of manganese;
- (ii) 2.25 percent of silicon;
- (iii) 1.00 percent of copper;
- (iv) 0.50 percent of aluminum;
- (v) 1.25 percent of chromium;
- (vi) 0.30 percent of cobalt;
- (vii) 0.40 percent of lead;
- (viii) 1.25 percent of nickel;
- (ix) 0.30 percent of tungsten;
- (x) 0.15 percent of molybdenum;
- (xi) 0.10 percent of niobium;
- (xii) 0.41 percent of titanium;
- (xiii) 0.15 percent of vanadium;
- (xiv) 0.15 percent of zirconium.

Subject pipe is ordinarily made to ASTM specifications A53, A135, and A795, but can also be made to other specifications. Structural pipe is made primarily to ASTM specifications A252 and A500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. Fence tubing is included in the scope regardless of certification to a specification listed in the exclusions below, and can also be made to the ASTM A513 specification. Sprinkler pipe is designed for sprinkler fire suppression systems and may be made to industry specifications such as ASTM A53 or to proprietary specifications. These products are generally made to standard O.D. and wall thickness combinations. Pipe multi-stenciled to a standard and/or structural specification and to other specifications, such as American Petroleum Institute ("API") API-5L specification, is also covered by the scope of this investigation when it meets the physical description set forth above, and also has one or more of the following characteristics: is 32 feet in length or less; is less than 2.0 inches (50mm) in outside diameter; has a galvanized and/or painted (*e.g.*, polyester coated) surface finish; or has a threaded and/or coupled end finish.

The scope of this investigation does not include: (a) Pipe suitable for use in boilers, superheaters, heat exchangers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) finished electrical conduit; (c) finished

scaffolding;<sup>1</sup> (d) tube and pipe hollows for redrawing; (e) oil country tubular goods produced to API specifications; (f) line pipe produced to only API specifications; and (g) mechanical tubing, whether or not cold-drawn. However, products certified to ASTM mechanical tubing specifications are not excluded as mechanical tubing if they otherwise meet the standard sizes (e.g., outside diameter and wall thickness) of standard, structural, fence and sprinkler pipe. Also, products made to the following outside diameter and wall thickness combinations, which are recognized by the industry as typical for fence tubing, would not be excluded from the scope based solely on their being certified to ASTM mechanical tubing specifications:

1.315 inch O.D. and 0.035 inch wall thickness (page 20)  
1.315 inch O.D. and 0.047 inch wall thickness (page 18)  
1.315 inch O.D. and 0.055 inch wall thickness (page 17)  
1.315 inch O.D. and 0.065 inch wall thickness (page 16)  
1.315 inch O.D. and 0.072 inch wall thickness (page 15)  
1.315 inch O.D. and 0.083 inch wall thickness (page 14)  
1.315 inch O.D. and 0.095 inch wall thickness (page 13)  
1.660 inch O.D. and 0.047 inch wall thickness (page 18)  
1.660 inch O.D. and 0.055 inch wall thickness (page 17)  
1.660 inch O.D. and 0.065 inch wall thickness (page 16)  
1.660 inch O.D. and 0.072 inch wall thickness (page 15)  
1.660 inch O.D. and 0.083 inch wall thickness (page 14)  
1.660 inch O.D. and 0.095 inch wall thickness (page 13)  
1.660 inch O.D. and 0.109 inch wall thickness (page 12)  
1.900 inch O.D. and 0.047 inch wall thickness (page 18)  
1.900 inch O.D. and 0.055 inch wall thickness (page 17)  
1.900 inch O.D. and 0.065 inch wall thickness (page 16)  
1.900 inch O.D. and 0.072 inch wall thickness (page 15)  
1.900 inch O.D. and 0.095 inch wall thickness (page 13)  
1.900 inch O.D. and 0.109 inch wall thickness (page 12)  
2.375 inch O.D. and 0.047 inch wall thickness (page 18)  
2.375 inch O.D. and 0.055 inch wall thickness (page 17)  
2.375 inch O.D. and 0.065 inch wall thickness (page 16)

2.375 inch O.D. and 0.072 inch wall thickness (page 15)  
2.375 inch O.D. and 0.095 inch wall thickness (page 13)  
2.375 inch O.D. and 0.109 inch wall thickness (page 12)  
2.375 inch O.D. and 0.120 inch wall thickness (page 11)  
2.875 inch O.D. and 0.109 inch wall thickness (page 12)  
2.875 inch O.D. and 0.134 inch wall thickness (page 10)  
2.875 inch O.D. and 0.165 inch wall thickness (page 8)  
3.500 inch O.D. and 0.109 inch wall thickness (page 12)  
3.500 inch O.D. and 0.148 inch wall thickness (page 9)  
3.500 inch O.D. and 0.165 inch wall thickness (page 8)  
4.000 inch O.D. and 0.148 inch wall thickness (page 9)  
4.000 inch O.D. and 0.165 inch wall thickness (page 8)  
4.500 inch O.D. and 0.203 inch wall thickness (page 7)

The pipe subject to this investigation is currently classifiable in Harmonized Tariff Schedule of the United States ("HTSUS") statistical reporting numbers 7306.19.1010, 7306.19.1050, 7306.19.5110, 7306.19.5150, 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.5050, and 7306.50.5070. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the investigation is dispositive.

