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International Trade Administration
Washington, D.C. 20230

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Investigation
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December 15, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Negative Determination: Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from the Republic of Korea

I. SUMMARY

The Department of Commerce (Department) preliminarily determines that *de minimis* countervailable subsidies are being provided to producers and exporters of certain cold-rolled steel flat products from the Republic of Korea (Korea) as provided in section 703 of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

A. *Case History*

On July 28, 2015, the Department received countervailing duty (CVD) and antidumping duty (AD) Petitions concerning imports of cold-rolled steel from Korea filed in proper form by AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation (Nucor), Steel Dynamics Inc., and the United States Steel Corporation (collectively, Petitioners).[1] On August 17, 2015, the Department initiated a CVD investigation of cold-rolled steel from Korea.[2] Supplements to the

[1] *See* "Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom," dated July 28, 2015 (Petition).

[2] *See Certain Cold-Rolled Steel Flat Products From Brazil, India, the People's Republic of China, the Republic of Korea, and the Russian Federation: Initiation of Countervailing Duty Investigations,* 80 FR 51206 (August 24, 2015) (*Initiation Notice*).

Petition and our consultations with the Government of Korea (GOK) are described in the Initiation Checklist.[3]

In the "Respondent Selection" section of the *Initiation Notice*, the Department stated that it intended to select respondents based on U.S. Customs and Border Protection (CBP) data. On August 21, 2015, we released CBP data to parties under the Administrative Protective Order (APO). On September 2, 2015, we received comments on the CBP data from POSCO, and on September 3, 2015, we received comments from Nucor.

On September 15, 2015, the Department determined to individually examine POSCO and Hyundai Steel Co., Ltd. (Hyundai Steel) in this investigation.[4] On September 16, 2015, the Department issued a CVD questionnaire to the GOK. The Department instructed the GOK to forward the questionnaire to the selected mandatory respondents. POSCO and Hyundai Steel filed their respective affiliation questionnaire responses on September 30, 2015.[5] On October 26 and November 2, 2015, POSCO and Hyundai Steel filed their respective responses to the primary countervailing duty questionnaire.[6] The GOK filed a primary questionnaire response on October 30, 2015.[7]

Between October 5 and November 10, 2015, the Department issued supplemental questionnaires to POSCO, Hyundai Steel, and the GOK. Responses to these questionnaires were timely received between November 2 and November 20, 2015.[8] POSCO reported that it exported sales through unaffiliated trading companies SK Networks and Samsung C&T.[9] Hyundai Steel reported that it exported sales through unaffiliated trading company GS Global.[10] Accordingly, SK Networks, Samsung C&T, and GS Global submitted their own questionnaire responses.[11] On November 5, 2015, the Department issued supplemental questionnaires to SK Networks and GS Global. We received responses to these supplemental questionnaires between November 12 and November 18, 2015.[12]

[3] *See* Korea CVD Cold-Rolled Steel Flat Products Investigation Initiation Checklist, dated August 17, 2015.
[4] *See* Memorandum from Emily Maloof, International Trade Compliance Analyst, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Respondent Selection," dated September 15, 2015 (Respondent Selection Memo).
[5] *See* POSCO's September 30, 2015 submission (POSCO-AFF) and Hyundai Steel's September 30, 2015 submission (Hyundai Steel-AFF).
[6] *See* POSCO's October 26, 2015 submission (POSCO QR1) and Hyundai Steel's November 2, 2015 submission (Hyundai Steel QR1).
[7] *See* GOK Primary CVD Questionnaire Response, dated October 30, 2015 (GOK PQR).
[8] *See* GOK November 20, 2015 submission (GOK SUPP).
[9] *See* POSCO-AFF at 1.
[10] *See* Hyundai Steel –AFF at 2-3.
[11] *See* SK Networks' September 30, 2015 submission (SK Networks-AFF) November 2, 2015 submission (SK Networks QR1), and November 4, 2015 submission (SK Networks QR1.2), Samsung C&T's September 30, 2015 submission (Samsung C&T-AFF), November 2, 2015 submission (Samsung C&T QR1), and November 4, 2015 submission (Samsung C&T QR1.2), and GS Global's October 30, 2015 submission (GS Global QR1) and GS Global's November 17, 2015 submission (GS Global QR1.2).
[12] *See* SK Networks' November 17, 2015 submission (SK Networks SUPP-QR) and GS Global's November 12, 2015 submission (GS Global SUPP-QR).

On October 1, 2015, based upon a request from Petitioners, the Department postponed the deadline for this preliminary determination until December 15, 2015.[13]

On October 15, 2015, the Department met with counsel for POSCO and Hyundai Steel to discuss the reporting requirements for POSCO Energy and Hyundai Green Power Co., Ltd.[14] On November 23, 2015, Nucor submitted proposed benchmark data. On November 24, 2015, Nucor submitted comments on POSCO and DWI's questionnaire responses, and on December 2, 2015, Nucor submitted comments on Hyundai Steel's questionnaire responses.

C. *Postponement of Preliminary Determination*

On October 1, 2015, the Department postponed the deadline for the preliminary determination until no later than 130 days after the initiation of the investigation, based on a request from Petitioners.[15] The Department postponed the preliminary determination until December 15, 2015, in accordance with sections 703(c)(1)(A) and (2) of the Act and 19 CFR 351.205(f)(1).[16]

B. *Period of Investigation*

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

III. SCOPE COMMENTS

In accordance with the preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of that notice.[17]

We received several comments concerning the scope of the AD and CVD investigations of cold-rolled steel from, *inter alia*, Korea. We are currently evaluating the scope comments filed by the interested parties. We intend to issue our preliminary decision regarding the scope of the AD and CVD investigations in the preliminary determination of the companion AD investigations, the deadlines of which are February 23, 2016. We will incorporate the scope decisions from the AD investigations into the scope of the final CVD determinations after considering any relevant comments submitted in case and rebuttal briefs.

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[13] *See Certain Cold-Rolled Steel Flat Products from Brazil, India, the People's Republic of China, the Republic of Korea, and the Russian Federation: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 80 FR 60881 (October 8, 2015).

[14] *See* Memorandum to File from Emily Maloof, International Trade Compliance Analyst, AD/CVD Operations, Office VI, "*Ex-Parte* Meeting with Counsel for POSCO and Hyundai Steel Company Regarding the Countervailing Duty Investigation on Certain Cold-Rolled Steel Flat Products from the Republic of Korea," dated October 16, 2015.

[15] *See* Letters from Petitioners, titled "Cold-Rolled Steel Flat Products from Brazil, India, the People's Republic of China, the Republic of Korea, and the Russian Federation: Petitioners' Request to Extend the Countervailing Duty Preliminary Determination," dated September 23, 2015.

[16] *See Certain Cold-Rolled Steel Flat Products From Brazil, India, the People's Republic of China, the Republic of Korea, and the Russian Federation: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 80 FR 60881 (October 8, 2015).

[17] *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*CVD Preamble*); *see also Initiation Notice*, 80 FR at 51206.

IV. SCOPE OF THE INVESTIGATION

The products covered by this investigation are certain cold-rolled (cold-reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement ("width") of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, *etc.*). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been "worked after rolling" (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.
Steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, motor lamination steels, Advanced High Strength Steels (AHSS), and Ultra High Strength Steels (UHSS). IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AHSS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes cold-rolled steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cold-rolled steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Ball bearing steels;[18]
- Tool steels;[19]
- Silico-manganese steel;[20]
- Grain-oriented electrical steels (GOES) as defined in the final determination of the U.S. Department of Commerce in *Grain-Oriented Electrical Steel From Germany, Japan, and Poland*.[21]

[18] Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

[19] Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) more than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

[20] Silico-manganese steel is defined as steels containing by weight: (i) not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

[21] *Grain-Oriented Electrical Steel From Germany, Japan, and Poland: Final Determinations of Sales at Less Than Fair Value and Certain Final Affirmative Determination of Critical Circumstances*, 79 Fed. Reg. 42,501, 42,503 (Dep't of Commerce, July 22, 2014). This determination defines grain-oriented electrical steel as "a flat-rolled alloy

- Non-Oriented Electrical Steels (NOES), as defined in the antidumping orders issued by the U.S. Department of Commerce in *Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan*.[22]

The products subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0070, 7209.16.0091, 7209.17.0030, 7209.17.0060, 7209.17.0070, 7209.17.0091, 7209.18.1530, 7209.18.1560, 7209.18.2510, 7209.18.2520, 7209.18.2580, 7209.18.6020, 7209.18.6090, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6075, 7211.23.6085, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7225.50.6000, 7225.50.8015, 7225.50.8085, 7225.99.0090, 7226.92.5000, 7226.92.7050, and 7226.92.8050.

The products subject to this investigation may also enter under the following HTSUS numbers: 7210.90.9000, 7212.50.0000, 7215.10.0010, 7215.10.0080, 7215.50.0016, 7215.50.0018, 7215.50.0020, 7215.50.0061, 7215.50.0063, 7215.50.0065, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.19.0000, 7226.19.1000, 7226.19.9000, 7226.99.0180, 7228.50.5015, 7228.50.5040, 7228.50.5070, 7228.60.8000,and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

V. ALIGNMENT

In accordance with section 705(a)(1) of the Act, and 19 CFR 351.210(b)(4), and based on the Petitioners' request,[23] we are aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of cold-rolled steel from Korea. Consequently, the final CVD determination will be issued on the same date as the final AD

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steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths."

