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September 3, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

FROM: Gary Taverman 
Senior Advisor
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of 2011
Countervailing Duty Administrative Review: Corrosion-Resistant
Carbon Steel Flat Products from the Republic of Korea

SUMMARY

In response to requests from interested parties, the Department of Commerce ("Department") is conducting an administrative review of the countervailing duty ("CVD") order on corrosion-resistant carbon steel flat products ("CORE") from the Republic of Korea ("Korea") for the period of review ("POR") January 1, 2011, through December 31, 2011. The Department preliminarily finds that Pohang Iron & Steel Co. Ltd. ("POSCO"), Dongbu Steel Co., Ltd. ("Dongbu"), and Hyundai HYSCO Ltd. ("HYSCO"), received *de minimis* net subsidy rates, as provided in section 703 of the Tariff Act of 1930, as amended ("the Act"), and in accordance with 19 CFR 351.221(b)(4)(i).¹

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to liquidate without regard to CVDs on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. We intend to issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

BACKGROUND

On August 17, 1993, the Department published in the *Federal Register* the CVD order on CORE from Korea.² On August 1, 2012, the Department published a notice of opportunity to request an administrative review of this CVD order.³

¹ See also 19 CFR 351.106(c)(1).

² See *Countervailing Duty Orders and Amendments of Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Korea*, 58 FR 43752 (August 17, 1993).

³ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 77 FR 45580 (August 1, 2012).



On August 31, 2012, we received timely requests for review of the CVD order from United States Steel Corporation (“Petitioner”) and HYSCO. On September 26, 2012, the Department published a notice of initiation of the administrative review of the CVD order on CORE from Korea covering the period January 1, 2011, through December 31, 2011.⁴ On October 1, 2012, the Department issued the initial questionnaire to Dongbu, HYSCO, POSCO, and the Government of Korea (“GOK”). On November 28, 2012, November 30, 2012, December 3, 2012, and December 4, 2012, the Department received questionnaire responses from Dongbu, HYSCO, POSCO, and the GOK, respectively. On December 3, 2012, the Department received a separate questionnaire response from Daewoo International Corporation (“Daewoo”).

On April 23, 2013, May 24, 2013, and June 28, 2013 the Department issued supplemental questionnaires to HYSCO. On May 21, 2013, May 30, 2013, and July 12, 2013, the Department received supplemental questionnaire responses from HYSCO. On June 28, 2013, the Department issued supplemental questionnaires to POSCO and Daewoo. On July 26, 2013, and August 2, 2013, respectively, the Department received supplemental questionnaire responses from POSCO and Daewoo.

On April 15, 2013, the Department issued a memorandum extending the preliminary results of the instant administrative review to September 3, 2013.⁵

In accordance with 19 CFR 351.213(b), this review covers only those producers or exporters for which a review was specifically requested. The companies subject to this review are Dongbu, HYSCO, and POSCO.

Scope of the Order

Products covered by this order are certain corrosion-resistant carbon steel flat products from Korea. These products include flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness. The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (“HTSUS”) at subheadings: 7210.30.0000, 7210.31.0000, 7210.39.0000, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.49.0091, 7210.49.0095, 7210.60.0000, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.21.0000, 7212.29.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000,

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 77 FR 59168 (September 26, 2012).

⁵ See Memorandum to Gary Taverman, through Melissa G. Skinner, entitled “Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review,” dated April 15, 2013.

7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.9030, 7215.90.5000, 7217.12.1000, 7217.13.1000, 7217.19.1000, 7217.19.5000, 7217.20.1500, 7217.22.5000, 7217.23.5000, 7217.29.1000, 7217.29.5000, 7217.30.15.0000, 7217.32.5000, 7217.33.5000, 7217.39.1000, 7217.39.5000, 7217.90.1000 and 7217.90.5000. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise is dispositive.

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) provides that the Department will attribute subsidies received by certain other companies to the combined sales of those companies when: (1) two or more corporations with cross-ownership produce the subject merchandise; (2) a firm that received a subsidy is a holding or parent company of the subject company; (3) there is cross-ownership between an input supplier and a downstream producer and production of the input is primarily dedicated to the production of the downstream product; or (4) a corporation producing non-subject merchandise received a subsidy and transferred the subsidy to a corporation with cross-ownership with the subject 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.⁶

Pursuant to 19 CFR 351.525(b)(6)(ii), we have attributed subsidies received by Dongbu, POSCO and HYSCO to the firms' respective sales. In addition, POSCO reported that a portion of its sales of subject merchandise to the United States during the POR were exported through Daewoo, a trading company of which POSCO has majority ownership. Therefore, because Daewoo is a trading company that ships subject merchandise produced by POSCO, pursuant to 19 CFR 351.525(c), we have cumulated benefits received by Daewoo with those received by POSCO.

Subsidies Valuation Information

A. Benchmarks for Short-Term Financing

For those programs requiring the application of a won-denominated, short-term interest rate benchmark, in accordance with 19 CFR 351.505(a)(2)(iv), we used as our benchmark the company-specific weighted-average interest rate for commercial won-denominated loans

⁶ See *Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001) (*Fabrique*).

outstanding during the POR. This approach is in accordance with 19 CFR 351.505(a)(3)(i) and the Department's practice.⁷

B. Benchmarks for Long-Term Loans and Discount Rates

During the POR, POSCO had outstanding countervailable long-term won-denominated loans from government-owned banks and Korean commercial banks.

As benchmarks for countervailable, won-denominated long-term loans and as discount rates, we used, where available, the company-specific interest rates on the company's comparable commercial, won-denominated loans. If such loans were not available, we used, where available, the company-specific corporate bond rate on the company's public and private bonds, as we have determined that the GOK did not control the Korean domestic bond market after 1991.⁸ The use of a corporate bond rate as a long-term benchmark interest rate and a discount rate is consistent with the approach the Department has taken in several prior Korean CVD proceedings.⁹ Specifically, in those cases, we determined that, absent company-specific, commercial long-term loan interest rates, the won-denominated corporate bond rate is the best indicator of the commercial long-term borrowing rates for won-denominated loans in Korea because it is widely accepted as the market rate in Korea.¹⁰ Where company-specific rates were not available, we used the national average of the yields on three -year, won-denominated corporate bonds, as reported by the Bank of Korea ("BOK"). This approach is consistent with 19 CFR 351.505(a)(3)(ii) and our practice.¹¹

In accordance with 19 CFR 351.505(a)(2)(i), our benchmarks take into consideration the structure of the government-provided loans. For countervailable fixed-rate loans, pursuant to 19 CFR 351.505(a)(2)(iii), we used benchmark rates issued in the same year that the government loans were issued.

