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Administrative Review

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March 18, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for Preliminary Results of 2012
Countervailing Duty Administrative Review: Cut-to-Length
Carbon-Quality Steel Plate 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 certain cut-to-length carbon-quality steel plate (CTL Plate) from the Republic of Korea (Korea) for the period of review (POR) January 1, 2012, through December 31, 2012. The Department preliminarily determines that Dongkuk Steel Mill Co., Ltd. (DSM), received a *de minimis* net subsidy rate, 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).¹

The Department also received timely filed no shipment certifications from Daewoo International Corp. (Daewoo), Dongbu Steel Co., Ltd. (Dongbu), GS Global Corp. (GS Global), Hyosung Corporation (Hyosung), and Hyundai Steel Co. (Hyundai). Because there is no evidence on the record to indicate that these companies had sales of subject merchandise during the POR, pursuant to 19 CFR 351.213(d)(3), the Department intends to rescind the review with respect to Daewoo, Dongbu, GS Global, Hyosung, and Hyundai. A final decision regarding whether to rescind on these companies will be made in the final results of this review.

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.

¹ See also 19 CFR 351.106(c)(1).



Background

On February 10, 2000, the Department published in the *Federal Register* the *CTL Plate Order*.² On February 1, 2013, the Department published a notice of opportunity to request an administrative review of this CVD order.³ On February 28, 2013, we received a timely request from the Nucor Corporation (Nucor, also referred to as Petitioners) for a review of the *CTL Plate Order* as it applies to the following firms: Daewoo, Dongbu, DSM, GS Global, Edgen Murray Corporation (Edgen Murray), Hyosung, Hyundai, Kyoungil Co., Ltd. (Kyoungil), Samsung C&T Corp. (Samsung), Samwoo EMC Co., Ltd. (Samwoo), and TCC Steel Corp (TCC Steel). The Department initiated an administrative review on March 29, 2013.⁴

On April 10, 2013, Dongbu submitted a claim of non-shipment. On May 2, 2013, the Department released the results of its query of the Customs and Border Protect (CBP) database to interested parties.⁵ On May 10, 2013, Daewoo submitted a claim of non-shipment. On May 15, 2013, Hyundai and GS Global submitted claims of non-shipment. On May 23, 2013, Hyosung submitted a claim of non-shipment. Each claim was submitted within 60 days of the notice of initiation.

On July 11, 2013, the Department selected DSM as the sole mandatory respondent in this review.⁶ On July 19, 2013, the Department issued the initial questionnaire to DSM and the Government of Korea (GOK).⁷ On September 16, 2013, DSM and the GOK submitted their initial questionnaire responses.⁸

On October 18, 2013, the Department tolled the due date of the preliminary results by 16 days to account for the government shutdown that occurred in October 2013.⁹ On October 23, 2013, the Department extended the due date of the preliminary results until March 18, 2014.¹⁰

On October 24, 2013, Petitioners submitted new subsidy allegations (NSA) with respect to DSM.¹¹ On January 2, 2014, the Department initiated investigations of nine of the 12 newly

² See *Notice of Amended Final Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From India and the Republic of Korea; and Notice of Countervailing Duty Orders: Certain Cut-to-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy, and the Republic of Korea*, 65 FR 6587 (February 10, 2000) (*CTL Plate Order*).

³ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 78 FR 7397 (February 1, 2013).

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 19197 (March 29, 2013) (*Initiation*).

⁵ See Memorandum to the file from Eric B. Greynolds, Program Manager, Office III, "Customs and Border Protection Data for Selection of Respondents for Individual Review," May 2, 2013, (CBP Query Results Memorandum).

⁶ See Memorandum to Melissa G. Skinner, Director, Office III, "Respondent Selection," (July 11, 2013).

⁷ See July 19, 2013, Initial Questionnaire (Initial Questionnaire).

⁸ See DSM's September 16, 2013, Initial Questionnaire Response (DSM Initial QNR Response), see the GOK's September 16, 2013, Initial Questionnaire Response (GOK Initial QNR Response).