[22] *Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Antidumping Duty Orders*, 79 Fed. Reg. 71,741, 71,741-42 (Dep't of Commerce, Dec. 3, 2014). The orders define NOES as "cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term 'substantially equal' means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.*, the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.*, parallel to) the rolling direction of the sheet (*i.e.*, B800 value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied."

[23] *See* Letter from the Petitioners dated December 14, 2015.

determination, which is currently scheduled to be due no later than May 8, 2016, unless postponed.[24]

VI. INJURY TEST

Because Korea is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Korea materially injure, or threaten material injury to, a U.S. industry. On September 10, 2015, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of cold-rolled steel from Korea.[25]

VII. USE OF FACTS OTHERWISE AVAILABLE

Sections 776(a) of the Act provide that the Department shall, subject to section 782(d) of the Act, use the "facts otherwise available" if: (1) necessary information is not on the record; or (2) an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act. Section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and CVD law, including amendments to section 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act. [26] The amendments to the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this investigation.[27]
As discussed below, the GOK did not provide complete information with respect to program use under RSTA Article 120: Exemption of the Acquisition Tax, making it necessary to rely on facts

[24] We note that the current deadline for the final AD determination is May 8, 2016, which is a Sunday. Pursuant to Department practice, the signature date will be the next business day, which is Monday, March 9, 2016. *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).
[25] *See* Certain Cold-Rolled Steel Flat Products from Brazil, China, India, Korea and Russia: Investigation Nos. 701–TA–540–544 and 731–TA–1283–1287 and 1289-1290 (September 10, 2015) (Preliminary Report); *Cold-Rolled Steel Flat Products From Brazil, China, India, Japan, Korea, Netherlands, Russia, and the United Kingdom*, 80 FR 55872 (September 17, 2015).
[26] *See* TPEA. The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC. *See* Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015, 80 FR 46793 (August 6, 2015) (*Applicability Notice*).
[27] *Id*., 80 FR at 46794-95. The 2015 amendments may be found at https://www.congress.gov/bill/114thcongress/house-bill/1295/text/pl.

otherwise available under section 776(a) of the Act in our preliminary specificity analysis of this program. *See* "RSTA Article 120: Exemption of the Acquisition Tax" below.

Regarding DWI's debt restructuring, the GOK did not provide the requested information about DWI's Creditors' Council, making it necessary to rely on facts otherwise available under section 776(a) of the Act to preliminarily determine whether creditors participating in DWI's debt workout were private entities or were "authorities" under the Act. *See* "DWI's Debt Workout" below.

VIII. SUBSIDIES VALUATION

A. *Allocation Period*

The Department normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise.[28] The Department finds the AUL in this proceeding to be 15 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System.[29] The Department notified the respondents of the AUL in the primary questionnaire and requested data accordingly. No party in this proceeding disputed this allocation period. Consistent with past practice, in order to appropriately measure any allocated subsidies, the Department will use a 15-year AUL period in this investigation.[30]

Furthermore, for non-recurring subsidies, we applied the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for the same year. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL.

B. *Attribution of Subsidies*

In accordance with 19 CFR 351.525(b)(6)(i), the Department normally attributes a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent. Further, 19 CFR 351.525(c) provides that benefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm

[28] *See* 19 CFR 351.524(b).
[29] *See* U.S. Internal Revenue Service Publication 946 (2008), "How to Depreciate Property," at Table B-2: Table of Class Lives and Recovery Periods.
[30] *See Final Results of Countervailing Duty Administrative Reviews: Low Enriched Uranium from Germany, the Netherlands, and the United Kingdom*, 70 FR 40000 (July 12, 2005) and accompanying Issues and Decision Memorandum (IDM) at Comment 4.

producing the subject merchandise that is sold through the trading company, regardless of affiliation.

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.[31]

POSCO and DWI

POSCO was founded in 1968 by the GOK, and began being privatized in 1988 through its listing on the Korea Stock Exchange, before becoming completely private in 2000.[32] During the POI, it operated two integrated steel mills in Korea, producing various steel products, including, *inter alia*, cold-rolled steel.[33] By the end of the POI, DWI's major stockholder was POSCO, which owned 60.31 percent of the company's total outstanding shares.[34] DWI was created as a result of a spinoff from Daewoo Corporation in 2000, and was listed for public trading on the Korea Stock Exchange in 2001.[35] During the POI, DWI engaged in export and import activities of industrial grade steel, metals, chemicals, transportation equipment, machinery, ships, plants, electronics, textiles and other specialty goods to numerous markets, including the United States, as well as providing export services, export agent services, intermediary trading, manufacturing, distribution, and natural resource development.[36]

POSCO responded to the Department's questionnaires on behalf of itself and DWI, its affiliated trading company that exported POSCO-produced subject merchandise to the United States during the POI.[37] As discussed above, DWI is majority owned by POSCO.[38] As such, we preliminarily determine that POSCO and DWI are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi) through common ownership.[39] For POSCO, we are preliminarily attributing subsidies received by POSCO to its own sales in accordance with 19 CFR 351.525(b)(6)(i). For DWI, pursuant to 19 CFR 351.525(c), the Department cumulates benefits from subsidies to a

[31] *See Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).
[32] *See* POSCO QR1 at 6.
[33] *Id.*
[34] *Id.*, at 7.
[35] *Id.*
[36] *Id.*
[37] *Id.*, at 1.
[38] *Id.*, at 7.
[39] This determination is consistent with the Department's previous findings regarding POSCO and DWI. *See, e.g.*, *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), and accompanying Preliminary Decision Memorandum (PDM) at 3; unchanged in *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2011*, 79 FR 5378 (January 31, 2014).

trading company that exports subject merchandise with benefits from subsidies provided to the firm which is producing subject merchandise that is sold through the trading company. Therefore, pursuant to 19 CFR 351.525(c), we are preliminarily attributing the benefit from subsidies to DWI to the combined sales of DWI and POSCO (less inter-company sales).[40]

POSCO reported that it made some export sales of cold-rolled steel to the United States through unaffiliated trading companies Samsung C&T and SK Networks during the POI. In accordance with the Department's questionnaire, Samsung C&T and SK Networks submitted complete questionnaire responses and responded to supplemental questionnaires.

Pursuant to 19 CFR 351.525(c), benefits from subsidies provided to a trading company that exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm that is producing subject merchandise that is sold through the trading company, regardless of whether the trading company and the producing firm are affiliated. Thus, we are cumulating the benefits from subsidies received by Samsung C&T and SK Networks with the benefits from subsidies received by POSCO based on the ratio of Samsung C&T's and SK Networks' exports to the United States of subject merchandise that was produced by POSCO during the POI (based on value).[41]

Hyundai Steel

Hyundai Steel reported that it is a publicly traded company engaged in the production and sale of steel products, including cold-rolled steel.[42] Therefore, in accordance with 19 CFR 351.525(b)(6)(i), we are preliminarily attributing subsidies received by Hyundai Steel to its own sales.

Hyundai Steel reported that it made some export sales of cold-rolled steel to the United States through unaffiliated trading companies, including GS Global.[43] In accordance with the Department's questionnaire, GS Global submitted a complete questionnaire response and responded to a supplemental questionnaire.

Pursuant to 19 CFR 351.525(c), benefits from subsidies provided to a trading company that exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm that is producing subject merchandise that is sold through the trading company, regardless of whether the trading company and the producing firm are affiliated. Thus, we are cumulating the benefits from subsidies received by GS Global with the benefits from subsidies received by

[40] *Id. See also, e.g.*, *Certain Steel Wheels From the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 77 FR 17017 (March 23, 2012), and accompanying IDM at 5.
[41] For the denominators used in the preliminary calculations, *see* POSCO Preliminary Calculation Memorandum (POSCO Preliminary Calculation Memo), dated December 15, 2015.
[42] *See* Hyundai Steel QR1 at 5.
[43] *See* Hyundai Steel-AFF at 2.

Hyundai Steel based on the ratio of GS Global's exports to the United States of subject merchandise that was produced by Hyundai Steel during the POI (based on value).[44]

In its questionnaire response, Hyundai Steel requested that it be exempted from reporting on behalf of the other unaffiliated trading companies.[45] Based on the negligible quantities of cold-rolled steel that were exported through these other unaffiliated trading companies, we did not require Hyundai Steel to submit questionnaire responses for these companies.[46]

C. *Denominators*

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, the Department considers the basis for the respondents' receipt of benefits under each program. As discussed in further detail below in the "Programs Preliminarily Determined to be Countervailable" section, where the program has been found to be countervailable as a domestic subsidy, we used the recipient's total sales as the denominator. Similarly, where the program has been found to be countervailable as an export subsidy, we used the recipient's total export sales as the denominator. In the sections below, we describe the denominators we used to calculate the countervailable subsidy rates for the various subsidy programs**.**

D. *Loan Benchmarks and Interest Rates*

Section 771(5)(E)(ii) of the Act states that the benefit for loans is the "difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market," indicating that a benchmark must be a market-based rate. In addition, 19 CFR 351.505(a)(3)(i) stipulates that when selecting a comparable commercial loan that the recipient "could actually obtain on the market" the Department will normally rely on actual loans obtained by the firm. However, when there are no comparable commercial loans, the Department "may use a national average interest rate for comparable commercial loans," pursuant to 19 CFR 351.505(a)(3)(ii).