#### Alignment of Final Determination

On November 22, 2011, the Department initiated an AD investigation concurrent with this CVD investigation of circular welded pipe from Oman. *See Circular Welded Carbon-Quality Steel Pipe from India, the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 76 FR 72164 (November 22, 2011). The scope of the merchandise being covered is the same for both the AD and CVD investigations. On March 23, 2012, Petitioners submitted a letter, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended ("Act"), requesting alignment of the final CVD determination with the final determination in the companion AD investigation. Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued on August 6, 2012.

#### Subsidies Valuation Information

##### Allocation Period

The average useful life ("AUL") period in this proceeding, as described in 19 CFR 351.524(d)(2), is 15 years according to the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System. *See* U.S. Internal Revenue Service Publication 946 (2008), *How to Depreciate Property*, at Table B-2: Table of Class Lives and Recovery Periods. No party in this proceeding has disputed this allocation period.

##### Attribution of Subsidies

The Department's regulations at 19 CFR 351.525(b)(6)(i) state that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii) through (v) directs that the Department will attribute subsidies received by certain other companies to the combined sales of those companies if (1) cross-ownership exists between the companies, and (2) the cross-owned companies produce the subject merchandise, are a holding or parent company of the subject company, produce an input that is primarily dedicated to the production of the downstream product, or transfer a subsidy to a cross-owned company.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This regulation states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations. The Court of International Trade ("CIT") has upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits. *See Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

Al Jazeera reported no affiliates in Oman and, consequently, has responded on behalf of itself. (AJ QR at 2-3.) Thus, the subsidies received by Al Jazeera have been attributed to its total sales, its sales of subject merchandise, or its export sales, in accordance with 19 CFR 351.525(b)(1)-(5).

<sup>1</sup> Finished scaffolding is defined as component parts of a final, finished scaffolding that enters the United States unassembled as a "kit." A "kit" is understood to mean a packaged combination of component parts that contain, at the time of importation, all the necessary component parts to fully assemble a final, finished scaffolding.

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### *Benchmarks and Discount Rates*

Section 771(5)(E)(ii) of the Act states that the benefit for loans is the “difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market.” In addition, 19 CFR 351.505(a)(3)(i) stipulates that when selecting a comparable commercial loan that the recipient “could actually obtain on the market” the Department will normally rely on actual loans obtained by the firm. However, when there are no comparable commercial loans, the Department “may use a national average interest rate for comparable commercial loans,” pursuant to 19 CFR 351.505(a)(3)(ii). According to 19 CFR 351.505(a)(2)(i), a “comparable” loan is similar in structure (fixed versus variable interest rate), maturity and currency denomination.

In allocating benefits over time, the Department normally uses as the discount rate the company’s cost of long-term fixed rate debt at the time the government approves the subsidy. If such rates are not available, the Department will use the average cost of long-term fixed rate loans in the country in question. See 19 CFR 351.524(d)(3).

Al Jazeera had government-provided loans outstanding during the POI for which benchmarks are needed. However, none of Al Jazeera’s non-government loans provides a suitable rate because none was taken out in the years the government loans were approved. Therefore, we are relying on the national average cost of long-term fixed-rate loans as reported by the World Bank and submitted by the GSO. (GSO QR at Appendices B.1.I–1 and B.1.I–2.) We have included in the average cost of fixed-rate long-term loans, the additional fees that would be incurred in obtaining loans from commercial banks, as reported by the GSO. (GSO QR at 25.)

### **Analysis of Programs**

Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

#### **I. Programs Preliminarily Determined To Be Countervailable**

##### *A. Soft Loans for Industrial Projects Under Royal Decree 17/97*

Royal Decree (“RD”) 17/97 made soft loans available to the private sector with the goals of diversifying the economy of Oman and developing industry, agriculture, fisheries, tourism, education, health services, and

traditional crafts in Oman. Under this program, applicants approved by the Ministry of Commerce and Industry received loans at three percent interest from commercial banks in Oman, with the difference between the three percent rate and the commercial interest rate covered by the GSO. (GSO QR at 15.) The soft loan program under RD 17/97 originated in 1997 and terminated in 2006. (GSO SQR at 12 and Appendix SQ–20.) Beginning in 2007, soft loans were made by the Oman Development Bank. (GSO QR at 16.) The GSO reported that Al Jazeera had soft loans under the earlier RD 17/97 program outstanding during the POI, but has not received any loans from the Oman Development Bank. (GSO QR at 15.) The two loans outstanding were granted in 1998 and 2004, respectively. (GSO QR at 24.) According to the GSO, both loans have now been repaid in full. (GSO SQR at 12.)

According to the GSO, firms operating the agriculture, fisheries, industry, tourism, education, health and traditional crafts sectors could apply for loans to set up, support or expand a project. (GSO QR at 17.) After review by the relevant ministries, a ministerial committee would approve or disapprove of the loan. (GSO QR at 18.) According to Article 12 of RD 17/97, the maximum amounts that could be approved varied by region (150 percent of paid up capital if the applicant was located in the Governorate of Muscat and 250 percent of paid up capital elsewhere) and by corporate form (a maximum of 500,000 Omani Rial (“OR”) or up to 5,000,000 OR if the applicant was a public joint-stock company which covered at least 40 percent of its capital by public subscription). (GSO QR at 20.)