Average Useful Life

Pursuant to 19 CFR 351.524(d)(2), we will presume the allocation period for non-recurring subsidies to be the average useful life ("AUL") of renewable physical assets for the industry concerned as listed in the Internal Revenue Service's ("IRS") 1997 Class Life Asset

⁷ See, e.g., *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009) ("Final Results of CORE from Korea 2006"), and accompanying Issues and Decision Memorandum ("IDM") at "Benchmarks for Short-Term Financing."

⁸ See, e.g., *Final Negative Countervailing Duty Determination: Stainless Steel Plate in Coils from the Republic of Korea*, 64 FR 15530, 15531 (March 31, 1999) and "Analysis Memorandum on the Korean Domestic Bond Market" (March 9, 1999).

⁹ *Id.*; see also *Final Affirmative Countervailing Duty Determination: Structural Steel Beams from the Republic of Korea*, 65 FR 41051 (July 3, 2000), and accompanying IDM at "Benchmark Interest Rates and Discount Rates;" and *Final Affirmative Countervailing Duty Determination: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 68 FR 37122 (June 23, 2003), and accompanying IDM at "Discount Rates and Benchmark for Loans."

¹⁰ See *Final Affirmative Countervailing Duty Determinations and Final Negative Critical Circumstances Determinations: Certain Steel Products from Korea*, 58 FR at 37328, 37345-37346 (July 9, 1993).

¹¹ See, e.g., *Final Results of CORE from Korea 2006*, and accompanying IDM at "Benchmark for Long Term Loans."

Depreciation Range System, as updated by the Department of the Treasury. The presumption will apply unless a party claims and establishes that the IRS tables do not reasonably reflect the company-specific AUL or the country-wide AUL for the industry under examination and that the difference between the company-specific and/or country-wide AUL and the AUL from the IRS tables is significant. According to the IRS tables, the AUL of the steel industry is 15 years. No interested party challenged the 15-year AUL derived from the IRS tables. Thus, in this review, we have allocated, where applicable, all of the non-recurring subsidies provided to the producers/exporters of subject merchandise over a 15-year AUL.

I. Programs Determined To Be Countervailable

A. Promotion of Specialized Enterprises for Parts and Materials

Under the Act on Special Measures for the Promotion of Specialized Enterprises for Parts and Materials (“Promotion of Specialized Enterprises Act”), the GOK shares the costs of research and development (“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.¹² The program is administered by the Ministry of Knowledge Economy (“MKE”) and Korea Evaluation Institute of Industrial Technology (“KEIT”).¹³

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.¹⁴ Under the execution plan, MKE announces to the public a detailed business plan for the development of parts and materials technology.¹⁵ This business plan includes support areas, qualifications, and the application process.¹⁶ 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.¹⁷ The completed application must then be submitted to KEIT, which evaluates the application and selects the projects eligible for government support.¹⁸ 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.¹⁹

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 made up of a ratio above two-thirds small to medium-sized companies, the GOK provides a grant up to three-fourths of the project cost; 2) When the group of companies involved in the research is made up of a ratio below two-thirds small to medium-sized companies, the GOK provides a grant up to one-half of the project cost.²⁰

¹² See GOK’s December 4, 2012, questionnaire response (“GOK’s Initial QR”) at Exhibit P-1.

¹³ *Id.*

¹⁴ See GOK’s Initial QR at Exhibit P-1.

¹⁵ *Id.* at 2.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* at 3.

²⁰ See GOK’s Initial QR, Exhibit P-1.

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.²¹ 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.²²

In the final results of administrative review of the CVD order on CORE from Korea covering the period January 1, 2008, through December 31, 2008, the Department determined that the Promotion of Specialized Enterprises Act was *de jure* specific under section 771(5A)(D)(i) of the Act, because it is expressly limited to (1) enterprises specializing in components and materials and (2) enterprises specializing in development of technology for components and materials.²³ No information on the record of this review leads us to reconsider that determination and, thus, we preliminarily find that this program is *de jure* specific within the meaning of 771(5A)(D)(i) of the Act. We also preliminarily find that a financial contribution was provided within the meaning of section 771(5)(D)(i) of the Act because the GOK’s payments constitute a direct transfer of funds.²⁴

HYSCO reported that during the POR, it was involved in one R&D project under this program.²⁵ In the *Final Results of CORE from Korea 2008*, we treated 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 loan.²⁶ This approach is consistent with the Department’s regulation and practice.²⁷ We have adopted the same approach in these preliminary results.

To determine the benefit from the GOK funds HYSCO received under the Specialized Enterprises Act program, we calculated the GOK’s contribution for the assistance that was apportioned to HYSCO.²⁸ As described immediately above, we treated a portion of this benefit as a grant. In accordance with 19 CFR 351.524(b)(2), we determined whether to allocate the non-recurring benefit from the grants over a 15-year AUL by dividing the GOK-approved grant amount by the company’s total sales in the year of approval. Because the approved amount was less than 0.5 percent of the company’s total sales, we expensed the grant to the year of receipt, *i.e.*, to 2011, the POR in this review.

²¹ See GOK’s Initial QR, Exhibit P-1 at 2.

²² *Id.*

²³ See *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 76 FR 3613 (January 20, 2011) (“*Final Results of CORE from Korea 2008*”), and accompanying IDM at “The Act on Special Measures for the Promotion of Specialized Enterprises for Parts and Materials.”

²⁴ 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; 55750 (September 14, 2010).

²⁵ See HYSCO’s Initial QR at 17. The other respondents did not report receiving any benefits under this program during the POR.

²⁶ See *Final Results of CORE from Korea 2008*, and accompanying IDM at “The Act on Special Measures for the Promotion of Specialized Enterprises for Parts and Materials.”

²⁷ 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 IDM at “Export Promotion Capital Goods Scheme (“EPCGS”).”

²⁸ See 19 CFR 351.504(a).

With respect to the portion of the subsidy that we are treating as a long-term, interest-free contingent liability loan, pursuant to 19 CFR 351.505(d)(1) for the reasons described above, 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 loan 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 these preliminary results.

To calculate the total net subsidy amount for this program, we 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 free on board (“f.o.b.”) sales for 2011.²⁹ On this basis, we preliminarily determine the net subsidy rate under this program to be 0.01 percent *ad valorem* for HYSCO.