⁹ See Memorandum to the file from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government," (October 18, 2013).

¹⁰ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, "Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review," (October 23, 2013).

¹¹ See Petitioners' October 24, 2013, NSA submission (NSA Submission).

alleged subsidies.¹² The Department issued the NSA QNR to the GOK and DSM on January 2 and January 6, 2014, respectively.¹³

On January 28, 2014, the Department issued confirmation of non-shipment instructions to Customs and Border Protection with regard to non-shipment claims made by Dongbu, Daewoo, Hyundai, Hyosung, and GS Global.

On January 30, 2014, the GOK and DSM submitted their respective responses to the Department's NSA QNRs.¹⁴ On February 7, 2014, the Department issued a supplemental questionnaire regarding DSM's NSA questionnaire response¹⁵ to which DSM responded on February 25, 2014.¹⁶

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 for which a review was requested are Daewoo, Dongbu, DSM, GS Global, Edgen Murray, Hyosung, Hyundai, Kyoungil, Samsung, Samwoo, and TCC Steel.

Scope of the Order

The products covered by the order are certain hot-rolled carbon-quality steel: (1) universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to-length (not in coils) and without patterns in relief), of iron or non-alloy-quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils). Steel products to be included in the scope of the order are of rectangular, square, circular or other shape and of rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling")--for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non-metallic substances are included within this scope. Also, specifically included in the scope of the order are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is two percent or less, by weight; and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of

¹² See Memorandum to Melissa G. Skinner, Director, AD/CVD Operations, Office III, "Decision Memorandum on New Subsidy Allegations," January 2, 2014, (NSA Memorandum).

¹³ See July 2, 2014, NSA Questionnaire to the GOK (GOK NSA QNR); *see also* January 6, 2014, NSA Questionnaire to DSM (DSM NSA QNR).

¹⁴ See the GOK's January 30, 2014, NSA Questionnaire Response (GOK NSA QNR Response), *see also* DSM's January 30, 2014, NSA Questionnaire Response (DSM NSA Qnr Response).

¹⁵ See the Department's February 7, 2014, Supplemental NSA Questionnaire (DSM Supplemental NSA QNR).

¹⁶ See DSM's February 25, 2014, Supplemental NSA Questionnaire Response (DSM Supplemental NSA QNR Response).

aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of this order unless otherwise specifically excluded. The following products are specifically excluded from the order: (1) products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.*, USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

The merchandise subject to the order is currently classifiable in the HTSUS under subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by the order is dispositive.

Preliminary Intent to Rescind with Respect to Daewoo, Dongbu, Hyosung, Hyundai, and GS Global

Consistent with 19 CFR 351.213(d)(3), we preliminarily intend to rescind the review with respect to Daewoo, Dongbu, Hyosung, Hyundai, and GS Global based on the absence of shipments of subject merchandise. Our preliminary decision in this regard is based on the firms' respective non-shipment claims as well as the lack of information from CBP that would call the firms' claims of non-shipment into question.

Accordingly, if the Department's preliminary intent to rescind the review with respect to Daewoo, Dongbu, Hyosung, Hyundai, and GS Global is unchanged in the final results, then the only companies that will be subject to the instant administrative review are DSM, Edgen Murray, Kyoungil, Samsung, Samwoo, and TCC Steel. As noted above, of these firms, only DSM is subject to individual examination.

Non-Selected Rate

The statute and the Department's regulations do not address the establishment of a rate to be applied to individual respondents not selected for examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, the Department looks to section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents which we did not examine in an administrative review. Section 705(c)(5)(A) of the Act articulates a preference that we are not to calculate an all-others rate using rates which are zero, *de minimis* or based entirely on facts available. Accordingly, the Department's usual practice in

determining the rate for separate-rate respondents not selected for individual examination has been to average the weighted-average net subsidy rates for the selected companies, excluding rates that are zero, *de minimis*, or based entirely on facts available.¹⁷ Section 705(c)(5)(B) of the Act also provides that, where all rates are zero, *de minimis*, or based entirely on facts available, we may use “any reasonable method” for assigning the all-others rate, including averaging the estimated weighted-average net subsidy rates determined for the exporters and producers individually investigated.