Short-Term U.S. Dollar (USD)-Denominated Loans

Hyundai Steel reported receiving short-term financing from the Korean Export-Import Bank (KEXIM) during the POI.[47] Hyundai Steel provided information about short-term loans from commercial banks for consideration as comparable commercial loans for purposes of identifying an interest rate benchmark.[48] We preliminarily determine that some of the loans Hyundai Steel identified constitute comparable commercial loans, and it is appropriate to use these loans to calculate a weighted-average benchmark interest rate.[49]

[44] For the denominators used in the preliminary calculations, *see* Hyundai Steel Preliminary Calculation Memorandum (Hyundai Steel Preliminary Calculation Memo), dated December 15, 2015.
[45] *See* Hyundai Steel-AFF at 3.
[46] *Id.*
[47] *See* Hyundai Steel QR1 at 20.
[48] *Id.* at Exhibit C-3.
[49] *See* Hyundai Steel Preliminary Calculation Memo.

Long-Term USD and Korean Won (KRW)-Denominated Loans

During the POI, POSCO had outstanding countervailable long-term USD-denominated and KRW-denominated loans from GOK-owned banks and financial institutions.[50] Furthermore, POSCO maintained long-term foreign currency loans guaranteed by GOK-owned banks.[51] As noted above, as benchmarks for countervailable subsidies in the form of long-term loans, we typically use, where available, the company-specific interest rates on the company's comparable commercial loans.[52] However, POSCO reported that it did not have any long-term loans from a commercial bank that were comparable to the countervailable loans at issue. In cases where such loans are not available, we use, where available, the company-specific corporate bond rate based on the company's public and private bonds. As such, POSCO provided its company-specific corporate bond rate on its foreign currency-denominated public and private bonds for the USD-denominated loans, and its company-specific corporate bond rate on its KRW-denominated public bonds for the KRW-denominated loans. The use of a corporate bond rate as a long-term benchmark interest rate is consistent with the approach the Department has taken in several prior Korean CVD proceedings.[53]

We relied on data from the International Monetary Fund's (IMF) *International Financial Statistics* for the years in which the terms of the loans were agreed upon to identify bond interest rates representing yields to maturity of bonds that would indicate longer term rates. This is consistent with the approach the Department took in *Large Residential Washers from Korea*.[54]

As discussed further below, we preliminarily determine that under DWI's debt workout program, the restructured debt from Korea Export Insurance Corporation (K-SURE) is being provided to DWI interest free. Because the workout program for DWI was terminated on December 30, 2003,[55] we relied on 2004 as the year of agreement between DWI and K-SURE for its restructured debt. Under the terms of the loan agreement, DWI makes quarterly installments to repay this debt over a period of 12 years.[56] Accordingly, a long-term KRW-denominated benchmark from this time period is required to calculate the benefit from this countervailable liability. Because DWI was not able to provide any information as to the terms of the original loan, we relied on data from the IMF's *International Financial Statistics* for the year in which

[50] *See* POSCO QR1 at 25-28.
[51] *Id.*
[52] *See* 19 CFR 351.505(a)(3).
[53] *See, e.g., Non-Oriented Electrical Steel From the Republic of Korea: Final Negative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 79 FR 61605 (October 14, 2014) (*NOES from Korea*), and accompanying IDM at 4-6.
[54] *See Large Residential Washers From the Republic of Korea: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination*, 77 FR 33181 (June 5, 2012) (*Large Residential Washers from Korea*), and accompanying PDM at 6, unchanged in final (*Large Residential Washers From the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 75975, (December 26, 2012)).
[55] *See* POSCO QR1 at 41.
[56] *Id.* at Exhibit I-9.

the terms of the loan were agreed upon.[57] This is consistent with the approach we took most recently in *NOES from Korea*.[58]

Short-Term Loans Reported By GS Global

As discussed further below, we preliminarily determine that the short-term discounted loans that GS Global received for export receivables during the POI constitute a countervailable subsidy. GS Global provided information about short-term loans from commercial banks for consideration as comparable commercial loans for purposes of identifying an interest rate benchmark.[59] We preliminarily determine that some of the loans GS Global identified constitute comparable commercial loans, and it is appropriate to use these loans to calculate a weighted average benchmark interest rate.[60]

D. *Discount Rates*

Consistent with 19 CFR 351.524(d)(3)(i)(A), we used, as our discount rate, the long-term interest rate calculated according to the methodology described above for the year in which the government provided non-recurring subsidies.[61] The interest rate benchmarks and discount rates used in our preliminary calculations are provided in POSCO Preliminary Calculation Memo and Hyundai Steel Preliminary Calculation Memo.[62]

IX. ANALYSIS OF PROGRAMS

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

A. *Programs Preliminarily Determined to Be Countervailable*

1. Restriction of Special Taxation Act (RSTA) Article 10(1)(3): Tax Reduction for Research and Human Resources Development

Hyundai Steel reported receiving tax benefits through RSTA Article 10(1)(3).[63] Samsung C&T also reported receipt of tax benefits through this program, but its benefit from the program was

[57] *See* Memorandum from Madeline Heeren to the File, "External Benchmarking Source Data" (December 2, 2015).
[58] *See NOES from Korea*, and accompanying PDM at 4-6; *see also Large Residential Washers from Korea*, and accompanying IDM at 6, unchanged in final.
[59] *See* GS Global SUPP-QR at D-5 and GS Global QR1 at Exhibits D-1 and D-2.
[60] Memorandum from Yasmin Bordas, Senior International Trade Compliance Analyst, to the File, "Countervailing Duty Investigation of Certain Cold-Rolled Steel from the Republic of Korea: Preliminary Determination Calculations for Hyundai Steel," dated December 15, 2015 (Hyundai Steel Preliminary Calculation Memo).
[61] *Id.*
[62] *See* Memorandum from Emily Maloof, International Trade Compliance Analyst, to the File, "Countervailing Duty Investigation of Certain Cold-Rolled Steel from the Republic of Korea: Preliminary Determination Calculations for POSCO," dated December 15, 2015 (POSCO Preliminary Calculation Memo) and Hyundai Steel Preliminary Calculation Memo.
[63] *See* Hyundai Steel QR1 at 31.

non-measureable.[64] Introduced in 1982 under the Tax Deduction on Research and Workforce Development, this program aims to facilitate Korean corporate investment in research and development activities through a reduction of taxes payable for eligible expenditures.[65] The tax reduction is administered by the National Tax Service (NTS),[66] under the direction of the Ministry of Strategy and Finance (MOSF), and manifests itself as either 40 percent of the difference between the eligible expenditures in the tax year and the average of the prior four years, or a maximum of six percent of the eligible expenditures in the current tax year.[67] Article 10(1)(3) of the RSTA is the law authorizing the reduction, which is implemented through Article 9(3) of the Enforcement Decree of the RSTA.[68]

As explained in *NOES from Korea*,[69] the language of the law for this program, as well as the language of the implementing provisions for this tax program, do not limit eligibility to a specific enterprise or industry or group thereof in accordance with section 771(5A)(D)(i) of the Act. Therefore, consistent with *NOES from Korea*,[70] we have examined whether, based on the information on the record of this investigation, the provision of this tax benefit is specific, in fact, to an enterprise or industry or group thereof pursuant to section 771(5A)(D)(iii) of the Act. In *NOES from Korea*,[71] we determined that this program was specific under section 771(5A)(D)(iii)(I) of the Act because the actual recipients are limited in number under this program. Based on the information provided by the GOK in this investigation, and consistent with our determination in *NOES from Korea*,[72] we continue to find this program *de facto* specific under section 771(5A)(D)(iii)(I) of the Act because the actual recipients are limited in number as only 0.24 percent of corporate tax payers used this program.[73]

The tax credits provided under this program constitute financial contributions in the form of revenue foregone by the government under section 771(5)(D)(ii) of the Act, and this program provides a benefit to the recipient in the amount of the difference between the taxes it paid and the amount of taxes that it would have paid in the absence of this program, pursuant to 19 CFR 351.509(a)(1).

To calculate the benefit, we divided the amount of the tax savings received by Hyundai Steel by its total sales during the POI. On this basis, we preliminarily determine that Hyundai Steel received a countervailable subsidy rate of 0.03 percent *ad valorem* under this program.

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[64] *See* POSCO Preliminary Calculation Memo.
[65] *See* GOK PQR at 100-103.
[66] *Id*., at Appendices Volume, page 247.
[67] *Id*., at Exhibit RSTA-1, pages 1.
[68] *Id*., at Appendices Volume, pages 248.
[69] In *NOES from Korea*, where only 3.01 percent of Korean corporate tax filers used this program, we found the program *de facto* specific under section 771(5A)(D)(iii)(I) of the Act because the actual recipients are limited in number. *See NOES from Korea*, and accompanying IDM at 13.
[70] *Id.*
[71] *Id.*
[72] *Id.*
[73] *See* GOK PQR at Exhibit Tax-13, wherein Table 8-1-1 indicates that 517,805 corporate tax returns were filed in 2013, and Table 8-3-2 indicates that only 1,261 of these 517,805 corporate tax returns received benefits under this tax credit program. Accordingly, that is only 0.24 percent of all corporate tax filers.