B. Restriction of Special Taxation Act (“RSTA”) Article 26

Under RSTA Article 26, a company can claim a tax credit equal to a certain percentage of its investments in its facilities.³⁰ According to the GOK, the goal of this program is to boost general national economic activity.³¹ In its response to the Department’s October 1, 2012, questionnaire, the GOK submitted information which indicated that these tax credits are expressly limited to a corporation’s investments in facilities located outside the “Overcrowding Control Region” of the Seoul Metropolitan Area (“SMA”).³² Specifically, the GOK provided a complete translation of Article 23(1) of the Enforcement Decree of the RSTA in the GOK’s Initial QR; eligibility for the program is limited to investments made outside the Overcrowding Control Region of the SMA.³³ Moreover, the GOK also stated that corporate investments in facilities located within the Overcrowding Control Region of the SMA are not eligible for credits under this tax program.³⁴

Because information provided by the GOK indicates that the tax credit under this program is limited by law to enterprises or industries within a designated geographical region within the jurisdiction of the authority providing the subsidy, we preliminarily find that this program is regionally specific in accordance with section 771(5A)(D)(iv) of the Act.³⁵ The tax credit is a financial contribution in the form of revenue foregone by the government within the meaning of section 771(5)(D)(ii) of the Act, which provides a benefit to the recipient equal to the difference between the taxes actually paid and the taxes otherwise payable in the absence of this program within the meaning of 19 CFR 351.509(a)(1). These findings are consistent with the

²⁹ See 19 CFR 351.525(b)(3).

³⁰ See GOK’s Initial QR at Exhibit B-1.

³¹ *Id.*

³² *Id.* at Exhibit B-6.

³³ *Id.* at Exhibit B-1.

³⁴ *Id.* at Exhibit B-6.

³⁵ See, e.g., *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand*, 66 FR 50410 (October 3, 2001), and accompanying IDM at “Provision of Electricity for Less than Adequate Remuneration” (where eligibility for a program was limited to users outside the Bangkok metropolitan area, we found the subsidy to be regionally specific under section 771(5)(a)(D)(iv) of the Act).

determinations in *Bottom Mount Refrigerators from Korea*, the *Final Results of CORE from Korea 2009*, and the *Final Results of CORE from Korea 2010*.³⁶

HYSCO and POSCO indicated that their companies used RSTA Article 26 credits during the 2011 POR.³⁷

In accordance with 19 CFR 351.524(c), we generally consider tax credits to confer recurring benefits. However, pursuant to 19 CFR 351.524(c)(2)(iii), when a subsidy is tied to the capital structure or capital assets of the firm, the Department treats the subsidy as non-recurring. The benefit HYSCO received during the POR for this program did not exceed 0.5% of its total sales. Thus, we expensed all of the benefit to the POR. On this basis, we preliminarily determine the countervailable subsidy provided under this program to be 0.12 percent *ad valorem* for HYSCO. In accordance with 19 CFR 351.524(b)(2), we determine that the tax credit received by POSCO exceeded 0.5 percent of its total sales.³⁸ Therefore, we used the methodology described in 19 CFR 351.524(d) to allocate the benefit over time, and we divided the amount allocated to the POR by POSCO's total sales in the POR. On this basis, we preliminarily determine the countervailable subsidy provided under this program to be 0.06 percent *ad valorem* for POSCO.

C. Asset Revaluation Article 56(2) of the Tax Reduction and Exemption Control Act ("TERCL")

Under Article 56(2) of the TERCL, the GOK permitted companies that made an initial public offering between January 1, 1987, and December 31, 1990, to revalue their assets at a rate higher than the 25 percent required of most other companies under the Asset Revaluation Act.³⁹ We preliminarily determine that this program is *de facto* specific under section 771(5A)(D)(iii) of the Act, because the actual recipients of the subsidy were limited in number and the basic metal industry was a dominant user of this program. We also preliminarily determine that the program constitutes a financial contribution in the form of revenue forgone pursuant to section 771(5)(D)(ii) of the Act. We further preliminarily determine that the program confers a benefit within the meaning of section 771(5)(E) of the Act on those companies that were able to revalue their assets under TERCL Article 56(2) because the revaluation resulted in participants paying

³⁶ See *Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea: Preliminary Negative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination*, 76 FR 55044 (September 6, 2011) (*Bottom Mount Refrigerators from Korea*) unchanged in *Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 17410 (March 26, 2012); see also Memorandum to Ronald K. Lorentzen from Melissa G. Skinner, Re: 2009 Review of the Countervailing duty Order on Corrosion-Resistant Carbon Steel Flat Products from Korea: Post Preliminary Analysis Memorandum for Hyundai HYSCO Ltd. (September 27, 2011) unchanged in *Corrosion-Resistant Carbon Steel Flat Products from Korea: Final Results of Administrative Review*, 77 FR 13093 (March 5, 2012) (*Final Results of CORE from Korea 2009*"); see also *Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2010*, 78 FR 19210 (March 29, 2013) (*Final Results of CORE from Korea 2010*").

³⁷ See HYSCO's Initial QR at 9-11 and Exhibit B-3 and POSCO's December 3, 2012 questionnaire response ("POSCO's Initial QR") at 12 and Exhibits B-2, B-3, and B-4.

³⁸ *Id.* at 13.

³⁹ See GOK's Initial QR at Exhibit B-9.

lower taxes than they would otherwise pay absent the program. Our findings in this regard are consistent with the Department's practice.⁴⁰

The benefit from this program is the difference that the revaluation of depreciable assets has on a company's tax liability each year. Evidence on the record indicates that, in 1989, POSCO made an asset revaluation that increased its depreciation expense. To calculate the benefit to POSCO, we took the additional depreciation listed in the tax return filed during the POR, which resulted from the company's asset revaluation, and multiplied that amount by the tax rate applicable to that tax return. We then divided the resulting benefit by POSCO's total f.o.b. sales.⁴¹ On this basis, we preliminarily determine the net countervailable subsidy to be 0.01 percent *ad valorem* for POSCO. Dongbu and HYSCO did not use this program during the POR.

D. Exemption of VAT on Imports of Anthracite Coal

Under Article 106 of Restriction of Special Taxation Act ("RSTA"), imports of anthracite coal are exempt from the value added tax ("VAT").⁴² We preliminarily determine that the VAT exemptions under the program constitute a financial contribution under section 771(5)(D)(ii) of the Act, as the GOK is not collecting revenue otherwise due, and that the exemptions confer a benefit under section 771(5)(E) of the Act equal to the amount of the VAT that would have otherwise been paid if not for the exemption. We also preliminarily determine that because the GOK allows for only a few items to be exempt from VAT (which includes anthracite coal), the items allowed to be imported without paying VAT are limited and, thus, the program is *de jure* specific under section 771(5A) of the Act. Our findings in this regard are consistent with the Department's practice.⁴³

Dongbu and HYSCO reported that their companies did not use the program during the POR.⁴⁴ POSCO imported anthracite coal during the POR and, therefore, received a benefit in the amount of the VAT that it should have otherwise paid if not for the exemption. To determine POSCO's benefit from the VAT exemption on these imports, we calculated the amount of VAT that would have been due absent the program on the total value of anthracite coal POSCO imported during the POR. We then divided the amount of this tax benefit by POSCO's total f.o.b. sales. Based on this methodology, we preliminarily determine the POSCO received a countervailable subsidy of 0.08 percent *ad valorem*.

⁴⁰ See *Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea*, 64 FR 73176, 73183 (December 29, 1999).

⁴¹ See 19 CFR 351.525(b)(3).

