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International Trade Administration
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January 24, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

RE: Issues and Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review of Corrosion-Resistant Carbon Steel Flat Products from Korea; 2011

I. Summary

On September 10, 2013, the Department of Commerce ("Department") published the *Preliminary Results* of this countervailing duty ("CVD") administrative review.[1] As explained in a memorandum from the Assistant Secretary for Import Administration, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1 through October 16, 2013 and extended all deadlines in this segment of the proceeding by 16 days. The revised deadline for the final results is January 24, 2014.[2]

The companies under review are: Pohang Iron & Steel Co. Ltd. ("POSCO"), Dongbu Steel Co., Ltd. ("Dongbu"), and Hyundai HYSCO Ltd. ("HYSCO"). We have analyzed the comments submitted by interested parties in their case briefs.[3] The "Analysis of Comments" section below contains summaries of these comments and the Department's positions on the issues raised in the briefs.

II. Period of Review

The period for which we are measuring subsidies, *i.e.*, the period of review ("POR"), is January 1, 2011, through December 31, 2011.

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[1] *See Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review; 2011*, 78 FR 55241 (September 10, 2013) ("*Preliminary Results*").

[2] See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, titled "Deadlines Affected by the Shutdown of the Federal Government," dated October 18, 2013.

[3] POSCO and HYSCO filed case briefs. No other parties filed case or rebuttal briefs.

III. 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, 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.

IV. Attribution of Subsidies

The Department has made no changes to the methodologies used in the *Preliminary Results* for attributing subsidies and no issues were raised by interested parties in case briefs regarding the attribution of subsidies. For descriptions of the methodologies used for these final results, *see* the *Preliminary Results*.

V. Allocation Period

The Department has made no changes to the allocation period and the allocation methodology used in the *Preliminary Results* and no issues were raised by interested parties in case briefs regarding the allocation period or the allocation methodology. For a description of allocation period and the methodology used for these final results, *see* the *Preliminary Results*.

VI. Subsidies Valuation Information – Benchmarks and Discount Rates

The Department has made no changes to benchmarks or discount rates used in the *Preliminary Results* and no issues were raised by interested parties in case briefs regarding benchmarks or discounts rates. For a description of the benchmarks and discount rates used for these final results, *see* the *Preliminary Results*.

ANALYSIS OF PROGRAMS

I. Programs Determined To Be Countervailable

The Department made no changes to its preliminary determinations with regard to the following programs. For the descriptions, analyses, and calculation methodologies of these programs, *see* the *Preliminary Results*. No issues were raised by interested parties in case briefs regarding these programs. Therefore, the final company-specific program rates for each of the following programs are unchanged from *Preliminary Results* and are as follows:

A. Promotion of Specialized Enterprises for Parts and Materials

HYSCO: 0.01 percent *ad valorem*

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

HYSCO: 0.12 percent *ad valorem*
POSCO: 0.06 percent *ad valorem*

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

POSCO: 0.01 percent *ad valorem*

D. Exemption of VAT on Imports of Anthracite Coal

POSCO: 0.08 percent *ad valorem*

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

1. Provision of Land

Dongbu: 0.08 percent *ad valorem*

2. Exemption of Port Fees Under the Harbor Act

Dongbu: 0.01 percent *ad valorem*

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

Dongbu: 0.01 percent *ad valorem*
HYSCO: less than 0.005 percent *ad valorem*[4]
POSCO: 0.04 percent *ad valorem*

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

POSCO: 0.01 percent *ad valorem*

The Department made changes to its preliminary determination with regard to the following programs.[5] HYSCO submitted comments in its case brief regarding these programs.[6]

H. Document Acceptance ("D/A") Financing Provided Under the Korea Export-Import Bank's ("KEXIM") Trade Rediscount Program and D/A Loans issued by the KDB and Other Government Policy Banks

As explained below in the Department's position under Comment 2, in the calculations for the *Preliminary Results*, the Department inadvertently included D/A financing for sales to countries other than the United States in the benefit calculations for the two D/A financing program used by HYSCO during the POR.[7] For these final results, we have revised the final calculations by excluding D/A financing tied to shipments to countries other than the United States.[8] Otherwise, the Department's analysis with regard to these two programs remains unchanged from the *Preliminary Results*.