In response to the Department’s request to provide information about the amounts of assistance provided under the program to the different recipients, the GSO provided the aggregate amount of loans approved during the pendency of the program broken out between industry, tourism, education, health, and agriculture/fishing. (GSO QR at Appendix B.1.G–3.) In response to the Department’s request for a breakdown of the information among different sectors under the “industry” heading, by year, the GSO responded that it does not maintain the information in that manner. Moreover, because there were no sectoral criteria that affect eligibility, the GSO stated there was no requirement to include that information in the applications. (GSO SQR at 15.) The GSO did provide the amounts of individual loans disbursed to recipients in the industrial category. (GSO SQR at Appendix SQ–24.)

We preliminarily determine that the soft loans received by Al Jazeera under RD 17/97 confer a countervailable subsidy. The loans are a financial contribution in the form of a direct transfer of funds and they confer a benefit in the amount of the difference between the interest Al Jazeera paid on the loans and the amount the company would have paid on a comparable commercial loan. See sections 771(5)(d)(i) and (e)(ii) of the Act. Additionally, we preliminarily determine that the subsidy was specific, under section 771(5A)(D)(iii)(II) of the Act, because Al Jazeera was a predominant user of the program.

To calculate the benefit, we computed the difference between the amounts Al Jazeera would have paid under the benchmark interest rates described above and the amounts it actually paid during the POI. Because the loans were given to finance Al Jazeera’s pipe mills, we divided the subsidy during the POI by Al Jazeera’s sales of circular welded pipe during the POI.

On this basis, we preliminarily determine that Al Jazeera received a countervailable subsidy of 0.12 percent *ad valorem* under this program. See Memorandum to the File from Sergio Balbontin, “Preliminary Affirmative Countervailing Duty Determination: Calculation Memorandum for Al Jazeera Steel Products Co. SAOG,” dated March 26, 2012.

#### **II. Programs Preliminarily Determined To Be Not Countervailable**

##### *A. Tariff Exemptions on Imported Equipment, Machinery, Raw Materials, and Packaging Materials*

Under RD 61/2008, industrial enterprises in Oman are able to import machinery, equipment, parts, raw materials, semi-manufactured materials and packing material duty free. According to the GSO, the purpose of RD 61/2008 is to encourage and develop all industrial projects, to raise the contribution of the industrial sector in the gross domestic product, and to expand the bases of economic linkage in the Arab States of the Gulf. RD 61/2008 supersedes similar earlier schemes under the Organization and Promotion of Industry Law (RD 1/79) and the Foreign Business Investment Law (102/94). (GSO QR at 4 and Appendix A.1.D–1.)

RD 1/79 entered into force on January 4, 1979. According to the GSO, the purpose of this law was to encourage diversification of the Omani economy and to stimulate industrial development. (GSO SQR at 1.) Under Article 19 of RD 1/79, licensed or



registered industrial enterprises were exempted from customs duties on equipment, tools, spare parts, raw materials, and semi-manufactured goods. (GSO SQR at Appendix SQ-3.)

Both RD 61/2008 and RD 1/79 provide similar definitions of the “industrial enterprises” that are eligible to receive the tariff exemptions: establishments whose basic objective is to convert raw materials or semi-manufactured goods into manufactured goods. (GSO QR at Appendices A.1.D-1 and GSO SQR at Appendix SQ-3.) Also, both decrees outline the process for receiving an industrial license. Under RD 61/2008, the procedure for obtaining an industrial license is “automatic,” according to the GSO, upon submission of the required documentation (commercial registration, business plan and approval from the Ministry of Environment). Further, the GSO states that there is no discretion in the procedure, as the application process has been fully automated through a “one stop shop” IT system. (GSO QR at 8.)

Al Jazeera’s industrial license was obtained under RD 1/79, as well as its initial tariff exemption. According to Article 5 of RD 1/79, industrial enterprises could not be established or change their capacity, size, purpose or site without obtaining an industrial license from the Ministry of Commerce and Industry. To obtain an industrial license, companies would submit an application to the Ministry. This application requested a wide range of information including: a list of shareholders, estimated investment, a description of the products to be produced, annual output, a description of the manufacturing process, the numbers and types of labor required, market and marketing information (imports of the product, domestic production of the product, exports, and proposed distribution channels), details of plant and machinery, raw materials requirements, and utilities requirements. (GSO QR at Appendix A.1.G-6.) The decision of whether to grant the industrial license rested with the Directorate General of Industry (Ministry of Commerce and Industry). (GSO SQR at Appendix SQ-3.) According to the GSO, the Ministry relied upon non-binding guidelines for granting these licenses. (GSO SQR at 2.)

To obtain the tariff exemption under RD 1/79, the industrial enterprise would submit to the Ministry of Commerce and Industry its industrial license along with a list of the materials and equipment it intended to import and the annual amounts. (GSO SQR at 2 and Appendix SQ-4.) The procedure under

RD 61/2008 is similar except that final approval of the Ministry of Finance is also required in order to ensure that the application conforms with the uniform customs law of the Arab Gulf Cooperation Council. (GSO SQR at 3 and Appendix SQ-6.) RD 61/2008 also provides at Article 16 that priority in granting the tariff exemptions will be given, *inter alia*, to enterprises producing goods for exports. (GSO QR at Appendix A.1.D-1.)