⁴² See GOK's Initial QR at Exhibit I-1.

⁴³ See *Notice of Final Affirmative Countervailing Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products From the Republic of Korea*, 67 FR 62102 (October 3, 2002) ("*Cold-Rolled Investigation*") and accompanying IDM at "Exemption of VAT on Imports of Anthracite Coal."

⁴⁴ See HSYCO's November QR at 15 and Dongbu's November 28, 2012, questionnaire response ("Dongbu's Initial QR") at 15; see also GOK's Initial QR at Exhibit I-2.

E. Other Subsidies Related to Operations at Asan Bay: Provision of Land and Exemption of Port Fees Under Harbor Act

1. Provision of Land

As explained in the *Cold-Rolled Investigation*, the GOK's overall development plan is published every 10 years and describes the nationwide land development goals and plans for the balanced development of the country. Under these plans, the Ministry of Construction and Transportation ("MOCAT") prepares and updates its Asan Bay Area Broad Development Plan.⁴⁵ The Korea Land Development Corporation ("Koland") is a government investment corporation that is responsible for purchasing, developing, and selling land in the industrial sites.⁴⁶

In the *Cold-Rolled Investigation*, we verified that the GOK, in setting the price per square meter for land at the Kodai Industrial Estate, removed the 10 percent profit component from the price charged to Dongbu.⁴⁷ In the *Cold-Rolled Investigation*, we further explained that companies purchasing land at Asan Bay must make payments on the purchase and development of the land before the final settlement. However, in the case of Dongbu, we found that the GOK provided an adjustment to Dongbu's final payment to account for "interest earned" by the company for the pre-payments.⁴⁸ HYSCO and POSCO reported that their companies did not use this program.⁴⁹

We preliminarily determine that the price discount and the adjustment of Dongbu's final payment to account for "interest earned" by the company on its pre-payments constitute countervailable subsidies. Specifically, we preliminarily determine that the price discount and the price adjustment for "interest earned" constitutes financial contributions in the form of grants under section 771(5)(D)(i) of the Act and conferred benefits in the amount of the grants within the meaning of section 771(5)(E) of the Act. We further preliminarily determine that the terms of Dongbu's transaction are specific under section 771(5A)(D)(iii)(I) of the Act, as they were limited to Dongbu.⁵⁰ Our findings in this regard are consistent with the Department's practice.⁵¹

Consistent with the *Cold-Rolled Investigation*, we have treated the land price discount and the interest earned refund as non-recurring subsidies.⁵² In accordance with 19 CFR 351.524(b)(2), because the grant amounts were more than 0.5 percent of the company's total sales in the year of receipt, we applied the Department's standard grant methodology, as described under 19 CFR 351.524(d)(1), and allocated the subsidies over a 15-year allocation period. See the "Average Useful Life" section above. To calculate the benefit from these grants, we used as our discount rate the rates described above in the "Subsidies Valuation Information" section. We then summed the benefits received by Dongbu during the POR. We calculated the net subsidy rate by dividing the total benefit attributable to the POR by Dongbu's total f.o.b. sales for the POR. On

⁴⁵ See *Cold-Rolled Investigation*, and accompanying IDM at "Provision of Land at Asan Bay."

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ See HYSCO's Initial QR at 15 and POSCO's Initial QR at 18.

⁵⁰ See *Cold-Rolled Investigation*, and accompanying IDM at "Provision of Land at Asan Bay."

⁵¹ *Id.*

⁵² *Id.*

this basis, we determine a net countervailable subsidy rate for Dongbu of 0.08 percent *ad valorem* for the POR.

2. Exemption of Port Fees Under the Harbor Act

Under the Harbor Act, companies are allowed to construct infrastructure facilities at Korean ports; however, these facilities must be deeded back to the government. Because the ownership of these facilities reverts to the government, the government compensates private parties for the construction of these infrastructure facilities. Because a company must transfer to the government its infrastructure investment, under the Harbor Act, the GOK grants the company free usage of the facility and the right to collect fees from other users of the facility for a limited period of time. Once a company has recovered its cost of constructing the infrastructure, the company must pay the same usage fees as other users of the infrastructure.

In the *Cold-Rolled Investigation*, the Department found that Dongbu received free use of harbor facilities at Asan Bay based upon both its construction of a port facility as well as a road that the company built from its plant to its port.⁵³ The Department also determined that Dongbu received an exemption of harbor fees for a period of almost 70 years under this program.⁵⁴

We preliminarily determine that the program is specific under section 771(5A)(D)(iii)(I) of the Act because the excessive exemption period of 70 years is limited to Dongbu. Moreover, we preliminarily determine that the GOK is foregoing revenue that it would otherwise collect by allowing Dongbu to be exempt from port charges for up to 70 years and, thus, the program constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act. Further, we preliminarily determine that the exemptions confer a benefit under section 771(5)(E) of the Act in the amount of the port charges that were not collected. Our findings in this regard are consistent with the Department's practice.⁵⁵

In the *Cold-Rolled Investigation*, the Department treated the program as a recurring subsidy and determined that the benefit is equal to the average yearly amount of harbor fee exemptions provided to Dongbu.⁵⁶ For purposes of these preliminary results, we have employed the same benefit calculation. To calculate the net subsidy rate, we divided the average yearly amount of exemptions by Dongbu's total f.o.b. sales for the POR. On this basis, we preliminarily determine that Dongbu's net subsidy rate under this program is 0.01 percent *ad valorem*.

⁵³ *Id.*, at "Dongbu's Excessive Exemptions under the Harbor Act."

⁵⁴ *Id.*

⁵⁵ *Id.*, at "Dongbu's Excessive Exemptions under the Harbor Act."

⁵⁶ *Id.*

F. Document Acceptance (“D/A”) Financing Provided Under the Korea Export-Import Bank’s (KEXOM) Trade Rediscount Program and D/A Loans issued by the KDB and Other Government Policy Banks

The GOK enacted KEXIM’s Trade Bill Rediscount program in July 1998. From July 1998 to May 2004, KEXIM rediscounted the actual D/A and export letter of credit (L/C) (e.g., export usance loans) financing of exporters that had first been discounted by commercial banks. However, after May 18, 2004, KEXIM switched to a rediscount ceiling method with Korean commercial. Under the ceiling method, KEXIM calculates the rediscount ceiling for participating commercial banks on a quarterly basis based on the total D/A or export L/C financing provided by the banks during the previous period, the banks’ projected rediscounts, and the banks’ credit rating. Under the trade bill rediscounting program, exporters first discount their D/As and export L/Cs with banks that are participating in the program. The banks, in turn, discount promissory notes with KEXIM.

