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MEMORANDUM TO: Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

FROM: Gary Taverman
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

RE: Corrosion-Resistant Carbon Steel Flat Products from Korea

SUBJECT: Decision Memorandum: Final Results of Countervailing Duty Administrative Review

Summary

On September 14, 2010, the Department of Commerce (Department) published its preliminary results in this countervailing duty administrative review. See Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review, 75 FR 55745 (September 14, 2010) (Preliminary Results). Subsequent to the Preliminary Results, we issued a supplemental questionnaire to the Government of Korea (GOK) concerning the Act on Special Measures for the Promotion of Specialized Enterprises for Parts and Materials (Promotion of Specialized Enterprises Act). After analyzing the information submitted by the GOK, we have made certain modifications to the Preliminary Results. Specifically, we have reconsidered our treatment of the calculation of the benefit for research and development (R&D) assistance provided under the Promotion of Specialized Enterprises Act and reconsidered the basis of the specificity finding. In addition, we have reexamined our treatment of the R&D assistance provided under the Act on the Promotion of the Development and Use of Alternative Energy program (Alternative Energy Act) and made similar modifications to the Preliminary Results concerning this program. The program sections below describe the changes in the calculation methodology followed in these final results of review with respect to the benefits received by Hyundai HYSCO Ltd. (HYSCO), the producer of subject merchandise covered by this review, under these two R&D programs.

All other determinations made in the Preliminary Results remain unchanged in these final results.

Programs

A. The Act on Special Measures for the Promotion of Specialized Enterprises for Parts and Materials

In the Preliminary Results, the Department determined that under the Promotion of Specialized Enterprises Act, the GOK shares the costs of R&D projects with companies or research institutions. The goal of the program is to support technology development for core parts and materials necessary for technological innovation and improvement in competitiveness. See Preliminary Results, 75 FR at 55749. The program is administered by the Ministry of Knowledge Economy (MKE) and the Korea Evaluation Institute of Industrial Technology (KEIT). Id.

In accordance with Articles 3 and 4 of the Promotion of Specialized Enterprises Act, MKE prepares a base plan and a yearly execution plan for the development of the parts and materials industry. Id. Under the execution plan, MKE announces to the public a detailed business plan for the development of parts and materials technology. Id. This business plan includes support areas, qualifications, and the application process. Id. According to the GOK, any person or company can participate in the program by preparing an R&D business plan that conforms with the requirements set forth in the MKE business plan. Id. The completed application must then be submitted to KEIT, which evaluates the application and selects the projects eligible for government-support. Id. After the selected application is finally approved by MKE, MKE and the participating companies enter into an R&D agreement and then MKE provides the grant. Id.

In the Preliminary Results, the Department determined that R&D project costs are shared by the GOK and companies or research institutions as follows: 1) When the group of companies involved in the research is comprised of more than two-thirds small to medium-sized companies, the GOK provides a grant up to 75 percent of the project cost; 2) When the group of companies involved in the research is comprised of less than two-thirds small to medium-sized companies, the GOK provides a grant up to 50 percent of the project cost. See Preliminary Results, 75 FR at 55749.

Upon completion of the project, if the GOK evaluates the project as "successful", the participating companies must repay 40 percent of the R&D grant to the GOK over five years. Id. However, if the project is evaluated by the GOK as "not successful," the company does not have to repay any of the grant amount to the GOK. Id.

HYSCO reported that during the period of review (POR), it was involved in two R&D projects under this program. Id. HYSCO further reported that it led a consortium of several companies in these projects for the steel used in automobiles. Id. Moreover, HYSCO stated that it received R&D grants under this program that are for the development of specialized technologies associated with the production of subject merchandise. Id.

In the Preliminary Results, we analyzed whether the grants received from the GOK under the Promotion of Specialized Enterprises Act are countervailable. We analyzed whether the GOK provided grants to the respondent and/or Korean industries in a manner that was specific within the meaning of section 771(5A) of the Act. Because we did not have a full translation of the Promotion of Specialized Enterprises Act on the record, we did not have the information necessary to determine whether benefits under the program are de jure specific. Subsequent to the Preliminary Results, we requested and received a full translation of the Promotion of

Specialized Enterprises Act from the GOK. Therefore, for these final results, we analyzed whether the GOK, under the Promotion of Specialized Enterprises Act, provided grants to the respondent and/or Korean industries in a manner that was specific within the meaning of section 771(5A) of the Act.