2. RSTA Article 22: Tax Exemption on Investment in Overseas Resources Development

DWI and Samsung C&T reported that they had investments in overseas resource development projects as prescribed by the Enforcement Decree of the RSTA and received tax exemptions for these investments.[74] Under Article 22 of the RSTA, a domestic corporation whose income (for each business year ending before December 31, 2015) includes any dividend income from investments in overseas resource development projects, as prescribed by Presidential 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.[75] Article 19 of the Enforcement Decree of the RSTA prescribes the following investment projects as being eligible for this tax exemption: Agricultural products, Animal products, Fishery products, Forest products, and Mineral products.[76]

We preliminarily determine that the tax exemption DWI and Samsung C&T received under Article 22 of the RSTA constitutes a financial contribution in the form of revenue foregone under section 771(5)(D)(ii) of the Act and confers a benefit pursuant to section 771(5)(E) of the Act and 19 CFR 351.509(a). Furthermore, consistent with *CORE from Korea 2010 Review*,[77] we preliminarily determine that the tax exemption DWI received under Article 22 of the RSTA is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because Article 19 of the Enforcement Decree of the RSTA expressly limits access to the Article 22 tax exemption to firms with overseas investment projects in agricultural, animal, fishery, forest, or mineral products.

To calculate the benefit received by DWI, we divided the amount of the tax savings received by DWI by the combined total sales of POSCO and DWI during the POI. To calculate the benefit received by Samsung C&T, we divided the amount of tax savings received Samsung C&T by the total sales of Samsung C&T during the POI. We then multiplied this amount by the ratio of Samsung C&T's exports to the United States of subject merchandise that was produced by POSCO. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.02 percent *ad valorem* under this program.[78]

3. RSTA Article 24: Tax Credit for Investment for Productivity Increase Facilities

Hyundai Steel reported receiving tax deductions under RSTA Article 24 for numerous qualifying investments.[79] Under RSTA Article 24, a domestic corporation could claim a deduction for investments made during the business year ending in December 31, 2014 in: (1) facilities that improve and automize the process; (2) high-technology equipment, as defined by the Presidential Decree; (3) computers and accompanying devices, software, telecommunications facilities, and

[74] *See* POSCO QR1 at 47.
[75] *See* GOK SUPP at 117.
[76] *Id.*, at 915.
[77] *See, e.g., 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) (*CORE from Korea 2010 Review*), and accompanying IDM at 22.
[78] *See* POSCO Preliminary Calculation Memo.
[79] *See* Hyundai Steel QR at 33 and J-10.

other facilities used for the management of supply networks; (4) computers and accompanying devices, software, telecommunications facilities and other facilities used for managing customer relations; (5) computers and accompanying devices, software, telecommunications facilities and other facilities used for managing logistics processes; and (6) other systems as prescribed by Presidential decree.[80] The purpose of this program is to promote productivity and automation of processes in facilities in business sectors through a deduction from taxes payable.[81]

Based upon the information provided by the GOK in the *Statistical Yearbook 2014* in this proceeding, we preliminarily determine that this program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act because record evidence demonstrates that the actual number of recipients is limited in number, that is, out of 517,805 corporate tax returns filed in 2014 only 269 companies received benefits under this program.[82] Furthermore, a financial contribution from the GOK exists in the form of revenue foregone, as described in section 771(5)(D)(ii) of the Act. The benefit conferred on the recipient is the difference between the amount of taxes it paid and the amount of taxes that it would have paid in the absence of this program, as described in 19 CFR 351.509(a), effectively, the amount of the tax credit claimed.

To calculate the benefit, we divided the amount of the tax savings received by Hyundai Steel by its total sales during the POI. On this basis, we preliminarily determine that Hyundai Steel received a countervailable subsidy rate of 0.01 percent *ad valorem* under this program.[83]

4. RSTA Article 25: Tax Credit for Investment in Facilities for Environment or Safety

DWI claimed the tax credit based on its assessment that these investments were among those prescribed by Article 22 of the Presidential Decree.[84] Under Article 25 of the RSTA, a domestic corporation could claim a deduction for investments made during the business year ending in December 31, 2014, in : (l) facilities for a distribution business to be run in accordance with the Distribution Industry Development Act; (2) facilities installed in a trustee company by a trustor company, in accordance with the Act on the Protection of the Business Sphere of Small and Medium Enterprises and Promotion of Their Cooperation; (3) industrial disaster prevention facilities; (4) mining safety facilities; (5) facilities reinforced or expanded by an individual designated as a person under priority management to carry out emergency preparedness duties in accordance with the Emergency Resources Management Act and Government orders; (6) facilities for preventing hazardous elements, in accordance with Article 9 of the Processing of Livestock Products Act or Article 48 of the Food Sanitation Act; (7) facilities installed to prevent illegal transfer of technology; and (8) facilities installed to develop overseas resources, and certain facilities, as prescribed by the Presidential Decree.[85]

[80] *Id.* at J-11 (RSTA Article 24 and Article 21 Presidential Decree).
[81] *See* GOK SUPP, Appendices Index at 129.
[82] *See* GOK PQR at Exhibit TAX-13, wherein Table 8-1-1 indicates that 517,805 corporate tax returns were filed in 2014, and Table 8-3-2 indicates that only 269 of these 517,805 corporate tax returns received benefits under this tax credit program. Accordingly, that is only 0.052 percent of all corporate tax filers.
[83] *See* Hyundai Steel Preliminary Calculation Memo.
[84] *See* POSCO QR1 at Exhibit J-3 and J-4.
[85] *See* GOK SQR at 139.

Based upon the information provided by the GOK in the *Statistical Yearbook 2014*, in this proceeding, we preliminarily determine that this program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act because the actual number of recipients is limited in number, as only 229 companies received benefits under this program.[86] Furthermore, a financial contribution from the GOK exists in the form of revenue foregone, as described in section 771(5)(D)(ii) of the Act. Finally, a benefit is conferred upon the recipient which is the difference between the amount of taxes it paid and the amount of taxes that it would have paid in the absence of this program, as described in 19 CFR 351.509(a), effectively, the amount of the tax credit claimed.

To calculate the benefit received for DWI, we divided the amount of the tax savings received by DWI by the combined total sales of POSCO and DWI during the POI. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.01 percent *ad valorem* under this program.[87]

5. RSTA Article 25(2): Tax Deductions for Investments in Energy Economizing Facilities

Hyundai Steel reported receiving tax deductions under RSTA Article 25(2).[88] The purpose of this program is to facilitate the enhancement of energy efficiency in business sectors through a deduction from taxes payable.[89] The statutory basis for this program is Article 25(2) of the RSTA, Article 22(2) of the Enforcement Decree of the RSTA, and Article 13(2) of the Enforcement Regulation of RSTA.[90] The eligible types of facilities investment are identified in Article 22(2) of the RSTA, while Appendix 8-3 of Article 13(2) of the Enforcement Regulation of the RSTA lists energy related facilities which are eligible for this program, and Appendix 8-4 lists the facilities that are treated as manufacturing facilities for renewable energy production.[91]

The GOK agency that administers this program is the NTS, under the direction of the MOSF.[92] In order to obtain the tax deduction, the GOK notes that an applicant is required to submit (i) an application for the tax deduction and (ii) the report of the taxation scale to the NTS which then reviews the materials submitted to determine the eligibility pursuant to the relevant laws and regulations.[93] Article 25(2) of the RSTA stipulates that ten percent of the eligible investment can be deductible from the taxes payable by a corporation or an individual taxpayer.[94]

Information provided by the GOK demonstrates that only a limited number of companies claimed this tax credit in 2014.[95] Accordingly, we preliminarily determine that this program is

[86] *Id.* at Exhibit TAX-13, wherein Table 8-1-1 indicates that 517,805 corporate tax returns were filed in 2014, and Table 8-3-2 indicates that only 229 of these 517,805 corporate tax returns received benefits under this tax credit program. Accordingly, that is only 0.04 percent of all corporate tax filers.
[87] See POSCO Preliminary Calculation Memo.
[88] *See* Hyundai Steel QR1 at 32.
[89] *See* GOK PQR Appendices Volume at 105.
[90] *Id.*, Appendices Volume at 272.
[91] *Id.*, at 273
[92] *Id.*, at 271.
[93] *Id.*, at 275.
[94] *Id.*, at 271.
[95] *Id.*, at 279.

de facto specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because the actual number of recipients is limited. This finding is consistent with *Large Residential Washers from Korea*, in which we relied on information that is comparable to that which the GOK provided in the current investigation.[96] This program results in a financial contribution from the GOK to recipients in the form of revenue foregone, as described in section 771(5)(D)(ii) of the Act. The benefit conferred on the recipient is the difference between the amount of taxes it paid and the amount of taxes that it would have paid in the absence of this program, as described in 19 CFR 351.509(a), effectively, the amount of the tax credit claimed.

To calculate the benefit, we divided the amount of the tax savings received by Hyundai Steel by its total sales during the POI. On this basis, we preliminarily determine that Hyundai Steel received a countervailable subsidy rate of 0.15 percent *ad valorem* under this program.[97]

6. RSTA Article 25(3): Tax Credit for Investment in Environmental and Safety Facilities

Introduced in 2007, RSTA Article 25(3) aims to motivate investments in facilities that are constructed for the purpose of preserving the environment.[98] The GOK submits that any entity making an investment in facilities under this program may apply for a ten percent tax deduction.[99] Administered by the NTS, under the direction of the MOSF, Article 25(3) of the RSTA is the law authorizing the deduction, which is implemented through Article 22(3) of the Enforcement Decree of the RSTA.[100] Hyundai Steel made investments in its environmental conservation production facilities (*e.g.*, waste water and sludge disposal facilities, waste oil treatment facilities, coke dust collector facilities, *etc*.), and claimed the tax deduction based on its assessment that these investments were among those prescribed by Article 22(3) of the Enforcement Decree of the RSTA.[101]

According to the *Statistical Yearbook 2014*, there were 517,805 corporate tax returns filed in 2013, 168 of which claimed the Article 25(3) tax deduction.[102] Because only 168 companies benefitted from this program in 2014, we preliminarily determine that this program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act because the actual number of recipients is limited.