Under section 771(5)(B)(iii) of the Act, a subsidy can be found whenever an “authority” “makes a payment to a funding mechanism to provide a financial contribution, or entrusts or directs a private entity to make a financial contribution” to a person and a benefit is thereby conferred. In the *CFS Investigation*, we determined that KEXIM’s trade bill rediscount program constitutes a payment from KEXIM (an “authority”) to a funding mechanism because the rediscount ceiling KEXIM provides to banks participating under the program is contingent on banks subsequently lending the funds to exporters.⁵⁷ Section 771(5)(B)(iii) of the Act also states that financial contributions from funding mechanisms can be a subsidy only if providing the contribution would normally be vested in the government and the practice does not differ in substance from practices normally followed by the government. This is the “government subsidy function” prong of an indirect financial contribution. As determined in the *CFS Investigation*, under this program banks are performing a government subsidy function and, therefore, their loans can qualify as subsidies.⁵⁸

Therefore, consistent with *CFS Investigation*, we preliminarily determine that loans from banks under the rediscount program constitute financial contributions within the meaning of section 771(5)(D)(i) of the Act and confer a benefit upon exporters, in accordance with section 771(5)(E)(ii) of the Act, to the extent the amount exporters pay under the program is less than the amount they would pay on comparable commercial loans they could obtain on the market. Because receipt of the loans is contingent upon export performance, we also preliminarily determine that KEXIM’s rediscount program is specific within the meaning of section 771(5A)(B) of the Act.⁵⁹

Consistent with the *CFS Investigation*, we further preliminarily determine that D/A Loans issued by the KDB and other government policy banks constitute a financial contribution from an “authority” in the form of a direct transfer of funds within the meaning of sections 771(5)(B) and

⁵⁷ See *Coated Free Sheet Paper from the Republic of Korea: Notice of Final Affirmative Countervailing Duty Determination*, 72 FR 60639 (October 25, 2007) (“*CFS Investigation*”), and accompanying IDM at “Export Loans by Commercial Banks Under KEXIM’s Trade Bill Rediscounting Program.”

⁵⁸ *Id.*

⁵⁹ *Id.*

771(5)(D)(i) of the Act. In addition, we preliminarily determine that such loans confer a benefit, in accordance with section 771(5)(E)(ii) of the Act, to the extent the amount exporters pay under the program is less than the amount they would pay on comparable commercial loans they could obtain on the market. Because receipt of D/A loans is contingent upon export performance, we also preliminarily determined that D/A loans from the KDB and other government policy banks are specific within the meaning of section 771(5A)(B) of the Act.⁶⁰

Consistent with the *CFS Investigation*, we preliminarily determine that subsidies on the loans under KEXIM's trade bill rediscount program are tied to sales of subject merchandise to the United States in accordance with 19 CFR 351.525(b)(4) and (5).⁶¹ Accordingly, we limited our benefit calculations to D/A financing issued on sales of subject merchandise to the United States.

During the POR, Dongbu and HYSCO received short-term D/A financing from commercial banks that participated in KEXIM's Trade Rediscount Program and D/A Loans issued by the KDB and other government policy banks, which we find to be "authorities" within the meaning of section 771(5)(B) of the Act. To calculate the benefits under these programs, we compared the interest paid on D/A financing from banks that participated in the KEXIM Trade Rediscount Program and the interest paid on D/A loans issued by the KDB and other government policy banks paid during the POR with the amounts of interest that would have been paid at the weighted-average of the interest rates of the companies' comparable commercial loans.⁶² Because loans under these programs are discounted (*i.e.*, interest is paid up front at the time the loans are received), the effective rate paid by respondents on their D/A financing and D/A loans is a discounted rate. To calculate the net subsidy rate, we divided the benefit by the company's total export sales of subject merchandise to the United States during the POR. On this basis, we preliminarily determine the net subsidy rate for Dongbu under each program is less than 0.005 percent *ad valorem*. With regard to HYSCO, we preliminary determine that its net subsidy rates for D/A Financing Under KEXIM Trade Rediscount Program and the D/A Loans Issued by the KDB and Other Government Policy Banks program are 0.12 percent *ad valorem* and 0.14 percent *ad valorem*, respectively.

POSCO's cross-owned affiliate, Daewoo, used D/A financing, though we preliminarily determine it received no benefit during the POR. Specifically, the interest payment Daewoo made under the program was larger than the benchmark interest payment calculated by the Department. POSCO did not have D/A financing or D/A loans under these programs outstanding during the POR.⁶³

G. Reduction in Taxes for Operation in Regional and National Industrial Complexes

Under the Industrial Cluster Development and Factory Establishment Act ("Industrial Cluster Act"), a state or local government may provide tax exemptions as prescribed by the Restriction of Special Taxation Act.⁶⁴ In accordance with this authority, Article 276 of the Local Tax Act

⁶⁰ *Id.*, at "D/A Loans Issued by the KDB and Other Government-Owned Banks."

⁶¹ *Id.*

⁶² See 19 CFR 351.505(a)(2)(iv).

⁶³ See POSCO's Initial QR at 19.

⁶⁴ See GOK's Initial QR at Exhibits W-1, W-2, and W-3.

provides that an entity that acquires real estate in a designated industrial complex for the purpose of constructing new buildings or enlarging existing facilities is exempt from the acquisition and registration tax.⁶⁵ In addition, the entity is exempt from 50 percent of the property tax on the real estate (*i.e.*, the land, buildings, or facilities constructed or expanded) for five years from the date the tax liability becomes effective.⁶⁶ The exemption is increased to 100 percent of the relevant land, buildings, or facilities that are located in an industrial complex outside of the Seoul metropolitan area.⁶⁷ The GOK established the tax exemption program under Article 276 in December 1994, to provide incentives for companies to relocate from populated areas in the Seoul metropolitan region to industrial sites in less populated parts of the country. The program is administered by the local tax officials of the county where the industrial complex is located.

During the POR, pursuant to Article 276 of the Local Tax Act, HYSCO received exemptions from the acquisition tax, registration tax, and property tax based on the location of its manufacturing facilities, Suncheon Works, in the Yulchon Industrial Complex, and its facilities in the Ulsan Works industrial complex designated under the Industrial Cluster Act.⁶⁸ During the POR, POSCO received acquisition tax and property tax reductions in connection with their facilities located at Gwangyang and at Pohang.⁶⁹ Dongbu received property and acquisition tax reductions in connection with their facilities located in the Asan National Industrial Complex-Godae.⁷⁰ In addition, HYSCO, POSCO, and Dongbu received an exemption from the local education tax during the POR. The local education tax is levied at 20 percent of the property tax. The property tax exemption, therefore, results in an exemption of the local education tax.⁷¹

We preliminarily determine that the tax reductions constitute a financial contribution in the form of revenue forgone, as described under section 771(5)(D)(ii) of the Act, and a benefit under section 771(5)(E) and 19 CFR 351.509(a). We further preliminarily determine that the property tax exemptions provided under this program are specific under section 771(5A)(D)(iv) of the Act because benefits are limited to enterprises located within designated geographical regions. Our findings in this regard are consistent with the Department's practice.⁷²

To calculate the benefit, we subtracted the amount of taxes paid by the firms from the amounts that would have been paid absent the program. To calculate the net subsidy rate, we divided the total benefit by the total sales of the company. In the case of HYSCO, the resulting net subsidy rate was less than 0.005 percent *ad valorem*. Therefore, consistent with the Department's practice, we have not included any benefits under this program in net subsidy rates of HYSCO.⁷³

⁶⁵ *Id.*

⁶⁶ *Id.* at Exhibit W-3.