As noted above, Al Jazeera received its industrial license and initial tariff exemption under RD 1/79. According to the GSO, if a company needs to import raw materials in excess of the amount for which the exemption was granted, it must file a new request with the Ministry of Commerce and Industry. (GSO QR at 6.) Al Jazeera received a new approval under RD 61/2008. (GSO QR at 11.)

The GSO states that processes for granting industrial licenses in Oman are “automatic.” Regarding the former, companies apply through an online system administered by the Ministry of Commerce and Industry. According to the Ministry of Commerce and Industry, no firm that met the legal and regulatory requirements for an industrial license has been denied a license. (GSO QR at Appendix A.1.G-4 and GSO SQR at 6.) Specifically, rejections of license applications occur only when the applicant does not constitute an “industrial enterprise,” or when the applicant cancels its plans and does not complete the steps for registration. (GSO QR at 8.)

In its pre-preliminary comments, Wheatland Tube points to Al Jazeera’s application for its industrial license and, in particular, the section of the application that requests information about exports. Citing 19 CFR 351.514 and prior findings by the Department,<sup>2</sup> Wheatland Tube argues that the application by its terms renders the tariff exemptions an export subsidy. We preliminarily disagree. The application cited by Wheatland Tube is the application for an industrial license which, while necessary for the tariff exemption, is not in itself a subsidy program. Instead, as explained above, an industrial license is required to start, expand, or relocate any enterprise that converts raw materials or semi-manufactured goods into manufactured

goods. Thus, while we acknowledge our regulation, which looks to whether exportation or anticipated exportation is a condition for receipt of benefits under a program, and our past determinations in which we have found export contingency when an application for a subsidy required information on the firm’s exports, we do not agree that such questions on an application for something as fundamental as an industrial license necessarily means that a separate subsidy program is specific as an export subsidy. Therefore, we have focused our analysis on the procedures for obtaining the tariff exemptions.

As explained above, applications for tariff exemptions are filed with the Ministry of Commerce and Industry. According to the GSO, the approval process for duty exemptions is automatic and does not take into account the export performance or potential of the applicant, the use of domestic over imported goods, the industry or sector in which the applicant operated, or the location of the applicant. (GSO QR at 9-10 and GSO SQR at 4-5.) More recently, the tariff exemptions application has also been referred to the Ministry of Finance, which carries out a formal check of whether the applicant corresponds to the company named in the industrial license, whether the capital goods pertain to the activity of the company, and whether the quantity the applicant seeks to import is consistent with its output. (GSO QR at 6.) The GSO states that there is no discretion in deciding whether to grant the duty exemption when the regulations are met (GSO QR at 6-7) and that no qualifying companies have been denied tariff exemptions. (GSO QR at Appendix A.F.1-2 and GSO SQR at 6.) The submitted data shows that hundreds of approvals are made per year. (GSO SQR at Appendix SQ-5.) The GSO further explains that the “priority” described in Article 16 of RD 61/2008 for granting tariff exemptions to certain enumerated sectors means that if two or more applications were filed contemporaneously, the enterprise in the designated sector would receive the tariff exemption prior to the other applicants. (GSO QR at 7-8.)

In response to the Department’s request to provide information about the amounts of assistance provided under the program to the different industries in Oman, the GSO explained that it does not maintain this data. Specifically, recipients of the import duty exemptions are not classified by the International Standard Industrial Classification. (GSO SQR at 6.) Nor does the GSO maintain information on the

<sup>2</sup> See, e.g., *Aluminum Extrusions From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521, 18524 (April 4, 2011), and *Drill Pipe From the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011).



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duties it would have collected but for the exemption. (GSO SQR at 7.)

In summary, based on information submitted by the GSO, the tariff exemptions are granted automatically and without regard to the firm's export performance or potential, use of domestic over imported goods, industry sector or location. Moreover, hundreds of applications are approved in a year and no applications have been rejected. The GSO has explained that it is not able to provide information regarding the distribution of duty exemptions because of the nature of the benefit (exemptions) and the manner in which the recipients submit their data.

On this basis, we preliminarily determine that the GSO's program providing tariff exemptions on imported raw materials and equipment does not confer a countervailable subsidy because it is not specific within the meaning of section 771(5A) of the Act. At verification, we intend to examine the applications and the approval process to confirm that the tariff exemptions are, in fact, used by industries producing a wide variety of products. Also, we invite the parties to comment on the distinction we have made in this preliminary determination to focus on the application process for benefits under the tariff exemption program rather than on the application for the company's industrial license.

*Provision of Electricity for Less Than Adequate Remuneration ("LTAR")*

The provision of electricity to consumers in Oman is heavily regulated. (GSO QR at Appendix C.1–5 at 15.) In particular, in accordance with Article 10 of RD78/2004, the rates that are charged for electricity are approved by the Council of Ministers. (GSO QR at Appendix C.1–1.) During the POI, all industrial users in all regions of Oman paid uniform rates. (GSO QR at 37.) To be eligible for the industrial user rate, a company must have a letter of recommendation from the Ministry of Commerce and Industry and meet a stipulated power factor. (GSO QR at Appendix C.1–3 at 37.) According to the GSO, letters of recommendation are given to all companies with an industrial license. (GSO QR at 39.) During the POI, there were over 1.5 million industrial users of electricity in Oman. (GSO QR at Appendix C.1–3 at 10.)