This program results in a financial contribution from the GOK to recipients in the form of revenue foregone, as described in section 771(5)(D)(ii) of the Act. The benefit conferred on the recipient is the difference between the amount of taxes it paid and the amount of taxes that it would have paid in the absence of this program, as described in 19 CFR 351.509(a), effectively, the amount of the tax credit claimed.

[96] *See Large Residential Washers* from Korea and accompanying IDM at 13-14, unchanged in final.
[97] *See* Hyundai Steel Preliminary Calculation Memo.
[98] *See* GOK PQR Appendices Volume at 283.
[99] *Id*., at pages 288-289.
[100] *Id*., at page 285.
[101] *See* Hyundai Steel QR1 at Exhibit J-8.
[102] *See* GOK PQR, Exhibit TAX-13 at Tables 8-1-1 and 8-3-2.

To calculate the benefit, we divided the amount of the tax savings received by Hyundai Steel by its total sales during the POI. On this basis, we preliminarily determine that Hyundai Steel received a countervailable subsidy rate of 0.11 percent *ad valorem* under this program.[103]

7. RSTA Article 26: GOK Facilities Investment Support

POSCO and DWI reported receiving benefits under this program.[104] Article 26 was first introduced through the RSTA in 1982 to encourage companies to make investments out of the overcrowding control region of the Seoul Metropolitan Area in their respective fields of business by providing them with tax incentives.[105] Eligible companies are able to claim a tax credit of up to ten percent in eligible investments in facilities.[106] The GOK states that Article 26 was revised on December 27, 2010, adding job creation as a requirement for companies to qualify for tax deductions for facilities investments, and that the article has been renamed "tax credit for employment-creating investments."[107]

The relevant law authorizing the credit, RSTA Article 26, and the implementing law, Article 23 of the Enforcement Decree of the RSTA, limit this program to enterprises or industries within a designated geographical region within the jurisdiction of the authority providing the subsidy. Accordingly, the Department preliminarily determines that this program is regionally specific in accordance with section 771(5A)(D)(iv) of the Act. This finding is consistent with our determination in *Welded Line Pipe from Korea* and *Large Residential Washers from Korea*.[108] The tax credits are a financial contribution in the form of revenue foregone by the government under section 771(5)(D)(ii) of the Act, and provide a benefit to the recipient in the amount of the difference between the taxes it paid and the amount of taxes that it would have paid in the absence of this program, pursuant to 19 CFR 351.509(a)(1).

To calculate the subsidy benefit received by DWI, we divided the amount of the tax savings received by DWI by the combined total sales of POSCO and DWI during the POI. To calculate the benefit received for POSCO, we divided the amount of POSCO's tax savings POSCO's total sales.

On this basis, we preliminarily determine that the calculation of this subsidy results in a rate that is less than 0.001 percent for DWI and, thus, have not included DWI's benefits in POSCO's overall subsidy rate. As a result, for POSCO, we preliminarily determine that it received a countervailable subsidy rate of 0.05 percent *ad valorem* under this program.[109]

[103] *See* Hyundai Steel Preliminary Calculation Memo.
[104] *See* POSCO QR1 at 51 and 52.
[105] *See* GOK PQR, Appendices Volume at 295 and 301.
[106] *Id*., at 295.
[107] *Id*.
[108] *See Welded Line Pipe From the Republic of Korea: Final Negative Countervailing Duty Determination*, 80 FR 61365 (October 13, 2015) (*Welded Line Pipe from Korea)*, and accompanying IDM at 10; and *Large Residential Washers*, and accompanying PDM at 14 (aff'd in *Samsung Electronics Co., Ltd. v. United States*, 973 F. Supp. 2d 1321, 1329 (CIT 2014)).
[109] *See* POSCO Preliminary Calculation Memo.

8. RSTA Article 120: Exemption of the Acquisition Tax

Hyundai Steel reported receiving benefits under this program.[110] RSTA Article 120 provides an exemption from local acquisition taxes for properties that are acquired no later than December 31, 2014.[111] The program is administered by local governments.[112]

We preliminarily determine that the tax exemption constitutes a financial contribution in the form of revenue foregone under section 771(5)(D)(ii) of the Act, and provides a benefit to the recipient equal to the amount of additional taxes the recipient would have paid in the absence of the program, pursuant to section 771(5)(E) of the Act and 19 CFR 351.509(a).

As for specificity, the language of the implementing provisions for this program does not limit eligibility to a specific enterprise or industry or group thereof in accordance with section 771(5A)(D)(i) of the Act. However, as aforementioned in the "Use of Facts Otherwise Available" section, the GOK did not provide complete information relating to program use, which we would normally rely upon to determine this program's specificity. In order to conduct the analysis of whether a program is specific under section 771(5A) of the Act, it is essential that the government provides a complete response to the questions of specificity that are contained in the questionnaire, because it is only the government that has access to the information required for a complete analysis of specificity. The GOK has not yet provided a complete response to the specificity questions related to this program.[113] As a result, we are resorting to the use of facts otherwise available within the meaning of section 776(a)(1) of the Act because the necessary information from the GOK concerning the manner in which this program is administered is not on the record. In *Welded Line Pipe from Korea*, the Department determined, based on information provided by the GOK, that 265 companies were approved for the assistance under this program in 2013, and 325 companies in 2014.[114] As such, we are preliminarily relying on facts otherwise available to determine that this program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act because the GOK has previously reported that the actual number of recipients is limited in number.[115] The Department intends to provide the GOK with another opportunity to provide complete specificity information for this program.

To calculate the benefit, we divided the amount of the tax savings received by Hyundai Steel by its total sales during the POI. On this basis, we preliminarily determine that Hyundai Steel received a countervailable subsidy rate of 0.23 percent *ad valorem* under this program.[116]

[110] *See* Hyundai Steel QR1 at 39.
[111] *See* GOK PQR at 205.
[112] *Id*.
[113] *See* GOK SUPP at 194.
[114] *See Welded Line Pipe from Korea* IDM at 14. *See also* Memorandum from Madeline Heeren, International Trade Compliance Analyst, Office VI, to File, "Information Pertaining to RSTA Article 120."
[115] *Id*.
[116] *See* Hyundai Steel Preliminary Calculation Memo.

9. Restriction of Special Local Taxation Act (RSLTA) Article 78(4): Reduction and Exemption for Industrial Complexes

POSCO and Hyundai Steel reported receiving partial exemptions from local acquisition taxes and local property taxes under paragraph (4) of RSLTA Article 78.[117] Article 78 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.[118] 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 if the relevant land, buildings, or facilities are located in an industrial complex outside of the Seoul metropolitan area. The program is administered by the local governments in Korea.[119] The purpose of the program is to promote the development of the underdeveloped areas in Korea and to appropriately allocate the industries nationwide.[120]

We preliminarily determine that the tax reductions constitute a financial contribution in the form of revenue foregone, as described under section 771(5)(D)(ii) of the Act, and a benefit under section 771(5)(E) of the Act and 19 CPR 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 provided by local governments to enterprises located within designated industrial complexes within their respective jurisdictions.

To calculate the benefits for POSCO and Hyundai Steel, we divided the amount of the tax savings by each company's total sales during the POI. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.01percent *ad valorem*, and Hyundai Steel received a countervailable subsidy rate of 0.08 percent *ad valorem* under this program.[121]

10. Korea Export Import Bank's (KEXIM) Overseas Investment Credit Program

GS Global, POSCO, and DWI reported receipt of loans under this program.[122] Beginning in 1976, this program provides financial assistance from KEXIM to Korean companies through capital contributions, as well as through the acquisition of stocks and provision of long-term funds, thus enabling Korean companies to make foreign investments.[123] Under the program, KEXIM extends loans to Korean companies in order to purchase foreign assets on the condition that the company has been doing business for more than three years in the same field as the targeted foreign asset.[124] The GOK submits that KEXIM calculates the borrowing enterprise's interest rate by amending a base rate to reflect factors such as the delivery cost, administrative

[117] *See* POSCO QR1 at Exhibit N-4; *see also* Hyundai Steel QR1 at Exhibit N-12.
[118] *See* GOK PQR at FEZ-2 and FEZ-3.
[119] *Id*.
[120] *Id*.
[121] *See* POSCO Preliminary Calculation Memo and Hyundai Steel Preliminary Calculation Memo.
[122] *See* GS Global SUPP-QR1.2 at 1.
[123] *See* GOK PQR at Exhibit-KEXIM.
[124] *Id*.

fees, credit rates of the lender, and the expected profit.[125] The GOK notes that in addition to KEXIM, other commercial banks also provide comparable financial services for the acquisition of assets abroad, and that this program has previously been called the "Overseas Investment Credit."[126] As of the end of 2010, KEXIM was a government-owned entity, through 74.4 percent ownership by the GOK.[127]

The GOK submits that this program is administered by KEXIM, pursuant to Article 18(1)(5) of the KEXIM Act, Article 15(1) of its Enforcement Decree, and Articles 67 through 69 of KEXIM's Regulation Governing Financing Operations.[128] Through this statutory and regulatory framework, when an applicant submits an application and the supporting documents for financing, the KEXIM loan officer reviews the materials to determine the eligibility based on the merits of the application, after which, if the application meets all the requirements and completes the internal credit extension evaluations process successfully, approval is granted.[129] Both POSCO and DWI utilized this program prior to, and during the POI, maintaining outstanding loans from KEXIM for the acquisition of foreign mines.[130] GS Global also reported use of this program during the POI.[131]

Of the loans outstanding during the POI, DWI maintains that certain of these borrowings relate to the excavation of elements that cannot be used in the production of cold-rolled steel, and thus, any benefit derived therefrom is not attributable to subject merchandise under 19 CFR 351.525(b)(5).[132] GS Global also claims that all of its borrowings relate to the excavation of elements not used in the production of cold-rolled steel, and thus, any benefit derived is not attributable to subject merchandise.[133] As such, only certain of these loans from KEXIM for the acquisition of foreign mines that are used in the production of cold-rolled steel are included in this preliminary calculation. We have thus excluded all of GS Global's loans and some of DWI's loans based on their claims that the borrowings related to the excavation of elements which cannot be used in the production of the subject merchandise. We intend to verify GS Global's and DWI's claims for the final determination.