⁶⁷ *Id.*

⁶⁸ See HYSCO's Initial QR at Exhibit W-4.

⁶⁹ See POSCO's Initial QR at Exhibits W-4 and W-5 and POSCO's July 26, 2013, supplemental questionnaire response ("POSCO's July SQR") at 4 and Exhibit W-6.

⁷⁰ See Dongbu's Initial QR at 21-22 Exhibit W-3, W-4 and W-5.

⁷¹ See GOK's Initial QR at W-3 and POSCO's Initial QR at 27.

⁷² See, *e.g.*, *CFS Investigation*, and accompanying IDM at "Reduction in Taxes for Operation in Regional and National Industrial Complexes" and *Final Results of CORE from Korea 2010* and accompanying IDM at "Reduction in Taxes for Operation in Regional and National Industrial Complexes."

⁷³ See, *e.g.*, *Final Results of CORE from Korea 2006*, and accompanying IDM at "GOK's Direction of Credit."

In the case of POSCO, we calculated a net subsidy rate of 0.04 percent *ad valorem*. For Dongbu, we calculated a net subsidy rate of 0.01 percent *ad valorem*.

H. RSTA 22: Corporation Tax Exemption on Dividend Income from Investment in Overseas Resource Development

Under RSTA Article 22, a domestic corporation, whose income for each business year ending before December 31, 2012, includes any dividend income from its investment in overseas resource development projects as prescribed by Presidential Decree (“Enforcement Decree”), is exempt from corporate tax for the portion of such dividend income that is exempted from the tax of the host country where the investment occurred.⁷⁴ POSCO reported that it had investments in overseas resource development projects as prescribed by the Enforcement Decree and received tax exemptions in the host country for these investments.⁷⁵ The tax exemptions were reflected in the tax return that POSCO filed during the POR. Dongbu and HYSCO reported that they did not use this program.

In the last administrative review of this order, we found that this program constitutes a financial contribution in the form of revenue forgone as described under section 771(5)(D)(ii) of the Act and confers a benefit as described under section 771(5)(E) of the Act and 19 CFR 351.509(a).⁷⁶ We also found it to be specific. No new information or evidence of changed circumstances has been presented that would cause us preliminarily to revisit these findings. Accordingly, we continue to find this program to be countervailable.

Under this program, the benefit is equal to the amount of added income taxes that POSCO would have paid absent the program. We calculated a benefit to POSCO of 0.01 percent *ad valorem*.

II. Programs Preliminarily Determined Not To Confer a Benefit During the POR

A. Overseas Resource Development Program: Loan from Korea Resources Corporation (“KORES”)

In *Final Results of CORE from Korea 2006*, the Department found that the GOK enacted the Overseas Resource Development (“ORD”) Business Act in order to establish the foundation for securing the long-term supply of essential energy and major material minerals, which are mostly imported because of scarce domestic resources.⁷⁷ Pursuant to Article 11 of this Act, MKE annually announces its budget and the eligibility criteria to obtain a loan from MKE.⁷⁸ Any

⁷⁴ See GOK’s Initial QR at Exhibit B-7.

⁷⁵ See POSCO’s Initial QR at 13 and Exhibit B-6; see also GOK’s Initial QR at 7.

⁷⁶ See *Final Results of CORE from Korea 2010*, and accompanying IDM at “RSTA 22: Corporation Tax Exemption on Dividend Income from Investment in Overseas Resource Development.” We found that the program resulted in no measurable benefit during that period of review.

⁷⁷ See *Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review*, 73 FR 52315, 52326, (September 9, 2008) (*Preliminary Results of CORE from Korea 2006*), unchanged in *Final Results of CORE from Korea 2006*, and accompanying IDM at “Programs Determined To Be Not Used”.

⁷⁸ See GOK’s Initial QR at Exhibit S-1.

company that meets the eligibility criteria may apply for a loan to MKE.⁷⁹ The loan evaluation committee evaluates the applications, selects the recipients and gets approval from the Minister of MKE.⁸⁰ For projects related to the development of strategic mineral resources, the KORES lends the funds to the company for foreign resources development.⁸¹

During the POR, as in the prior administrative review, HYSCO had outstanding loans from KORES for investment in a copper mine in Mexico.⁸² Based upon examination of the loan documents and our prior determination concerning these loans, we preliminarily determine that the KORES loans are tied to copper, which is non-subject merchandise.⁸³ Further, we find that copper is not an input primarily dedicated to the production of subject merchandise.⁸⁴ On this basis, we find the KORES loans are tied and attributable to non-subject merchandise.⁸⁵ Therefore, we preliminarily determine that HYSCO did not receive a benefit from this program with respect to the subject merchandise during the POR.

B. Overseas Resource Development Program: Loan from Korea National Oil Corporation (“KNOC”)

In *Final Results of CORE from Korea 2007*, the Department found that the GOK enacted the ORD Business Act in order to establish the foundation for securing the long-term supply of essential energy and major material minerals, which are mostly imported because of scarce domestic resources.⁸⁶ Pursuant to Article 11 of this Act, the MKE annually announces its budget and the eligibility criteria to obtain a loan from MKE.⁸⁷ Any company that meets the eligibility criteria may apply for a loan from MKE.⁸⁸ For projects that are related to petroleum and natural gas, the Korea National Oil Corporation (“KNOC”) lends the funds to the company for foreign resources development.⁸⁹ An approved company enters into a borrowing agreement with KNOC for the development of the selected resource.⁹⁰ Two types of loans are provided under this program: “General loans” and “success-contingent loans”. For a success-contingent loan, the repayment obligation is subject to the results of the development project. In the event that the project fails, the company will be exempted for all or a portion of the loan repayment obligation. However, if the project succeeds, a portion of the project income is payable to KNOC.⁹¹

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² See HYSCO’s Initial QR at 19 and Exhibit 8.

⁸³ See *Preliminary Results of CORE from Korea 2009*, 76 FR at 54214-54215, unchanged in *Final Results of CORE from Korea 2009*; see also *Final Results of CORE from Korea 2010*, and accompanying IDM at “Overseas Resource Development Program: Loan from Korea Resources Corporation (KORES).”

⁸⁴ *Id.*

⁸⁵ See 19 CFR 351.525(b)(5).