The electricity bills submitted by Al Jazeera show that it paid the established rates. (AJ QR at Exhibit 13.)

Because all industrial users pay the same rates for electricity, we preliminarily determine that any potential subsidy related to the GSO's

provision of electricity is not specific within the meaning of section 771(5A) of the Act.

*C. Provision of Water for LTAR*

Ministerial Decision 11/2000 establishes a uniform water tariff for all commercial users in Oman. (GSO QR at Appendix C.2–1.) The water bills submitted by Al Jazeera show that it paid the established rates. (AJ QR at Exhibit 14.)

Because all commercial users pay the same tariff for water, we preliminarily determine that any potential subsidy related to the GSO's provision of water is not specific within the meaning of section 771(5A) of the Act.

*D. Provision of Natural Gas for LTAR*

According to the GSO, the Ministry of Oil and Gas is the central buyer and seller of gas in the Sultanate. The Ministry buys gas from producers and resells it to power plants, industrial estates, and LNG producers. Further, according to the GSO, the natural gas network delivers gas for industrial purposes only and companies using gas for industrial purposes must be located in or close to an industrial estate. (GSO QR at 43.)

The GSO states that virtually all industries in Oman are located in industrial estates or free trade zones. (GSO QR at 33.) This is due in part to infrastructural constraints, such as the fact that natural gas is not readily available outside of these areas. Additionally, according to the GSO, the zoning in the Sultanate is very strict: an industry seeking to locate outside an industrial estate or free trade zone would have to apply to have the land reclassified as industrial land. *Id.* Finally, industrial estates serve as "one-stop-shops" where all the applications for an industrial installation can be made, rather than having to apply to many different agencies. *Id.*

Regarding natural gas, all industrial companies located in all of industrial estates pay the same rate. (GSO QR at 42.) Al Jazeera is located in the Sohar Industrial Estate and the natural gas bills it submitted show that it paid the standard rate charged to all industries located in Sohar Industrial Estate and all other industrial estates. (AJ QR at Exhibit 15.) Companies located nearby, but outside of industrial estates normally purchase gas from the Ministry of Oil and Gas, but are supplied by the industrial estates. According to the GSO, these companies would normally pay the same for natural gas as companies within the industrial estates, but might pay more if the cost of providing the gas was higher

due, for example, to having constructed a pipeline. (GSO SQR at 13.)

Because all industrial users proximate to the gas pipeline pay the same price for natural gas, we preliminarily determine that any potential subsidy related to the GSO's provision of natural gas is not specific within the meaning of section 771(5A) of the Act.

*E. Provision of Land and/or Buildings for LTAR*

As explained above under "Provision of Natural Gas for LTAR," the GSO states that virtually all industries in Oman are located in industrial estates or free trade zones. These estates and zones have been established on government-owned land and are managed by the Public Establishment for Industrial Estates. (GSO QR at 33.) A small number of very large industrial companies, established by the GSO, are located outside the industrial estates on government-owned land, but the GSO does not provide land under lease outside of the industrial estates. (GSO SQR at 13.)

Privately owned "industrial land" outside of the estates differs from land in the estates, according to the GSO. (GSO SQR at 14.) The plots cannot exceed 85 square meters and rental periods are shorter than those in the estates (which range about 25 years). (GSO SQR at 14.) Companies located outside the estates are small workshops such as carwashes and welders which cannot rent land in the industrial estates because they are not industrial establishments per RD 61/2008. *Id.* The lease rates for these plots are set by the market and, according to the GSO, possibly range around .50 OR per square meter/month. Also according to the GSO, no land in the vicinity of the Sohar industrial estate (where Al Jazeera is located) is provided under lease to industrial establishments by private parties. *Id.*

Regarding lease rates in the industrial estates, the GSO reports that they are set taking into account the location of the industrial estate and lease rates in neighboring countries. *Id.* Lease rates in the Sohar and Rusayl Industrial Estates are uniform at 0.5 OR per square meter per year, while the lease rates in effect for the five other industrial estates maintained by the GSO are 0.25 OR per square meter per year for the first five years and 0.5 OR per square meter per year thereafter. (GSO SQR at Appendix SQ–23.) Lease rates in the free trade zones are typically higher, ranging from 1.5 to 2.5 OR per square meter per year. (GSO SQR at 15.)

According to the GSO, these higher prices reflect additional services and

benefits available in the free trade zones: one stop shop for industrial license and work permits, and various regulatory and policy exemptions. If the land in the free trade zone is not developed, the lease rates may be lower. *Id.*

In summary, the GSO provides industrial land under leases in industrial estates and free trade zones. Companies locating in free trade zones receive benefits or services that are not received in the industrial estates and the lease rates in free trade zones are, therefore, higher. Within the industrial estates, the rates are uniform except for the existence of “introductory” rates in certain zones. Because Al Jazeera has been located in Sohar Industrial Estate beyond any “introductory” period in the other industrial estates, it would face the uniform rate of 0.50 OR.

Because all recipients of industrial leases in the industrial estates that have been located there beyond five years pay the same lease rates, we preliminarily determine that any potential subsidy related to the GSO’s provision of industrial leases is not specific within the meaning of section 771(5A) of the Act.