As indicated in the accompanying *Federal Register* notice of preliminary results, dated concurrently with this Issues and Decision Memorandum, we preliminarily determine that DSM received a *de minimis* net subsidy rate during the POR.

In past reviews, the Department determined that a “reasonable method” to use when the rates of selected mandatory respondents are all zero or *de minimis* is to assign non-selected respondents the average of the most recently determined rates that are not zero, *de minimis*, or based entirely on facts available (which may be from a prior review or a new shipper review or the investigation).¹⁸ However, if a non-selected respondent has its own calculated rate that is contemporaneous with or more recent than such previous margins, the Department found it appropriate to apply that calculated rate to the non-selected respondent, including when that rate is zero or *de minimis*.¹⁹

In the instant proceeding DSM has been the sole company to be individually examined in all previous reviews of the *CTL Plate Order* and all such reviews resulted in *de minimis* net subsidy rates. The only above *de minimis* net countervailable subsidy rate calculated in any segment of this proceeding was the rate of 3.26 percent *ad valorem* established for DSM in the *Amended CTL Plate Investigation*.²⁰ However, we preliminarily determine that the 3.26 percent *ad valorem* rate from the *Amended CTL Plate Investigation*, which was calculated more than 14 years ago, is not a suitable basis for the non-selected rate. Therefore, in the absence of any other available net subsidy rate, and consistent with the practice and statutory guidance described above, we preliminarily determine to use the *de minimis* rate calculated for DSM as the non-selected rate applicable to Edgen Murray, Kyoungil, Samsung, Samwoo, and TCC Steel.

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:

¹⁷ See, e.g., *Certain Pasta from Italy: Final Results of the 2008 Countervailable Review*, 75 FR 37386, 37387 (June 29, 2010) (*Pasta from Italy*).

¹⁸ See *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 47191, 47194 (September 15, 2009).

¹⁹ *Id.*

²⁰ See *Notice of Amended Final Determinations: Certain Cut-to-Length Carbon-Quality Steel Plate from India and the Republic of Korea; and Notice of Countervailing Duty Orders: Certain Cut-to-Length Plate from France, India, Indonesia, Italy, and the Republic of Korea*, 65 FR 6587, 6589 (February 10, 2000) (*Amended CTL Plate Investigation*).

(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) 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.²¹

DSM reported that during the POR none of its affiliates produced subject merchandise and that DSM is not a subsidiary of any company and, thus, it has no parent company or holding company. Accordingly, DSM responded to the Initial Questionnaire only with regard to DSM. Therefore, pursuant to 19 CFR 351.525(b)(6)(ii), we attributed subsidies received by DSM to the sales of DSM.

I. Analysis of Programs

A. Programs Preliminarily Determined to be Countervailable

1. Local Tax Exemption on Land Outside Metropolitan Areas

Under Article 45 of the Industrial Sites and Development Act, a state or local government may provide tax exemptions as prescribed by the Restriction of Special Location Taxation Act (RSTLA).²² In accordance with this authority, Article 78 of the RSTLA²³ provides that any entity acquiring real estate in a designated industrial complex for the purpose of constructing new buildings or renovating existing ones shall be exempted from the acquisition tax. In addition, the entity located in these designated industrial complexes shall have the property tax reduced by 50 percent on the real estate for five years from the date the tax liability becomes effective. The tax 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.²⁴ The GOK administers the tax exemption program under Article 78 of the RSTLA to provide incentives for companies to relocate from populated areas in the Seoul metropolitan region to industrial sites in less

²¹ See *Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001) (*Fabrique*).

²² See GOK Initial QNR Response at Exhibit G-2 at 1.

²³ The GOK previously administered this program pursuant RSTLA Article 276. See GOK Initial QNR Response at Exhibit G-2 at 1.

²⁴ *Id.*

populated parts of the country.²⁵ The program is administered by the local tax officials of the county where the industrial complex is located.