Upon examination of the information on the record, we find that the Promotion of Specialized Enterprises Act itself is expressly limited to (1) enterprises specializing in components and materials and (2) enterprises specializing in development of technology for components and materials. See GOK's September 17, 2010 submission at Exhibit G-17. As such, we find that the Promotion of Specialized Enterprises Act is de jure specific under section 771(5A)(D)(i) of the Act. We continue to find, as in the Preliminary Results, that a financial contribution is provided in the form of revenue forgone, and a benefit within the meaning of sections 771(5)(D)(ii) and 771(5)(E) of the Act. See Preliminary Results, 75 FR at 55750.

In the Preliminary Results, with respect to the benefit provided, we treated the GOK's total contribution to the project that was apportioned to HYSCO as a grant. Id. However, upon further examination of the program, we have decided to modify our treatment of the GOK's assistance to projects under the Promotion of Specialized Enterprises Act with respect to the treatment of the subsidy provided. We are treating a portion of the subsidy that does not have to be repaid as a grant. We are treating the remaining portion of the subsidy that may have to be repaid as a long-term, interest-free contingent liability. This approach is consistent with the Department's practice. See 19 CFR 351.505(d)(1); see also Certain Hot-Rolled Carbon Steel Flat Products From India: Final Results of Countervailing Duty Administrative Review, 73 FR 40295 (July 14, 2008) and accompanying Issues and Decision Memorandum at "Export Promotion Capital Goods Scheme (EPCGS)" (HRS from India Decision Memorandum).

We are treating the portion of the benefit received in the form of a grant as a non-recurring subsidy. See 19 CFR 351.524(c)(1). Accordingly, we determined whether to allocate the grant over the 15-year average useful life (AUL) by dividing the apportioned amount of the grant approved by the GOK over HYSCO's total sales in the year of approval. See 19 CFR 351.524(b)(2). Because the approval amount of the grant is less that 0.5 percent of the relevant sales denominator, we expensed the amount of the grant HYSCO received to the year of receipt.

With respect to the portion of the subsidy that we are treating as a long-term, interest-free contingent liability, pursuant to 19 CFR 351.505(d)(1), we find the benefit to be equal to the interest that HYSCO would have paid during the POR had it borrowed the full amount of the contingent liability during the POR. Pursuant to 19 CFR 351.505(d)(1), we used a long-term interest rate as our benchmark to calculate the benefit of a contingent liability interest-free loan because the event upon which repayment of the duties depends (i.e., the completion of the R&D project) occurs at a point in time more than one year after the date in which the grant was received. Specifically, we used the long-term benchmark interest rates as described in the "Subsidies Valuation" section of the Preliminary Results. See 75 FR at 55746 - 55747.

To calculate the total net subsidy for this program, we then summed the benefits provided under this program. Next, to calculate the net subsidy rate, we divided the portion of the benefit allocated to the POR by HYSCO's total f.o.b. sales for 2008. See 19 CFR 351.525(b)(3). On this basis, we determine the net subsidy rate under this program to be 0.02 percent ad valorem for HYSCO.

B. The Act On The Promotion Of The Development And Use Of Alternative Energy Program

The Alternative Energy Act is administered by the MKE, the Korea Energy Management Corporation (KEMCO), and the Alternative Energy Development Center under KEMCO. In the Preliminary Results, the Department determined that the GOK's Alternative Energy Act program is designed to contribute to the preservation of the environment, the sound and sustainable development of the national economy, and the promotion of national welfare by diversifying energy resources through promoting technological development, the use and diffusion of alternative energy, and reducing the discharge of gases harmful to humans or the environment by activating the alternative energy industry. See 75 FR at 55748.

Under the Alternative Energy Act, the GOK provides R&D grants to support the following: (1) survey of resources for alternative energy and demand for its technology, and compilation of statistics; (2) research and development of alternative energy; (3) collection, analysis, and provision of technological information on alternative energy; (4) guidance, education and publicity of technologies related to alternative energy; (5) use and diffusion of alternative energy, and model projects; (6) international cooperation related to alternative energy; and (7) other projects necessary for the technological development and use or diffusion of alternative energy. Id.