To calculate HYSCO's subsidy rate for each program, we divided the revised benefit amount for each program by the company's total export sales of subject merchandise to the United States during the POR.[9] As a result, we determine that the final program rates for these two programs are as follows:

1. D/A Financing Under KEXIM Trade Rediscount Program

Dongbu: less than 0.005 percent *ad valorem*
HYSCO: 0.07 percent *ad valorem*

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[4] Where the countervailable subsidy rate for a program is less than 0.005 percent, the program is not included in the total countervailing duty rate. See, *e.g.*, *Final Results of Administrative Review: Certain Softwood Lumber Products from Canada*, 69 FR 75917 (December 20, 2004) and accompanying Issues and Decision Memorandum at "Other Programs Determined to Confer Subsidies."

[5] *Id.*

[6] *See* Comment 2 of this memorandum.

[7] *Id.*; *see also* Memorandum to the File from Christopher Hargett, International Trade Compliance Analyst, titled "Final Results of 2011 Countervailing Duty Administrative Review: Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea; Final Calculations – HYSCO," dated concurrently with this memorandum ("HYSCO Calculation Memorandum").

[8] *See* HYSCO Calculation Memorandum.

[9] *Id.*

2. D/A Loans Issued by the KDB and Other Government Policy Banks Program

Dongbu: less than 0.005 percent *ad valorem*
HYSCO: 0.06 percent *ad valorem*

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

The Department made no changes to its preliminary determinations with regard to the following programs. For the descriptions, analyses, and calculation methodologies of these programs, *see* the *Preliminary Results*. No issues were raised in case briefs regarding these programs. Therefore, for these final results, we continue to determine that the following programs do not confer a benefit during the POR:

Programs Tied to Non-Subject Merchandise

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

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

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

Programs with Benefits of Less than 0.005 Percent Ad Valorem

D. Pre-1992 Direct Credit

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

III. Programs Determined To Be Not Used

The Department has made no changes to its preliminary determinations with regard to the following programs. No issues were raised by interested parties in case briefs regarding these programs. We continue to determine that, for these final results, the following programs were not used 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

The Department has made no changes to its preliminary determinations with regard to the following program. For the descriptions, analyses, and calculation methodologies of these programs, *see* the *Preliminary Results*. HYSCO and POSCO submitted comments in their case briefs regarding this program.

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

POSCO's cross-owned affiliate, Daewoo International Corporation ("Daewoo"), reported that it received tax credits under RSTA Articles 10, 104(6), and 104(15).[10] In the *Preliminary Results*, we determined it was not necessary to make a determination on the countervailability of these tax credits, stating:

> 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*. 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.

As explained below in the Department's position under Comment 1, for the *Preliminary Results*, the Department calculated program rates for certain RSTA tax credits received by HYSCO and POSCO and preliminarily determined that, if these rates were included in the net subsidy rates for the two companies, the net subsidy rates would be *de minimis*. Therefore, the Department preliminarily determined it was not necessary to make a finding regarding the countervailability of these tax credits.

However, the Department inadvertently included the program rates it calculated with regard to these tax credits in its calculation of the net total *ad valorem* subsidy rates for POSCO and HYSCO.[11] For these final results, we continue to determinate that it is not necessary to make a finding with respect to the countervailability of these tax credits. Even if we assumed that these tax credits are countervailable and included program rates for these tax credits in the total net subsidy rates for POSCO and HYSCO, the net total subsidy rate for each company would remain *de minimis*. Therefore, for these final results, we have removed the rates calculated for these RSTA tax credits received by HYSCO and POSCO from their net total *ad valorem* subsidy rates.[12]

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[10] Prior to the *Preliminary Results*, neither POSCO nor HYSCO had publicly disclosed the names of these programs. Subsequent to the *Preliminary Results*, in their public case briefs, POSCO and HYSCO disclosed the names of the programs. *See* Letter from POSCO to the Department titled "Corrosion-Resistant Carbon Steel Flat Products from Korea, Case No. C-580-818: POSCO's Case Brief," dated November 1, 2013 at 3; *see also* Letter from HYSCO to the Department titled "Corrosion-Resistant Carbon Steel Flat Products from Korea, Case No. C-580-818: HYSCO's Case Brief," dated November 1, 2013 at 6.