During the POR, pursuant to Article 78 of the RSTLA, DSM received exemptions from the acquisition tax, registration tax, and property tax from the Dangjin City and Pohang City tax authorities based on the location of its manufacturing facilities in Asan Bay.²⁶

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 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.²⁷

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. On this basis, we determine the net subsidy rate under this program to be 0.01 percent *ad valorem* for DSM.

2. GOK Facilities Investment Support Under Article 26 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.²⁸ According to the GOK, the goal of this program is to boost general national economic activity and to encourage investments outside of the crowded areas of the Seoul Metropolitan area.²⁹ Specifically, under this program the GOK provides a tax credit rate of 4 percent to companies for facility investments "located in the Seoul Metropolitan area other than the overcrowding control region of the Seoul Metropolitan Area."³⁰ The GOK provides a tax credit rate of five percent for facility investments to companies located completely outside of the Seoul Metropolitan Area.³¹

We preliminarily determine that 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 section 771(5)(E) of the Act and 19 CFR 351.509(a)(1). Because information provided by the GOK indicates that

²⁵ *Id.*, at 2.

²⁶ See DSM Initial QNR Response at 21 and Exhibit G-1.

²⁷ See, e.g., *Coated Free Sheet Paper from the Republic of Korea: Notice of Final Affirmative Countervailing Duty Determination*, 72 FR 60639 (October 25, 2007) (*CFS from Korea*) and accompanying Issues and Decision Memorandum 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."

²⁸ See GOK NSA QNR Response at NSA-1 at 1.

²⁹ *Id.*

³⁰ *Id.*, at 1 and NSA-2.

³¹ See GOK NSA QNR Response at NSA-1 at 1.

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 determine that this program is regionally specific in accordance with section 771(5A)(D)(iv) of the Act.³² These findings are consistent with the Department's practice.³³

DSM reported that it claimed tax credits under RSTA Article 26 during the POR, as indicated on the tax return it filed during the POR.³⁴ To calculate the subsidy rate for DSM, we divided the company's benefit, which is the tax credit claimed in the tax return DSM filed during the POR, by DSM's total sales during the POR. On this basis, we determine the net subsidy rate under this program to be 0.10 percent *ad valorem* for DSM.

B. Programs Preliminarily Determined Not to Confer a Benefit

1 Various Grants Contained in DSM's Financial Statement

As explained in the NSA Memorandum, the Department initiated an investigation of various grants contained in DSM's financial statements. In its response, DSM indicated that the grants in question relate to funds listed under "Other Intangible Assets," "Machinery," and "Others" sections of its balance sheet.³⁵ Concerning the grants listed under "Other Intangible Assets," DSM stated that the funds relate to reimbursements it received from the GOK for costs incurred by DSM in constructing the Incheon North Harbor.³⁶ In these preliminary results, we find that the Department previously examined these grants, which were received in 2004-2006, and that it fully expensed them to the year of receipt.³⁷ Therefore, we preliminarily determine that these grants did not confer a benefit during the POR.

Concerning the grants listed under "Machinery," DSM stated that the funds relate to an R&D project for the development of Super-High Strength H-Beam and Rebar Development, which was part of an R&D program administered by the Korea Research Association of New Iron and

³² Our approach in this regard is consistent with the Department's practice. 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 Issues and Decision Memorandum 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).

³³ 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) unchanged in *Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 17410 (March 26, 2012) (*Refrigerators from Korea*); 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).

³⁴ See DSM NSA QNR Response at NSA-1 at 1.

³⁵ *Id.*, at 5.

³⁶ *Id.*

³⁷ See *Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Notice of Preliminary Results and Preliminary Partial Rescission of Countervailing Duty Administrative Review*, 72 FR 65299, 65302 (November 20, 2007), unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Notice of Final Results and Partial Rescission of Countervailing Duty Administrative Review*, 73 FR 14770 (March 19, 2008), a no comment final.