We preliminarily determine that this program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because this program is limited to companies that are investing in foreign mines pursuant to Article 18(1)(5) of the KEXIM Act, Article 15(1) of its Enforcement Decree, and Articles 67 through 69 of KEXIM's Regulation Governing Financing Operations.

We also preliminarily determine that because KEXIM is an authority under section 771(5)(B) of the Act, this program results in a financial contribution in the form of a direct transfer of funds through loans under section 771(5)(D)(i) of the Act. In the Registration Statement filed on July 3, 2013 with the U.S. Securities and Exchange Commission, KEXIM and the GOK state: "We

[125] *Id*.
[126] *Id*.
[127] *Id*.
[128] *Id*.
[129] *Id*.
[130] *Id*., at I-10; *see also* POSCO QR1 at Exhibit C-5.
[131] *See* GS Global SUPP-QR1.2 at 1.
[132] *Id*. The specific elements are business proprietary information.
[133] *See* GS Global SUPP-QR1.2 at 1. The specific elements are business proprietary information.

{KEXIM} were established as a special governmental financial institution pursuant to the Export-Import Bank of Korea Act, as amended (the "KEXIM Act"). Since our establishment, we have been promoting the export and competitiveness of Korean goods and services in international markets. . . Although our management has control of our day-to-day operations, our operations are subject to the close supervision of the Government. As a result of the KEXIM Act, the Government is generally responsible for our operations and is legally obligated to replenish any deficit that arises if our reserves, consisting of our surplus and capital surplus items, are insufficient to cover any of our annual net losses."[134] The Department has also previously determined that loans from KEXIM constitute a financial contribution.[135] Information submitted in the instant investigation by the GOK confirms the decision reached on KEXIM in *CORE from Korea 2006 Review*.[136] Therefore, we preliminary determine that the program results in a financial contribution, which confers a benefit under section 771(5)(E)(ii) of the Act and 19 CFR 351.505 in the amount of the difference between the amount of interest POSCO and DWI paid on the KEXIM loans and the amount the recipients would have paid on a comparable commercial loan.

To calculate a benefit under this program, we compared the amount of interest POSCO and DWI paid on these loans during the POI to the amount they would have paid under the benchmark interest rate prescribed above. We then divided POSCO's calculated benefit by its total sales. We divided DWI's calculated benefit by DWI and POSCO's combined total sales, less intercompany sales, then summed both companies' benefits. On this basis, we preliminarily calculated a subsidy rate of 0.02 percent *ad valorem* for POSCO.[137]

11. Long-Term Loans from the Korean Resources Corporation (KORES) and the Korea National Oil Corporation (KNOC)

This program was introduced in 1982, with the purpose of enhancing and stabilizing the supply of energy resources in Korea.[138] The GOK submits that multiple levels of governance implement the program, beginning with the Ministry of Trade, Industry and Energy (MOTIE) as the agency in charge, whom administers the program with assistance from the Energy and Mineral Resource Development Association of Korea (EMRD).[139] The Financing Review Committee (FRC) reviews applications and decides whether the business plan of the applicant is adequate for the assistance provided, taking into account elements such as the credit rating of the applicant, the technical feasibility of the business, and the terms and conditions of the contract.[140] Once the FRC recommends approval of the application to MOTIE and the EMRD, KNOC and KORES are the entities that execute the program through the disbursement of funds in the form

[134] *See* GOK PQR at Exhibit KEXIM-2
[135] *See, e.g., Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review* (*CORE from Korea 2006 Review*), and accompanying IDM at 17.
[136] *See, e.g.*, GQR PQR at KEXIM, page 3: the GOK owns 67.52 percent, Bank of Korea owns 16.32 percent and the Korea Finance Corporation owns 16.16 percent of KEXIM.
[137] *See* POSCO Preliminary Calculation Memo.
[138] *See* GOK PQR at Appendix F.1.
[139] *Id*.
[140] *Id*.

of long-term loans.[141] The GOK submits that KNOC is responsible for the development of oil, while KORES is responsible for the development of other natural resources.[142]

The laws and regulations relating to this program are Articles 12 and 14 of the Submarine Mineral Resources Development Act; Articles 5 and 11 (clause 1 and 2) of the Overseas Resources Development Business Act; Article 11 (clause 1) of its Enforcement Decree; Article 3 (paragraph 1) of its Ministerial Decree; and Articles 5, 6 (clause 1), 7 (clause 1), 20 (clause 1 and 2), 20-2, and 22-2 (clause 1, 2, and 4) as well as Appendices 1 and 2 of the Ministerial Notice promulgated by MOTIE on the Criteria for Overseas Resources Development Business Fund.[143]

During the POI, POSCO maintained outstanding long-term loans from KNOC and KORES, while DWI maintained outstanding long-term loans from KORES under this program.[144] However, information on the record sufficiently demonstrates that the loans from KNOC to POSCO are tied to non-subject merchandise.[145] We intend to verify this information. As such, our analysis solely pertains to loans from KORES to POSCO and DWI.

We preliminarily determine that this program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because this program is limited to companies that are investing in foreign resource extraction pursuant to Articles 12 and 14 of the Submarine Mineral Resources Development Act; Articles 5 and 11 (clause 1 and 2) of the Overseas Resources Development Business Act; Article 11 (clause 1) of its Enforcement Decree; Article 3 (paragraph 1) of its Ministerial Decree; and Articles 5, 6 (clause 1), 7 (clause 1), 20 (clause 1 and 2), 20-2, and 22-2 (clause 1, 2, and 4) as well as Appendices 1 and 2 of the Ministerial Notice promulgated by MOTIE on the Criteria for Overseas Resources Development Business Fund.[146] According to the GOK, MOTIE is the government agency responsible for this program; 100 percent of the capital of KORES is funded by the GOK pursuant to the MOTIE Ministerial Notice; and under this Ministerial Decree, MOTIE has delegated the authority to execute the loans provided under this program to KORES.[147] Therefore, we preliminary determine that loans provided under this program are from an authority under section 771(5)(B) of the Act that results in a financial contribution in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act. Furthermore, a benefit is conferred under section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a) in the amount of the difference between the amount of interest POSCO and DWI paid on the KORES loans and the amount the recipient would pay on a comparable commercial loan.

To calculate a benefit under this program, we compared the amount of interest POSCO and DWI paid on these loans during the POI to the amount they would have paid under the benchmark interest rate prescribed above. On this basis, we preliminarily calculated a subsidy rate of 0.01 percent *ad valorem* for POSCO under this program during the POI.[148]

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[141] *Id*.
[142] *Id*.
[143] *Id*.
[144] *See* POSCO QR1 at Exhibit F-1.
[145] *Id*.
[146] *Id*.
[147] *See* GOK PQR at Appendix F.1.
[148] *See* POSCO Preliminary Calculation Memo.

12. DWI's Debt Workout

The Daewoo Group was dissolved in 1999 as a result of an unsustainable debt load, and 12 companies of the Daewoo Group, including Daewoo Corporation, were placed into separate workout programs under the Corporate Restructuring Act (CRA).[149] Daewoo Corporation, along with all the Daewoo Group companies, entered into workout programs on August 26, 1999.[150] On March 15, 2000, the Creditors' Council of the Daewoo Corporation established under the CRA made an agreement to transfer certain of Daewoo Corporations' liabilities by spinning them off to DWI, formerly the international trading division of Daewoo Corporation, and to Daewoo Engineering & Construction Co. (Daewoo E&C), formerly the construction division of Daewoo Corporation, which resulted in DWI becoming a primary debtor, or guarantor, for those carried-over liabilities.[151] As a result of this agreement, DWI was incorporated on December 27, 2000.[152]

Under the workout program, DWI's Creditors' Council determined to restructure the liabilities transferred to DWI in three separate debt restructurings using the following methods: (1) debt-for-equity swaps by the creditors on December 31, 2000; (2) debt transferred to equity through the issuance of convertible bonds on December 29, 2001, which were to be exchanged for shares; and (3) extensions of debt maturities and the revision of interest rates.[153] There was no debt forgiveness.[154] This workout program for DWI was terminated on December 30, 2003.[155]