Pursuant to Articles 4 and 5 of the Alternative Energy Act, MKE prepares a base plan and a yearly execution plan for the development of alternative energy. Id. The base and execution plan are announced to the public. Id. According to the GOK, any person who wishes to participate in the program prepares an R&D business plan and then submits the application to the Alternative Energy Development Center under KEMCO, which then evaluates the application and selects the projects eligible for government-support. Id. After the selected application is finally approved by MKE, KEMCO and the general supervising institute of the consortium enter into an R&D agreement and then MKE provides the grant through KEMCO. Id.

The costs of the R&D projects under this program are shared by the company (or research institution) and the GOK. Id. Specifically, the grant ratio for project costs are as follows: (1) for large companies the GOK provides grants up to 50 percent of the project costs; (2) for small/medium-sized companies the GOK provides grants up to 75 percent of the project costs; (3) for consortiums[1] the GOK provides grants up to 75 percent of the project costs; and (4) others the GOK provides grants up to 50 percent of the project costs. Id.

When the project is evaluated as "successful" upon completion, the participating companies must repay 40 percent of the R&D grant to the GOK. Id. However, when the project is evaluated as "not successful," the company does not have to repay any of the grant amount to the GOK. Id.

During the POR, HYSCO received an energy-related assistance under the Alternative Energy Act for a R&D project in which the company participated with other firms. Id. HYSCO reported that R&D grants under the Alternative Energy Act are provided with respect to specific projects, which are generally multi-year projects where the amount of funds to be provided by the GOK is set out in the project contract. Id., at 55748-55749. The cost of R&D projects under this program is shared by the participating companies and the GOK. Id. The assistance provided to HYSCO is related to new technologies that are applicable to both inputs of subject

[1] If the ratio of small- to medium-sized companies in a consortium is above two-thirds, the GOK provides grants up to one-half of the project costs.

merchandise as well as subject merchandise. See Memorandum to the File titled "HYSCO's R&D Grants under the Act on the Promotion of the Development and Use of Alternative Energy" (September 7, 2010) of which a public version is on file in the CRU.

In the Preliminary Results, we treated the GOK's total contribution to the project that was apportioned to HYSCO as a grant. See 75 FR at 55749. However, upon further examination of the program, we have decided to modify our treatment of the GOK's assistance to projects under the Alternative Energy Act with respect to the treatment of the subsidy provided. Specifically, we are treating a portion of the subsidy that does not have to be repaid as a grant and the remaining portion of the subsidy that may have to be repaid as a long-term, interest-free contingent liability. See 19 CFR 351.505(d)(1); see also HRS from India Decision Memorandum at "Export Promotion Capital Goods Scheme (EPCGS)."

We are treating the portion of the benefit received in the form of a grant as a non-recurring subsidy. See 19 CFR 351.524(c)(1). Accordingly, we determined whether to allocate the grant over the 15-year AUL by dividing the apportioned amount of the grant approved by the GOK over HYSCO's total sales in the year of approval. See 19 CFR 351.524(b)(2). Because the approval amount of the grant is less that 0.5 percent of the relevant sales denominator, we expensed the amount of the grant HYSCO received to the year of receipt.

With respect to the portion of the subsidy that we are treating as a long-term, interest-free contingent liability, pursuant to 19 CFR 351.505(d)(1), we find the benefit to be equal to the interest that HYSCO would have paid during the POR had it borrowed the full amount of the contingent liability during the POR. Pursuant to 19 CFR 351.505(d)(1), we used a long-term interest rate as our benchmark to calculate the benefit of a contingent liability interest-free loan because the event upon which repayment of the duties depends (i.e., the completion of the R&D project) occurs at a point in time more than one year after the date in which the grant was received. Specifically, we used the long-term benchmark interest rates as described in the "Subsidies Valuation" section of the Preliminary Results. See 75 FR at 55746 - 55747.

To calculate the total net subsidy for this program, we then summed the benefits provided under this program. Next, to calculate the net subsidy rate, we divided the portion of the benefit allocated to the POR by HYSCO's total f.o.b. sales for 2008. See 19 CFR 351.525(b)(3). On this basis, we determine the net subsidy rate under this program to be to be less than 0.005 percent ad valorem, which, consistent with the Department's practice, does not confer a benefit that is numerically significant. See, e.g., Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review, 74 FR 46100, 46106 (September 8, 2009) unchanged in Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 74 FR 55192 (October 27, 2009). Therefore, we determine in these final results that the Alternative Energy Act did not confer a benefit during the POR.

Recommendation

Based on our analysis, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of the review in the Federal Register.

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Agree Disagree

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Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

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Date