Steelmaking Technology (KANIST). We find that we previously investigated this grant as part of the *CTL Plate 2005 Final Results*, in which we determined that the grants were “aimed at structural steel development are tied to non-subject merchandise.”³⁸ Therefore, consistent with 19 CFR 351.525(b)(5), we preliminarily determine that this grant is tied to non-subject merchandise and therefore does not confer a benefit on the production of subject merchandise.

Concerning grants listed under “Others,” we preliminarily determine that the amount of funds DSM received are less than 0.005 percent of DSM’s total sales and also less than 0.005 percent of DSM’s total export sales.³⁹ Thus, even if one were to assume that the grants in question were contingent upon export sales, the smallest possible denominator, the resulting net subsidy rate would not be numerically significant (*i.e.*, the net subsidy rate would not exceed 0.005 percent). Therefore, consistent with the Department’s practice, we preliminarily determine that these grants do not confer a benefit and, thus, it is not necessary for the Department conduct a subsidy analysis in connection with these grants.⁴⁰

2. GOK Reimbursements for Wharfage Fee Expenses DSM Incurred in Developing the Asan Bay Port Facility

Under Article 16 of the Industrial Sites and Development Act, the GOK may designate a company as a developer for a port in an industrial complex.⁴¹ In 2006, the Chungnam-Do local government designated DSM as a developer for a port facility at Asan Bay.⁴² Under Article 26(1)(3) and Article 38(1) and (4) of the Public Waters Reclamation Act (Reclamation Act), the developer which has executed the land reclamation work shall acquire ownership of the reclaimed land in the amount equivalent to the recognized expenses, as determined by the government, incurred for the reclamation work.⁴³ Article 51 of the Reclamation Act stipulates the types of expenses that are eligible for reimbursement. Further, the Reclamation Act allows firms to apply the reimbursements towards the acquisition cost of the reclaimed land.⁴⁴

DSM reports that, upon completion of the reclamation project at Asan Bay, it will be eligible for certain reimbursements from the government and that it will apply the reimbursements toward acquisition cost of the land. However, DSM reports that the authorization of completion has not

³⁸ See *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 73 FR 2444 (Jan. 15, 2008) (*CTL Plate 2005 Final Results*) and accompanying Issues and Decision Memorandum at “Research and Development under Korea Research Association of New Iron and Steelmaking Technology (KANIST) (formerly KNISTRA).”

³⁹ See Memorandum to File, “Preliminary Calculations,” March 18, 2014 (Preliminary Calculations Memorandum).

⁴⁰ See *Certain Hot-Rolled Carbon Steel Flat Products from India: Notice of Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*, 73 FR 79791, 79800 (December 30, 2008); in which the Department refrained from determining whether a subsidy benefit constituted a financial contribution or was specific under the statute when the resulting net subsidy rate was less than 0.005 percent *ad valorem*; unchanged in *Certain Hot-Rolled Carbon Steel Flat Products from India: Final Results and Partial Rescission of Countervailing Duty Administrative Review*, 74 FR 20923 (May 6, 2009) (*HRS from India*) and accompanying Issues and Decision Memorandum at “Programs Found Not To Confer a Countervailable Benefit During the POR.”

⁴¹ See DSM Initial QNR Response at 17 and Exhibit F-1.

⁴² *Id.*, at 17.

⁴³ *Id.*, at 17 and Exhibit F-2.

⁴⁴ *Id.*, at 17 and Exhibit F-3.

yet occurred and, thus, DSM has not had the opportunity to purchase the land.⁴⁵ Further, DSM reports that it has not yet received any reimbursements from the GOK in connection with expenses incurred in connection with the reclamation project at Asan Bay.⁴⁶ Therefore, we preliminarily determine that this aspect of the program was not used by DSM.

DSM also reported that it incurred expenses in connection with dredging the seaway to the port. DSM reported that as compensation for its dredging expenses, it received an exemption from wharfage fees under Article 15(4) of the Harbor Act since October 2009.⁴⁷ DSM provided the wharfage fee exemptions it received from 2009 through 2012. Consistent with 19 CFR 351.524(c)(1), we are treating the wharfage fee exemptions as recurring subsidies and, thus we limited our benefit analysis to the exemptions that DSM received during the POR.