POSCO submits that all of the debt restructured by the creditors that participated in the workout program was repaid by 2009.[156] However, other outstanding liabilities resulting from the debt workout remained on DWI's books through the POI.[157] When Daewoo Corporation defaulted on loans from various banks that were guaranteed by K-SURE, K-SURE made payments to these creditors on Daewoo Corporation's behalf.[158] As a result, K-SURE became a creditor of Daewoo Corporation and a portion of the liability to K-SURE was transferred to DWI as part of the spin-off agreed by the Creditors' Council. DWI agreed to pay off this liability in quarterly payments to K-SURE over 12 years with the first installment beginning on March 31, 2004.[159]

DWI's debt workout was controlled by the Creditors' Council, which was first formed under the CRA and its replacement act, the Corporate Restructuring Promotion Act (CRPA).[160] As we stated in *Refrigerators from Korea*, decisions of a company's Creditors' Council are made by vote, with a super-majority of 75 percent, based on the percentage of debt held, required for any

[149] *See* POSCO QR1 at 40.
[150] *Id*., at 40.
[151] *Id*.
[152] *Id*., at 41.
[153] *Id*.
[154] *Id*.
[155] *Id*.
[156] *Id*.
[157] *See* POSCO QR at 42; *see also* Exhibit I-8 and I-9.
[158] *Id*.
[159] *Id*.
[160] *Id*. at 40 and Exhibit I-4.

resolution to pass.[161] In that investigation, we found that government-controlled entities held the super-majority of 75 percent, which allowed the government to control the Creditor's Council.[162]

In our primary questionnaire to the GOK, we requested information on DWI's Creditors' Council, including the identification of the members of the Creditors' Council and the ownership stake of the GOK in each of the members. In response to each of our questions regarding the Creditors' Council, the GOK stated that it is not in a position to know the details of the debt workout program for DWI.[163] We requested this information, in part, to be able to determine whether government-controlled entities accounted for 75 percent of the votes of the Creditors' Council in order to determine whether the GOK could control the decision of DWI Creditors' Council. This information is necessary for us to determine whether the creditors participating in DWI's debt workout were private entities or were "authorities" under the Act.

While POSCO provided information on the creditors that participated in the debt workout agreement,[164] the GOK failed to provide requested information on the banks and financial institutions that were members of DWI's Creditors' Council.[165] This information was required, in part, to determine which of these creditors are "authorities" within the meaning of section 771(5)(B) of the Act. Information provided by POSCO shows that DWI was provided debt relief by the Korea Asset Management Company (KAMCO), KEXIM, the KDB, K-SURE and others.[166]

Information on the record, discussed below, demonstrates that the major creditors, KAMCO, KEXIM, the KDB, and K-SURE are "authorities" within the meaning of 771(5)(B) of the Act; however, this type of information is not available for the other creditors because of the GOK's failure to fully respond to our request for information.[167] As aforementioned in the "Use of Facts Otherwise Available" section, because the GOK did not provide this information, we are relying on the facts otherwise available under section 776(a) of the Act to preliminarily determine that these other creditors are "authorities" as defined within the Act. Pursuant to section 776(a) of the Act, subject to section 782(d) of the Act, the Department may rely on facts otherwise available when necessary information is not on the record, or when a party withholds requested information, fails to provide requested information by the applicable deadline, significantly impedes a proceeding, or provides information that may not be verified. In this case, the Department determines that necessary information is not on the record with respect to this issue. Thus, based on the facts available on the record, we preliminarily determine that banks and financial institutions that are "authorities' under section 771(5)(B) of the Act held the super-majority 75 percent of votes within the DWI's Creditors' Council. As such, we further

[161] *See Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 17410 (March 26, 2012) (*Refrigerators from Korea*), and accompanying IDM at 11.
[162] *Id*.
[163] *See* GOK PQR at 98.
[164] *See POSCO* QR1 at Exhibit L-2.(POSCO supplied the list of creditors involved, however, this list is business proprietary).
[165] *See* GOK PQR at 96-98.
[166] *Id*., at Exhibit D-4.
[167] The names of the other creditors are business proprietary

preliminarily determine that the assistance provided to DWI under the debt workout program constitutes a financial contribution under section 771(5)(D)(i) of the Act.[168]

Information provided by POSCO shows that DWI was provided debt relief by KAMCO, KEXIM, the KDB, K-SURE and others.[169] KAMCO, KEXIM, and the KDB have each been previously determined to be "authorities" within the meaning of section 771(5)(B) of the Act by the Department.[170] The Department determines that the information submitted in the instant investigation by the GOK demonstrates that KAMCO, KEXIM and the KDB continue to be "authorities" within the meaning of section 771(5)(B) of the Act. For KEXIM, the GOK states in their response: "We were established, as stated in the KEXIM Act, to 'promote the sound development of the national economy and economic cooperation with foreign countries by extending the financial aid required for export and import transactions, overseas investment, and the development of natural resources abroad.' As an instrument in serving the Government's public policy objectives, we do not seek to maximize our profits."[171] As for the KDB, in its primary questionnaire response, the GOK provided a Registration Statement filed on June 18, 2013, with the U.S. Securities and Exchange Commission, wherein the KDB and the GOK state: "Under the KDB Act, the KDB Decree and our Articles of Incorporation, our {KDB} primary purpose is to 'furnish funds for the expansion of the national economy.' Since we serve the public policy objectives of the Government, we do not seek to maximize profits."[172] As for KAMCO, the GOK states in their response: "the Establishment of KAMCO is to 'prescribe the matters necessary to support companies showing signs of insolvency to resolve their problems,' and, improve the liquidity and soundness of financial institutions in order to contribute in developing the financial industry, as well as the national economy."[173] The Department's determination is consistent with its decision reached on KAMCO in *Refrigerators from Korea*, the KDB in *Large Residential Washers* and the KEXIM in *CORE from Korea 2006 Review*.[174]

Finally, K-SURE is another government entity that played a major role in the debt workout of DWI.[175] The Department previously determined in *Refrigerators from Korea* that assistance provided to Korean companies by K-SURE constitutes a financial contribution under the Act.[176] However, here, the GOK argues that K-SURE is neither a GOK agency nor authority.[177] Nevertheless, the information provided in the GOK questionnaire response supports the Department's determination in *Refrigerators from Korea*. The GOK states that K-SURE is an

[168] Certain German banks have also been identified; however, these banks opposed the spinoff of DWI and Daewoo E&C from Daewoo Corporation and entered into a separate debt restructuring agreement with Daewoo Corporation outside of the parameters of the Creditors' Council. *See* POSCO QR1 at Exhibit I-7. Because this action was taken outside the direction of DWI's Creditors' Council, this action is not part of the investigated DWI Debt Workout Program.
[169] *Id*., at Exhibit D-4.
[170] *See Refrigerators from Korea* and *Large Residential Washers from Korea*.
[171] *See* GOK PQR at Exhibit KEXIM-2.
[172] *Id*.
[173] *See* GOK PQR Appendices Volume 78.
[174] *See Refrigerators from Korea*, and accompanying IDM at 108; *see also CORE from Korea 2006 Review*, and accompanying IDM at 12 and 17; and *Large Residential Washers from Korea*, and accompanying IDM at 8.
[175] *See* POSCO QR1 at 45 and Exhibit I-8 and I-9.
[176] *See Refrigerators from Korea*, and accompanying IDM at 16.
[177] *See* GOK PQR at Appendices Volume, at 207-208.

incorporated special entity funded by the GOK and that it was established by a specific law enacted by the GOK, the Trade Insurance Act.[178] Under the Trade Insurance Act and K-SURE Articles of Association, K-SURE is supervised by the GOK, which also sets or approves the scope of its operations and its budget.[179] In addition, under Article 52 of the Trade Insurance Act and Article 32 of K-SURE's Articles of Association, officers and employees of K-SURE who are not already government employees will be treated as government employees.[180] Therefore, consistent with our prior determination in *Refrigerators from Korea*, we preliminarily find that K-SURE is an authority under section 771(5)(B)of the Act that is capable of providing a financial contribution under section 771(5)(D) of the Act.

We next analyzed whether this program is specific pursuant to section 771(5A) of the Act. As explained above, DWI was placed into a separate workout program under the CRA. The CRA was replaced by the CRPA. The Department has only found the debt workout program to be *de facto* specific on the basis of predominant or disproportionate use under section 771(5A)(D)(iii) of the Act.[181] We preliminarily determine the debt-to-equity conversions provided to DWI under its debt workout program to be *de facto* specific under section 771(5A)(D)(iii) of the Act. This decision is consistent with *Refrigerators from Korea*, where we determined that the Daewoo Group, which would include DWI, received a predominant or disproportionate share of the debt-to-equity conversions provided to all companies undergoing workout programs under the CRPA.[182]

In their primary response, the GOK states that it is not in a position to know the details of the debt workout program for DWI, including the amount of debt that was addressed in the DWI workout.[183] There is public information that was on the record in *Refrigerators from Korea* that we have placed on the record of this investigation in order to analyze whether DWI received a predominant or disproportionate share of the debt restructuring that was provided under Korea's debt workout programs.[184] Information from the Korea Development Institute (KDI), a GOK-affiliated entity, reveals that 66.74 percent of the debt restructuring under the workout program was provided to the Daewoo Group.[185] The source of the data used by the KDI was the GOK's Financial Supervisory Commission.[186] Because the information on the record shows that the Daewoo Group, which includes DWI, received 66.74 percent of the debt restructurings under the workout program, we preliminarily determine this program is *de facto* specific due to predominant use under section 771(5A)(D)(iii)(II)of the Act with respect to the Daewoo Group, including DWI.