### III. Programs Preliminarily Determined To Be Not Used By Respondents or To Not Provide Benefits During the POI

#### A. Exemption from Corporate Income Tax

Based on information included in Al Jazeera’s questionnaire response, Wheatland Tube alleged that Al Jazeera benefitted from a countervailable exemption from income tax during the POI. Al Jazeera’s response indicates that the company has a tax loss for 2009 (relating to the tax return filed during the POI) (AJ SQR at 5) and did not belatedly pay corporate income taxes in 2009 for prior years. (AJ NSQR at 2.) Therefore, we preliminarily determine that any income tax exemption was not used during the POI.

#### B. Pre-Shipment Export Credit Guarantees

### IV. Programs For Which More Information Is Required

#### A. Export Credit Discounting Subsidy (identified as “Post-Shipment Financing Loans” in the Initiation Notice)

The Export Credit Guarantee Agency of Oman (“ECGA”) is the national export credit agency of the Sultanate. Exporters whose sales are insured by ECGA can discount their export bills with commercial banks and ECGA provides a one percent subsidy on the export sales it has insured. (GSO QR at

26.) Al Jazeera received an interest subsidy for a loan outstanding during the POI. (AJ QR at 13–14.) However, the interest subsidy for this loan was received after the POI. (AJ SQR at 4.) Consequently, the interest subsidy does not give rise to a benefit during the POI.

We intend to seek further information from Al Jazeera regarding possible interest subsidies received during the POI arising from loans outstanding prior to the POI.

#### Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by the respondents prior to making our final determination.

#### Preliminary Negative Determination

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated an estimated countervailable subsidy rate for Al Jazeera. Further, because Al Jazeera is the only company for which a rate has been calculated, we are also assigning that rate to all other producers and exporters of circular welded pipe from Oman.

Exporter/manufacture	Net subsidy rate
Al Jazeera Tube Mills Company SAOG.	0.12 percent
All Others .....	0.12 percent

Because all of the rates are *de minimis*, we preliminarily determine that no countervailable subsidies are being provided to the production or exportation of circular welded pipe from Oman. As such, we will not direct CBP to suspend liquidation of entries of the subject merchandise.

#### ITC Notification

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

In accordance with section 705(b)(3) of the Act, if our final determination is affirmative, the ITC will make its final determination within 75 days after the Department makes its final affirmative determination.

#### Disclosure and Public Comment

In accordance with 19 CFR 351.224(b), we intend to disclose to the parties the calculations for this preliminary determination within five days of its announcement. Due to the anticipated timing of verification and issuance of verification reports, case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. See 19 CFR 351.309(c)(i) (for a further discussion of case briefs). Rebuttal briefs must be filed within five days after the deadline for submission of case briefs, pursuant to 19 CFR 351.309(d)(1). A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. See 19 CFR 351.309(c)(2) and (d)(2).

Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, we intend to hold the hearing two days after the deadline for submission of the rebuttal briefs, pursuant to 19 CFR 351.310(d), at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must electronically submit a written request to the Assistant Secretary for Import Administration using IA ACCESS, within 30 days of the publication of this notice, pursuant to 19 CFR 351.310(c). Requests should contain: (1) The party’s name, address, and telephone; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. See *id.*

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: March 26, 2012.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

[FR Doc. 2012–7839 Filed 3–30–12; 8:45 am]

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6/1/2017

:: Insure Exports with ECGA of Oman for Safe Export Business ::



HOME INTRODUCTION SERVICES APPLICATION FORM CONTACT US LOGIN NEWS BULLETINS عربي

Issue No. 1/2003

#### Role of the Export Credit Guarantee Agency (ECGA) in Promoting Omani Non-oil Exports and its Future Outlook.

The following article on the Role of the Export Credit Guarantee Agency (ECGA) in promoting Omani non-oil exports and its future outlook prepared by Mr. Nasir bin Issa al Ismaily, the General Manger of ECGA first appeared in the recently published book entitled *Doing Business with Oman* published by Kogan Page, London available from [www.kogan-page.co.uk](http://www.kogan-page.co.uk). The Export Credit Guarantee Agency (ECGA) commenced export credit insurance operations in November 1991. Prior to that time, it had been known as the Export Guarantee & Financing Unit (EGFU) operating under the umbrella of the Oman Development Bank (ODB), but was renamed the Export Credit Guarantee agency in August 1999. It is unique as the only national export credit agency within the Gulf Cooperation Council (GCC) region. It has a capital of RO.7 million (US\$18.2 million) and is now independent of the Oman Development Bank.

The ECGA provides credit insurance cover against commercial or buyer risks as well as non-commercial or political risks. The commercial risks that are covered by the ECGA's export credit insurance policy include insolvency/bankruptcy, default to pay, as well as non-acceptance of goods by the buyer. With regard to county risks, these include foreign exchange transfer delays, import bans or cancellation of import licence, payment moratorium, war, civil disorder and natural disasters.

When the ECGA commenced normal operations in 1992, it faced the sizeable challenge of how to sell an intangible, unique credit insurance service in a country where it had not been known before. Omani businessmen have traditionally traded with buyers on trust and thus they failed to see the need for obtaining credit insurance protection against their receivables. As a result, the ECGA had to convince exporters and others of the quantifiable and tangible benefits to be derived from credit insurance services. To this end, the ECGA also involved the banking sector in promoting the products to exporters. The cooperation and support provided by the commercial banks in jointly promoting the export credit insurance scheme to prospective clients was of utmost importance in the early days and ensured its success in the country.