We find that the information supplied by DSM or the GOK does not indicate that the wharfage fee exemptions were contingent upon export activity.⁴⁸ Therefore, any countervailable benefit DSM received under this program during the POR would be divided by DSM's total sales during the POR. The total amounts of wharfage fee exemptions DSM received during the POR when divided by DSM's total sales for the POR result in a net subsidy rate that is less than 0.005 percent *ad valorem*.⁴⁹ Therefore, even if one were to assume that the exemptions in question were countervailable as a domestic subsidy, the resulting net subsidy rate would not be numerically significant (*i.e.*, less than 0.005 percent). Therefore, consistent with the Department's practice we preliminarily determine that the wharfage fee exemptions do not confer a benefit and, thus, it is not necessary for the Department conduct a subsidy analysis in connection with these fee exemptions.⁵⁰

3. Asset Revaluation under the RSTA and/or Tax Reduction and Exemption Control Act (TERCL) Article 56(2)

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. The Department previously found this program to be countervailable. For example, in the *CTL Plate Investigation*, the Department determined that the program provided a financial contribution in the form of tax revenue foregone pursuant to section 771(5)(D)(ii) of the Act.⁵¹ The Department further determined that the program conferred 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 lower taxes than they would otherwise pay absent the program.⁵² Additionally, the Department determined that this program was *de*

⁴⁵ *Id.*, at 17-18.

⁴⁶ *Id.*, at 16.

⁴⁷ *Id.*, at 18.

⁴⁸ *Id.*, at 16-19.

⁴⁹ See Preliminary Calculations Memorandum.

⁵⁰ See *HRS from India*, and accompanying Issues and Decision Memorandum at "Programs Found Not To Confer a Countervailable Benefit During the POR."

⁵¹ 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) (*CTL Plate Investigation*).

⁵² *Id.*

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.⁵³ No party presented new information or evidence of changed circumstances in this review to warrant any reconsideration of the countervailability of this program.

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 1988 DSM made an asset revaluation under this program that increased its depreciation expense.⁵⁴ To calculate the benefit to DSM, we multiplied the amount of additional depreciation during the POR which resulted from the company's asset revaluation by the tax rate applicable to the tax return filed during the POR. We then divided the resulting benefit by DSM's total sales during the POR.⁵⁵ On this basis, we determine the net subsidy rate for this program to be less than 0.005 percent *ad valorem* and, thus, under the Department's practice we preliminarily determine that the subsidy received is not numerically significant.⁵⁶

C. Programs Preliminarily Determined to be Not Used

1. Short-Term Discounted Loans for Export Granted by the Korean Development Bank (KDB)

DSM reported that it obtained short-term usance loans from the KDB during the POR, but stated that none of the short-term loans were contingent upon exports.⁵⁷ DSM further reported that the short-term loans in question were for raw material import financing.⁵⁸ In support of this claim, DSM provided sample documentation for one of its loans, which included the notice of shipping for document acceptance pertaining to the imported item for which DSM received the foreign-currency denominated short-term loan.⁵⁹ Additionally, DSM provided all of the short-term loans it received from the KDB that were outstanding during the POR.⁶⁰

Based on the information provided by DSM (e.g., the sample documentation included in the DSM NSA QNR Response and the listing of DSM's outstanding loans received from the KDB that is included in the DSM Supplemental NSA QNR Response), we find that none of DSM's outstanding loans from the KDB were short-term discounted loans that were contingent upon export activity. Rather, the loans outstanding during the POR were usance loans (*i.e.*, debt incurred when a firm purchases materials on credit) that DSM used for raw material import financing or loans that were not related to the Short-Term Discounted Loans for Export Granted by the KDB program at issue.⁶¹ In *CFS from Korea*, the Department determined that usance loans issued by the KDB were not specific under section 771(5A) of the Act.⁶² Further, in *CFS*

⁵³ *Id.*

⁵⁴ See DSM Initial QNR Response at 11 and Exhibit B-1.