⁸⁶ See *Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review*, 74 FR 46100; 46107-46108 (September 8, 2009), and 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) (“*Final Results of CORE from Korea 2007*”).

⁸⁷ See GOK’s Initial QR at Exhibit T-1.

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

During the POR, HYSCO had outstanding loans from KNOC related to petroleum exploration projects.⁹² Based upon examination of the loan documents and our determinations concerning these loans in the prior administrative review, we preliminarily determine that the KNOC loans are tied to petroleum exploration, which does not involve subject merchandise.⁹³ On this basis, we find the KNOC loans are tied and attributable to non-subject merchandise.⁹⁴ Therefore, we preliminarily determine that HYSCO did not receive a benefit from this program with respect to the subject merchandise during the POR. We will continue to examine this program in future reviews.

C. Pre-1992 Direct Credit

During the POR, POSCO was the only respondent company that had pre-1992 long-term loans outstanding during the POR.⁹⁵ Assuming, *arguendo*, that the benefit under this program is equal to the sum of POSCO's total interest payments made during the POR, the resulting net subsidy rate would be less than 0.005 percent *ad valorem* when attributed to POSCO's total sales, which is not numerically significant. Thus, consistent with the Department's practice, we are excluding this amount from the net countervailable subsidy rate.

D. R&D Grants Under the Special Act on Balanced National Development

During the POR, HYSCO reported that it received a research and development grant under the Special Act on Balanced National Development ("National Development Act").⁹⁶

Upon review of the information submitted by HYSCO, including information from the 2010 verification report, we preliminarily determine that the grant pertains specifically to the production of a product that is not subject merchandise.⁹⁷ Therefore, consistent with 19 CFR 351.525(b)(5), we preliminarily determine that the National Development Act did not confer a benefit to the production or export of subject merchandise during the POR. If a future administrative review of this proceeding is requested, we will reconsider whether grants provided under the National Development Act confer a benefit.

E. Research and Development Grants Under the Industrial Technology Innovation Promotion Act ("ITIPA")

The GOK's Industrial Technology Innovation Promotion Act program is designed to foster future new industries and enhance the competitiveness of primary industries through

⁹² See HYSCO's Initial QR at 20 and Exhibit 8.

⁹³ See *Preliminary Results of CORE from Korea 2009*, 76 FR at 54215 unchanged in *Final Results of CORE from Korea 2009*; see also *Final Results of CORE from Korea 2010*, and accompanying IDM at "Overseas Resource Development Program: Loan from Korea National Oil Corporation (KNOC)."

⁹⁴ See 19 CFR 351.525(b)(5).

⁹⁵ See GOK's Initial QR at 3 and POSCO's Initial QR at 9.

⁹⁶ See HYSCO's Initial QR at 20 and HYSCO's May 21, 2013, supplemental questionnaire response ("HYSCO's May SQR") at Exhibit 12.

⁹⁷ See *Final Results of CORE from Korea 2010*, and accompanying IDM at "R&D Grants Under the Special Act on Balanced National Development."

fundamental technology development.⁹⁸ The program is administered by MKE and the Korean Evaluation Institute of Industrial Technology (“KEIT”).⁹⁹

Under the Industrial Technology Innovation Promotion Act, GOK provides R&D grants to support the areas of transportation system, industrial materials, robots, biomedical equipment, clean manufacturing foundation, knowledge services and industry convergence technology.¹⁰⁰

Pursuant to Article 11 of the Industrial Technology Innovation Promotion Act, KEIT prepares a basic plan for the development of technology, on behalf of MKE.¹⁰¹ This plan includes the R&D projects that are eligible, describes the application process, and designates the supporting documentation required.¹⁰² The plan is announced to the public.¹⁰³ According to the GOK, any person who wishes to participate in the program prepares an R&D business plan that meets the requirements set forth in the basic plan and then submits the application to the GOK’s Application Review Committee, which then evaluates the application to determine if it conforms to the terms and conditions set forth in the basic plan.¹⁰⁴ If the application is approved, MKE and the company enter into an R&D agreement and then MKE provides the grant.¹⁰⁵

The costs of the R&D projects under this program are shared by the company (or research institution) and the GOK.¹⁰⁶ Specifically, the grant ratio for project costs are as follows: (1) for projects with one small/medium-sized enterprise (“SME”), the GOK provides grants up to three-fourths of the project costs, (2) for projects with one conglomerate, the GOK provides grants up to one-half of the project costs, (3) for projects with more than two participants of which SMEs comprise more than two-thirds of the participant ratio, the GOK provides up to three-fourths of the project costs, and (4) for projects with more than two participants of which SMEs comprise less than two-thirds of the participant ratio, the GOK provides up to one-half of the project costs.¹⁰⁷

When the project is evaluated as “successful” upon completion, the participating companies typically must repay 40 percent of the R&D grant to the GOK over five years.¹⁰⁸ However, when the project is evaluated as “not successful,” the company does not have to repay the GOK any of the grant amount.¹⁰⁹

Prior to and during the POR, HYSCO and POSCO received grants under the Industrial Technology Innovation Promotion Act for R&D projects in which the companies participated

⁹⁸ See *Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review*, 76 FR 54209, 54213 (August 31, 2011) (“*Preliminary Results of CORE from Korea 2009*”) unchanged in *Final Results of CORE from Korea 2009*, 77 FR at 13093.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.* and GOK’s Initial QR at Exhibit Q-2.

with other firms.¹¹⁰ We treated the portions of the subsidy that do not have to be repaid as grants and the remaining portions of the subsidy that may have to be repaid as a long-term, interest-free contingent liability loans.¹¹¹ As explained above, this approach is consistent with the Department's regulation and practice.¹¹²

Concerning POSCO, it reported receiving grants under the ITIPA prior to and during the POR.¹¹³ Dividing the sum of POSCO's benefits from these grants during the POR by POSCO's total sales results in a net subsidy rate that is less than 0.005 percent *ad valorem*, which is not numerically significant.¹¹⁴ Consistent with the Department's practice, we find that the grants received by POSCO under this program do not confer a benefit to POSCO during the POR.¹¹⁵ Consequently, we preliminarily determine that it is not necessary for the Department to make a finding as to the countervailability of the grants to POSCO received under this program. We further note that none of the grants received prior to the POR passed the 0.5 percent test and, thus, these grants were fully expensed prior to the POR.

Concerning HYSCO, it reported receiving three ITIPA grants. The nature of the projects for which HYSCO received the grants is business proprietary and cannot be discussed in this public memorandum. Based upon our review of program documents submitted in the response, we preliminarily determine that two of the three grants HYSCO received are tied to non-subject merchandise. For further information, see the HYSCO ITIPA Memorandum.¹¹⁶ Thus, we have not included these grants in our subsidy calculations. Regarding the remaining grant, we divided the sum of HYSCO's benefits from the grant during the POR by HYSCO's total sales, which results in a net subsidy rate that is less than 0.005 percent *ad valorem*, which is not numerically significant. Consistent with the Department's practice, we find that the grant received by HYSCO under this program does not confer a benefit to HYSCO during the POR.¹¹⁷

¹¹⁰ See GOK's Initial QR at 16 and Q-1; HYSCO's Initial QR at 17-19 and Exhibit Q-1; and POSCO's Initial QR at 20 and Exhibit Q-1.