[11] *See Preliminary Results* at "Preliminary Results of Review" section.

[12] *See* Memorandum to the File from Andrew Medley, International Trade Compliance Analyst, titled "Final Results of 2011 Countervailing Duty Administrative Review: Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea; Final Calculations - POSCO," dated concurrently with this memorandum ("POSCO Calculation Memorandum") and HYSCO Calculation Memorandum.

V. Final Results of Review

Based on the above analyses, we determine the net total *ad valorem* subsidy rates for these final results are as follows:

Company	Subsidy Rate
Dongbu Steel Co., Ltd.	0.10 percent or *de minimis*
Hyundai HYSCO Ltd.	0.26 percent or *de minimis*
Pohang Iron & Steel Co., Ltd.	0.20 percent or *de minimis*

ANALYSIS OF COMMENTS

Comment 1: HYSCO's and POSCO's Tax Credits under the Restriction of Special Taxation Act ("RSTA")

***Case Briefs of HYSCO and POSCO*:**

- The Department's inclusion of the additional RSTA tax credits was in error or unlawful. Such subsidies should be removed from the total benefit calculations because the Department has established no record evidence to substantiate such a determination.
- RSTA Article 10 was found to be not countervailable in *DRAMS from Korea*.[13]
- The Department requested information from HYSCO on RSTA Article 104(6) in the 2007 review of CORE but made no finding about the program in that review. This silence means the Department did not find the program to be countervailable.
- There have been no previous findings regarding RSTA Article 104(15), thus there is no basis for finding it countervailable in this review.

Department's Position: Even if the program rates calculated for the tax credits claimed by HYSCO and POSCO under RSTA Articles 10, 104(6), and 104(5) are included in calculations of the two companies' net total subsidy rates, each net total subsidy rate remains *de minimis*. Because we are not making a determination with respect to the countervailability of these tax credits, for these final results, we are not including the program rates calculated for these tax credits in the calculation of the net total *ad valorem* subsidy rates for HYSCO and POSCO.[14]

[13] *See Final Affirmative Countervailing Duty Determination: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 68 FR 37122 (June 23, 2003) and accompanying Issues and Decision Memorandum at 28.

[14] *See* HYSCO's and POSCO's total subsidy rates from the *Preliminary Results*, and accompanying calculation memoranda; *see also* POSCO Calculation Memorandum and HYSCO Calculation Memorandum.

Comment 2: Calculation of HYSCO's Benefit from Document Acceptance ("D/A") Financing

***Case Brief of HYSCO*:**

- The listing of D/A financing reported by HYSCO includes financing for exports to all markets, not just the United States.
- In the *Preliminary Results*, the Department stated that it limited the benefit calculations to D/A financing on exports of sales of subject merchandise to the United States.
- The Department inadvertently included in the benefit calculation for HYSCO all of the D/A financing reported by HYSCO, including financing for exports to other countries other than the United States.
- The Department should limit its benefit calculations to D/A financing for sales to the United States and revise the D/A financing program rates calculated or HYSCO.
- If the Department continues to include D/A financing for sales to countries other than the United States, the Department should revise the sales denominator and recalculate the D/A financing program rates.

Department's Position: The Department inadvertently included in the benefit calculations D/A financing reported by HYSCO for exports to countries other than the United States. As the Department intended to limit the D/A financing calculations to D/A financing issued on sales of subject merchandise to the United States, we have calculated revised benefits for HYSCO's D/A financing accordingly.[15]

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*.

✓
Agree

Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

24 JANUARY 2014
Date

[15] *See* HYSCO Calculation Memorandum.