⁵⁵ See 19 CFR 351.525(b)(3).

⁵⁶ See, e.g., *HRS from India*, and accompanying Issues and Decision Memorandum at "Programs Found Not To Confer a Countervailable Benefit During the POR."

⁵⁷ See DSM NSA QNR Response at 8.

⁵⁸ *Id.*

⁵⁹ *Id.*, at NSA-7.

⁶⁰ See DSM Supplemental NSA QNR Response at 3-4 and NSA-8.

⁶¹ See DSM NSA QNR Response at 8; see also DSM Supplemental NSA QNR Response at 3-4 and NSA-8.

⁶² See *CFS from Korea*, and accompanying Issues and Decision Memorandum at Comment 16.

from Korea the Department determined that the KDB issues two types of usance loans, export and import usance loans and that import usance loans tie to particular imports but are not contingent upon exports.⁶³ Therefore, based on the information submitted by DSM and in keeping with the Department's findings in *CFS from Korea*, we find that DSM's outstanding loans from the KDB consist of import-based usance loans and, thus, we preliminarily determine that DSM did not have any short-term discounted export loans from the KDB that were outstanding during the POR.

2. Funds Provided under the Energy Savings Program

As indicated in the NSA Memorandum, the Department initiated an investigation of this program.⁶⁴ In its questionnaire response, DSM reiterated that its use of GOK electricity programs were limited to the Vacation and Repair Adjustment (VRA), Voluntary Curtailment Adjustment (VCA), and Direct Load Interruption (DLI) programs and, thus that it did not use the Energy Savings Program.⁶⁵ Therefore, we preliminarily determine that DSM did not use the Energy Savings Program.

We note that in *CTL Plate Investigation* the Department found that the VRA and VCA programs were not countervailable.⁶⁶ Additionally, in the *CTL Plate 2004 Final Results* the Department found the DLI program was not countervailable.⁶⁷ Therefore, in the absence of any new information, we continue to find these programs are not countervailable.

3. Tax Reductions to Companies Operating in the Godae Complex
DSM reported that tax exemptions and reductions received as a result of its facilities located in Asan Bay, which is located in the Godae district, were limited to those it reported under the Local Tax Exemption on Land Outside Metropolitan Areas program and, thus, DSM did not receive any additional tax benefits as a result of its location in Asan Bay.⁶⁸ Therefore, we preliminarily determine that DSM did not use this program during the POR.

4. Additional Programs Preliminarily Determined to be Not Used

DSM reported non-use of the following programs:

- GOK Directed Credit Program
- GOK Infrastructure Investment at Incheon North Harbor
- Reserve for Investment (Special Case of Tax for Balanced Development Among Areas)TERCL Articles 42, 43, 44, and 45
- Price Discounts for DSM Land Purchase at Asan Bay
- Exemption of VAT on Imports of Anthracite Coal

⁶³ *Id.*

⁶⁴ See NSA Memorandum at 7.

⁶⁵ See DSM Initial QNR Response at 14; see also DSM NSA QNR Response at 7.

⁶⁶ See *CTL Plate Investigation*, 64 FR at 73186.

⁶⁷ See *Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review*, 71 FR 11397, 11401-02 (March 7, 2006) unchanged in *Notice of Final Results of Countervailing Duty Administrative Review: Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea*, 71 FR 38861 (July 10, 2006) (*CTL Plate 2004 Final Results*).


⁶⁸ See DSM NSA QNR Response at 2.

- Provision of Land for Less than Adequate Remuneration in the Godae Complex
- Lease Discounts Provided to Companies Operating in Free Economic Zones
- Tax Reductions Granted to Companies Operating in the Godae Complex
- Tax Subsidies Provided to Companies Operating in Free Economic Zones
- Government Grants and Financial Support to Companies Operating in Free Economic Zones

II. Recommendation

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

Agree ☒ Disagree ☐



 Paul Piquado
 Assistant Secretary
 for Enforcement and Compliance

18 MAR 14 2014

 Date