¹¹¹ See *Final Results of CORE from Korea 2008*, 76 FR at 3613 and accompanying IDM at "The Act on Special Measures for the Promotion of Specialized Enterprises for Parts and Materials."

¹¹² 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 IDM at "Export Promotion Capital Goods Scheme (EPCGS)."

¹¹³ See POSCO's Initial QR at Exhibit Q-1 and POSCO's July SQR at Exhibit Q-32.

¹¹⁴ In the 2010 administrative review of the CVD order on CORE from Korea, the Department found one of POSCO's grant projects, Project 18, to be tied to non-subject merchandise and therefore to confer no benefit. We excluded Project 18 from our calculations in the 2010 administrative review of CORE from Korea. See *Final Results of CORE from Korea 2010* and accompanying IDM at Comment 1 and section II.A. "Research and Development Grants Under the Industrial Technology Innovation Promotion Act (ITIPA)." Therefore, consistent with 19 CFR 351.525(b)(5) and our past practice, we have preliminarily determined that this grant was bestowed in connection with the production of a product that is not subject merchandise, and, therefore, we have not included it in our benefit calculations; see also Memorandum to the File from Andrew Medley entitled "Factual Information for Pohang Iron & Steel Co., Ltd./Pohang Coated Steel Co., Ltd. ("POSCO") from the 2010 Administrative Review," dated June 28, 2013, at Attachment 2.

¹¹⁵ See, e.g., *Final Results of CORE from Korea 2006*, and accompanying IDM at "GOK's Direction of Credit" and *Preliminary Results of CORE from Korea 2009*, 76 FR at 54213.

¹¹⁶ See Memorandum to Melissa G. Skinner, Director, Office 8 AD/CVD Operations, "HYSCO's R&D Grants Under the ITIPA Program," (September 3, 2013) (HYSCO ITIPA Memorandum).

¹¹⁷ See, e.g., *CORE from Korea 2006* IDM at "GOK's Direction of Credit" and *Preliminary Results of CORE from Korea 2009*, 76 FR at 54213.

Consequently, we preliminarily determine that it is not necessary for the Department to make a finding as to the countervailability of the grant that HYSCO received under this program.

III. Programs Preliminarily Determined To Be Not Used

The Department included the following programs in its October 1, 2012, initial questionnaire. We preliminarily determine that these programs were not used by the reviewed companies during the POR.

- Reserve for Research and Manpower Development Fund Under RSTA Article 9 (TERCL Article 8)
- RSTA Article 11: Tax Credit for Investment in Equipment to Development Technology and Manpower (TERCL Article 10)
- Reserve for Export Loss Under TERCL Article 16
- Reserve for Overseas Market Development Under TERCL Article 17
- Reserve for Export Loss Under TERCL Article 22
- Exemption of Corporation Tax on Dividend Income from Overseas Resources Development Investment Under TERCL Article 24
- Reserve for Investment (Special Cases of Tax for Balanced Development Among Areas Under TERCL Articles 42-45)
- Tax Credits for Specific Investments Under TERCL Article 71
- RSTA Article 94: Equipment Investment to Promote Workers Welfare (TERCL Article 88)
- Electricity Discounts Under the Requested Loan Adjustment Program
- Electricity Discounts Under the Emergency Load Reductions Program
- Export Industry Facility Loans and Specialty Facility Loans
- Short-Term Trade Financing Under the Aggregate Credit Ceiling Loan Program Administered by the Bank of Korea
- Industrial Base Fund
- Excessive Duty Drawback
- Private Capital Inducement Act
- Scrap Reserve Fund
- Special Depreciation of Assets on Foreign Exchange Earnings
- Export Insurance Rates Provided by the Korean Export Insurance Corporation
- Loans from the National Agricultural Cooperation Federation
- Tax Incentives from Highly Advanced Technology Businesses Under the Foreign Investment and Foreign Capital Inducement Act
- Short-term Export Financing
- Research and Development Grants Under the Industrial Development Act (“IDA”)
- R&D Grants Under the Act on the Promotion of the Development, Use, and Diffusion of New and Renewable Energy
- Corporate Tax Reduction for Facilities Located in the Godae Complex
- Income Tax Reduction for Facilities Located in the Godae Complex
- Cash Grants for Employees Working at Facilities in Jeollanamdo

- Training and Education Subsidies at Facilities in Jeollanamdo
- Support for New Investments in Facilities in Jeollanamdo
- Reduction in Rent for Facilities Located in Industrial Complexes
- Employment Subsidies for Large-Scale Investment in Ulsan
- Special Support for Large-Scale Investments in Ulsan
- Technology Development Loans for Facilities in Gwangyang Complex
- Foundation Loans for Facilities in Gwangyang Complex

IV. Other Program

A. Tax Credits Received Under the Restriction of Special Taxation Act ("RSTA")

During the POR, POSCO's cross-owned affiliate, Daewoo, reported that it received tax credits under several other RSTA articles.¹¹⁸ HYSCO also reported that it received tax credits under several of the same RSTA articles.¹¹⁹ Assuming, *arguendo*, that benefits received under these other RSTA articles constitute a financial contribution and are specific under sections 771(5)(D)(ii) and 771(5A)(D) of the Act, respectively, the total net subsidy rates accruing to POSCO and HYSCO, including these tax programs, are still *de minimis*.¹²⁰ Moreover, we note that the total net subsidy rates for POSCO and HYSCO remain *de minimis* even if we assumed that the benefits under the various RSTA tax programs are attributable to the firms' total export sales rather than total sales. Therefore, it is not necessary to make a finding regarding the countervailability of the tax benefits.

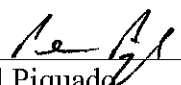
RECOMMENDATION

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

✓

Agree

Disagree



Paul Piquado
Assistant Secretary
for Import Administration

7 SEPTEMBER 2017

Date

¹¹⁸ See Daewoo's August 2, 2013, supplemental questionnaire response at 7-8 and Exhibit B-1, in which POSCO reported that Daewoo reported using certain RSTA income tax programs.

¹¹⁹ See HYSCO's IQR at Exhibit B-1, in which HYSCO reported using certain RSTA income tax programs.

¹²⁰ For further discussion of the tax credits received and the calculations, see Memorandum To The File entitled "Preliminary Calculations - POSCO," dated concurrently with this memorandum; see also, Memorandum To The File entitled "Preliminary Calculations - HYSCO," dated concurrently with this memorandum..