The ECGA's role is more that of a catalyst through insuring exports while assisting exporters in obtaining the necessary financing from commercial banks at more favourable interest rates. The availability of cheaper financing has had a profound, positive effects as the number of exporters interested in insuring their exports with the ECGA has increased and, through bill discounting with commercial banks, they have recognized the benefits that can be derived. Hence, in the earlier period of operations, most policyholders were more interested in cheaper funding than credit insurance.

However, as the result of the Gulf crisis, and considering the number of exporters adversely affected at that time, they realized that credit insurance was an important option. Indeed, the crisis was a blessing in disguise as credit insurance now became considered and essential tool in mitigating the risks of non-payment from buyers and, subsequently, the number of policyholders requesting credit insurance grew substantially. Thus, the primary objective of the ECGA in promoting Omani exports through the provision of credit insurance services was attained. Hence, credit insurance has long been recognized by the management of most companies as an essential and integral element in safeguarding against both commercial and non-commercial (political) risks. It has allowed exporters to venture and trade with new buyers and also enter non-traditional markets.

In addition to export credit insurance and post-shipment financing with commercial banks against discounted bills, in 1999 the ECGA introduced the Pre-shipment Export Credit Guarantee for the benefit of small-sized exporters, which allowed the commercial banks to extend working capital financing for the purchase of the raw materials needed to manufacture their products against confirmed purchase orders from abroad. Thus, the guarantee fills the security gap needed by the exporters' banks.

The operations of the ECGA since commencement of its activities have clearly been appropriate, being highly valued by exporters, with the Agency experiencing encouraging and excellent responses in the provision of its export credit insurance services. The ECGA has been successful in meeting its targets for export credit insurance business in its drive to promote Omani exports, which can broadly be supported by substantial increases in Omani non-oil exports from RO.79.1 million (US\$205.7 million) in 1991 to RO.265.8 million (US\$690.4 million) in 2001. The ECGA has been able to contribute to such remarkable growth as it has allowed Omani exporters to expand their export sales to new buyers and far away foreign markets in addition to GCC countries, knowing that the risks of non-payment of export shipments are insured and therefore minimized.

The operations of the ECGA since commencement of its activities have been on the right track and highly valued by the exporters. The Agency has experienced encouraging and excellent responses in providing its export credit insurance services to Omani exporters since 1991. ECGA has been successful in meeting its target for export credit insurance business in its drive of promoting Omani exports. This can be broadly supported by substantial increases of Omani non-oil exports from RO.79.1 million in 1991 to RO.247.8 million in the year 2000. The Agency has

Apart from risk minimization, which the exporter benefits through payment of claims by ECGA in case of non-payment by the buyers, the Export Credit Policy can also be assigned to the exporters' banks as collateral. Such assignment provides opportunities for policyholders to obtain new or enhanced post-shipment financing facilities on better or concessional terms than the banks might otherwise have been prepared to offer if the exporter was not credit insured or the policy was not available. Thus, the Export Credit Policy not only minimizes the risk of non-payment to the exporter but also assists him in obtaining necessary and better export financing terms. Hence, it provides exporters with greater financial liquidity in managing their foreign receivable portfolios.

The ECGA introduced its quarterly New Bulletin in 1997, which is highly informative as it provides information to exporters on the benefits of credit insurance; lists questions and answers; details cases and scenarios on claims; and provides news items pertaining to the ECGA and exports as well as useful articles on effective credit management tools for export businesses.

The ECGA has continued to attract interest among lead re-insurers through its international reinsurance treaties against both commercial and political risks, which have been highly commended. The ECGA first obtained its Quota Share Reinsurance Treaty with the group of lead re-insurers in 1996, and was the first Arab export credit agency to obtain such reinsurance protection against both commercial and political risks. The continued growth and exposure of the ECGA has been ensured since that time. The ECGA has also obtained additional reinsurance support through its association with Coface in the Credit Alliance Network. Such reinsurance support is essential considering the rapid growth of the ECGA's exposure, which stood at RO138.5 million (US\$359.7 million) at the end of 2001.

The ECGA is able to actively access credit information reports from the Coface database, which enables access to the details of millions of buyers to which the ECGA is linked by an online computer system, as well as enabling underwriting decisions for higher amounts to be reinsured through Coface. In addition, the ECGA benefits from technical collaboration and assistance with debt collection and recoveries.

The ECGA was honoured by the Credit Alliance in being awarded the John Manners Memorial Shield Award during its annual meeting in September 2001 in Vienna, Austria. The ECGA was the first recipient of the award in the history of the Credit Alliance. ECGA's representation as a reappointed member of the General Steering Committee of the Credit Alliance Network under the auspices of Coface in 2000 served as an important international recognition of its status, particularly as first Arab export credit agency to be represented on such an important committee.

ECGA was also re-elected as a Regional Coordinator for the Middle East and Africa during the previous annual meetings in Vienna and later on in Paris respectively. The Regional Committee consists of various export credit agencies in the Middle East and Africa that are already members of the Credit Alliance.

The ECGA is also a full member of the Prague Club, which is a meeting of participating export credit agencies under the auspices of the Secretariat of the Berne Union – the International Union of Credit & Investment Insurers. The ECGA's status since 2000 has been elevated from that of observer to fully fledged member.

The ECGA's experience over its 10-year history in providing vital services for the benefit of Omani exporters – whether in terms of risk minimization through credit insurance, in improving their liquidity through bill discounting under the post-shipment financing scheme, or through availability of needed working capital financing through the ECGA's Pre-shipment Export Credit Guarantee Scheme – has contributed immensely to the promotion and encouragement of Omani non-oil exports.

With regard to prospects and the proposed outlook for the future, the ECGA envisages continuation of sustained growth of its credit insurance business by meeting the increasing needs of Omani exporters for credit insurance protection against both commercial and non-commercial risks. It also envisages new challenges and opportunities in the credit insurance industry due to globalization of trade, increased competition and the crumbling of national barriers due to the opening of markets worldwide. Such trends are expected to increase as more countries join the World Trade Organization (WTO), of which Oman became a member in 2000.

The ECGA anticipates greater integration within the Credit Alliance by actively availing various services through its platform as well as being actively engaged in marketing different products in coordination with Coface and other partners within the Alliance. These include a range of credit insurance services and products such as the international global policy and the @ rating products.

The ECGA expects in the future to introduce domestic credit insurance as a logical extension of its credit insurance business so as to enable fulfillment of the needs and requirements of exporters rather than restricting such services solely to export. This will not only benefit the policyholders in terms of managing all their credit receivables through risk minimization and improving their liquidity and turnover, but will also enhance the ECGA's total insurable business

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contributed its share for such remarkable growth as it has allowed Omani exporters to expand their export sales to new buyers and far away foreign markets in addition to the GCC countries knowing that the risks of non-payment of export shipments are insured and therefore minimized.

The Agency has long continued to provide its export credit insurance support to a large number of Omani exporters against the risks of non payment of exports due to commercial and political (non-commercial) risks. With its credit insurance scheme, the Omani exporters are provided not only protection against payment risks but also the Agency advises exporters on credit worthiness of overseas buyers and guides the exporters on their collection and recovery of overdue bad debts. It allows the exporters to sell safely on credit terms and compete effectively against other suppliers. It also gives them the confidence of selling to new and far away or non-traditional markets. By insuring their exports with ECGA, it gives the policyholders better control on their export receivables by keeping tab of the buyers and credit limits approved for cover by the Agency.

Apart from the risk minimization, which the exporter benefits through payment of claims by ECGA in case of non payment by the buyers, the Export Credit Policy can also be assigned to the exporter's banker as collateral. Such assignment provides the opportunity for the exporters to obtain new or enhancement of existing post shipment financing facilities on better or concessional terms than the banks might otherwise have been prepared to offer if the exporter was not credit insured or the policy is not available. Thus, the Export Credit Policy does not only minimize the risk of non-payment to the exporter but also assists him to obtain necessary and better export financing terms. Hence it provides the exporters with greater financial liquidity in managing their foreign receivable portfolios.

The ECGA has long continued to provide export credit insurance support to a large number of Omani exporters. With its credit insurance scheme, the Omani exporters are provided not only with protection against payment risks but also advice on the creditworthiness of overseas buyers and on how to collect and recover overdue bad debts. It allows exporters to sell safely on credit terms and compete effectively against other suppliers and also gives them the confidence to sell to new and far away or non-traditional markets. By insuring their exports with the ECGA, policyholders have better control over their export receivables by maintaining control of their buyers under the credit limits approved by the Agency.

income, thus enabling the continued attraction of international re-insurers and enabling provision of reinsurance protection to the ECGA's growing exposure against both commercial and non-commercial risks resulting from a higher volume of premiums.

In addition, the ECGA expects to promote the use of the e-commerce by policyholders, other potential clients and exporters, through communicating and transacting business with ECGA through web-based applications. The Internet and e-mail are expected to be key to future relationships with clients and also with their other business suppliers and associates. Thus, policyholders will be expected in the future to declare their monthly export business or requests for credit limits to the ECGA, which will then be in a position to invoice them for the premium online, thereby substituting unnecessary paperwork and improving efficiency. Concerted effort will definitely be required from both sides in order to appreciate the benefits of business-to-business (B2B) transactions, particularly when considering that the usage of e-commerce in its infancy in the Gulf region when compared with other developed markets. For this, there remains a need for proper preparation to meet such challenges.

Furthermore, credit insurance is expected to be continuously viewed exclusively by the policyholders as an essential tool, which provides added value though protection against the risks of non-payment, despite the need for policyholders to pay a premium for such services. That said, it is envisaged that credit insurance will stand on its own merits and be seen to provide benefits such as the policy being viewed by commercial banks as additional security assigned to them for extending pre-shipment as well as post-shipment financing facilities at better concessional lending rates due to the substantial reduction in the risk involved.

Finally, the ECGA belongs to a number of regional and international credit insurance organizations. These include forums of export credit agencies of Arab countries under the auspices of the Inter-Arab Investment Guarantee Corporation (IAIGC); of the Islamic countries under the Islamic Corporation for the Insurance of Investment and Export Credit (ICIEC); and of the Credit Alliance Network under the auspices of Coface of France. It is also a member of the Prague Club. It is to be expected that, once the ECGA meets the minimum requirements in terms of business s declared and volume to premium, it will also qualify to be a fully fledged member of the Berne Union.

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