[178] *Id.*; *see also* Exhibit KSURE-1 and KSURE-7.
[179] *Id.*
[180] *Id.*
[181] *See Refrigerators from Korea*, and *Large Residential Washers from Korea*.
[182] *See Refrigerators from Korea*, and accompanying IDM at 11.
[183] *See* GOK PQR, at Appendices Volume at 97-98.
[184] *See* Memorandum to the File, "Independent Research on the Financial Restructuring of Daewoo" (December 11, 2015) (Daewoo Workout Memo).
[185] *See* Daewoo Workout Memo at Attachments 1 through 11.
[186] *Id.*, at Attachment 11.

A) DWI's Debt-to-Equity Swaps

Under the workout program for DWI, the company had 751,304 million KRW in debt that was restructured; 127,440 million KRW of debt swapped into equity; and 254,835 million KRW in debt converted into convertible bonds which could be exchanged into equity.[187] In addition, DWI had restructured debt with K-SURE that bore no interest.[188] DWI reported that all of the restructured debt under the debt workout program except for the K-SURE restructured debt was repaid by 2009.[189]

We previously determined that DWI was unequityworthy in 2000 and 2001 in *NOES from Korea*, based on the same information. Specifically, we stated:

> With respect to the debt-to-equity conversion, a benefit exists to the extent that the investment decision is inconsistent with the usual investment practice of private investors, including the practice regarding the provision of risk capital, in the country in question. We first examine whether private investor prices are available to compare to the government-provided equity infusion. Here, there are no private investor prices available. Accordingly, we must consider whether DWI is equityworthy or unequityworthy. If a company is determined to be unequityworthy under 19 CFR 351.507 then the amount of the debt-to-equity conversion would be treated as a grant. As stated above, we are affirming our preliminary finding that DWI was unequityworthy at the time of its 2000 and 2001 equity infusions. Specifically, due to DWI and the GOK's inability to provide any information with respect to a pre-infusion analysis of DWI before the time of its 2000 debt-to-equity swap, we determine that it was unequityworthy in 2000. That is, we find that at the time of the debt-to-equity swap, DWI did not show an ability to generate a reasonable rate of return within a reasonable period of time.[190]

Consistent with *NOES from Korea*, we continue to find that DWI was unequityworthy at the time of its 2000 and 2001 equity infusions.[191] Because we determine that DWI was unequityworthy in 2000 and 2001, we therefore determine the benefit to DWI to be the entire amount of the DWI's equity infusion accomplished through the debt-to-equity conversions. In accordance with 19 CFR 351.507(c), we treated the benefit as a non-recurring subsidy and allocate the benefit over the AUL pursuant to 19 CFR 351.524(d). On this basis, we determine that these GOK debt-to-equity conversions under DWI's Debt Workout provided a net subsidy rate of 0.02 percent *ad valorem* stemming from the 2000 conversion, and 0.04 percent *ad valorem* stemming from the 2001 conversion.[192] Thus, we preliminarily determine the combined *ad valoreum* subsidy benefit is 0.06 percent.

[187] *See* POSCO QR1 at 41.
[188] *Id.*, at Exhibit I-8 and I-9.
[189] *Id*.
[190] See NOES from Korea, and accompanying IDM at 24-25.
[191] *Id.*
[192] *See* POSCO Preliminary Calculation Memo.

B) DWI's Interest Free Liability from K-SURE

Finally, we treated the outstanding balance of the K-SURE restructured debt as an interest free loan because, based on the record evidence, interest is not being charged on this restructured debt.[193] Because no interest is being charged on this debt, a benefit is being conferred under section 771(5)(E)(i) of the Act. To determine the benefit provide by the debt restructured by K-SURE, we calculated the amount of interest that would have been paid on the outstanding debt during the POI using a benchmark as described above. We then divided the interest savings during the POI and divided that amount by the sales denominators prescribed above. Using this methodology, we preliminarily calculate an *ad valorem* subsidy benefit of less than 0.005 percent.

B. Programs Preliminarily Determined To Be Not Countervailable

1. Provision of Electricity for Less Than Adequate Remuneration (LTAR)

Petitioners alleged that KEPCO, a state-owned entity, provides electricity to the Korean steel industry, including producers of the subject merchandise, for LTAR.[194] KEPCO was established under the Korea Electric Power Corporation Act and its Enforcement Decree.[195] KEPCO is an integrated electric utility company engaged in the transmission and distribution of substantially all of the electricity in Korea.[196] In addition, through its six wholly-owned power-generating subsidiaries, KEPCO generates the substantial majority of the electricity produced in Korea.[197] MOTIE also has the authority to regulate and supervise the electricity business in Korea.[198] Under Korean law, the GOK is required to own, directly or indirectly, at least 51 percent of KEPCO's capital which allows the GOK to control the approval of corporate matters relating to KEPCO.[199] Accordingly, we preliminarily determine, as we did in the *Welded Line Pipe from Korea* investigation,[200] that electricity tariffs that are charged by KEPCO are regulated and approved by the GOK. In addition, we preliminarily find that the GOK exercises significant control over KEPCO through its majority ownership and pursues government policy objectives through KEPCO's business and operations.[201] Accordingly, we find KEPCO to be an "authority" within the meaning of section 771(5)(B) of the Act. Therefore, we determine that a financial contribution in the form of the provision of a good or service under section 771(5)(D)(iii) of the Act is being provided to producers of the subject merchandise.

With regard to whether a benefit was provided within the meaning of section 771(5)(E)(iv) of the Act, the Department notes there was one electricity tariff schedule in effect during that POI

[193] *See* POSCO QR1 at 39 and Exhibit I-8 and I-9.
[194] *See* Korea CVD Cold-Rolled Steel Flat Products Investigation Initiation Checklist, dated August 17, 2015.
[195] *See* GOK PQR, Appendices Volume at 120.
[196] *Id.*, at 142.
[197] *See* KEPCO Form 20-F Filing with the U.S. Securities and Exchange Commission (SEC) at 23, provided as Exhibit E-2 to the GOK PQR.
[198] *See* GOK PQR, Appendices Volume at 5.
[199] *See* KEPCO Form 20-F Filing with the SEC at 23, provided as Exhibit E-2 to the GOK PQR.
[200] *See Welded Line Pipe from Korea*, and accompanying IDM at 13.
[201] *See, e.g.*, KEPCO Form 20-F Filing with the SEC at 7, provided as Exhibit E-2 to the GOK PQR.

which became effective on November 21, 2013 and remained in effect throughout the POI.[202] In order to change (increase or decrease) electricity tariffs, KEPCO first makes an application to MOTIE. When MOTIE receives the application, it consults with the Ministry of Strategy and Finance (MOSF) to discuss how the change will affect the national consumer price index and to make adjustments as necessary. After the consultations with MOSF, MOTIE makes a request to the Electricity Regulatory Commission for a review of KEPCO's application which reflects the results of the consultation with MOSF. After the Commission's review, MOTIE will determine whether to issue an approval for KEPCO's application.[203]

Under 19 CFR 351.511(a)(2), the Department determines whether electricity is provided for LTAR by comparing, in order of preference: (i) the government price to a market determined price for actual transactions within the country such as electricity tariffs from private parties (referred to as a Tier 1 Benchmark); (ii) the government price to a world market price where it would be reasonable to conclude that such a world market price is available to electricity consumers in the country in question (referred to as a Tier 2 Benchmark); or (iii) if no world market price is available then the Department will measure the adequacy of remuneration by assessing whether the government price is consistent with market principles (referred to as a Tier 3 Benchmark).

KEPCO is the primary utility company in Korea providing electricity to Korean consumers, and the GOK regulates the rates that KEPCO charges for electricity.[204] KEPCO's Form 20-F Filing with the SEC does state that a minimal amount of electricity is supplied directly to consumers on a localized basis by independent power producers.[205] However, if the government provider constitutes a majority, or in certain circumstances, a substantial portion of the market, as in this case, the Department determines that prices within the country are distorted and cannot be used for benchmark purposes. Therefore, we determine that a Tier 1 Benchmark (a price within the country) is not available.[206]

The next alternative in the benchmark hierarchy is to use world market prices. However, under 19 CFR 351.511(a)(2)(ii), the Department will only use world market prices if the good or service is actually available to the purchaser in the country under investigation. With respect to electricity, the Department has stated that electricity prices from countries in the world market are normally not available to purchasers in the country under investigation.[207] The GOK has

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[202] *See* GOK PQR at 22.
[203] *Id.*, at 28-30.
[204] *Id.*, at 17, 7.
[205] *See* KEPCO Form 20-F Filing with the SEC at 11, provided as Exhibit E-2 to the GOK PQR.
[206] *See CVD Preamble* at 65377:

> We normally do not intend to adjust such prices to account for government distortion of the market. While we recognize that government involvement in a market may have some impact on the price of the good or service in that market, such distortion will normally be minimal unless the government provider constitutes a majority or, in certain circumstances, a substantial portion of the market. Where it is reasonable to conclude that actual transaction prices are significantly distorted as a result of the government's involvement in the market, we will resort to the next alternative in the hierarchy.

[207] *Id.*;

> Paragraph (a)(2)(ii) provides that, if there are no useable market-determined prices stemming from *actual* transactions, we will turn to world market prices that *would be available* to the purchaser. We will consider

stated that there is no cross-border transmission or distribution of electricity in Korea;[208] therefore, we determine that we cannot rely on world market prices to determine whether electricity is provided for LTAR.

The final alternative in the benchmark hierarchy, set forth under 19 CFR 351.511(a)(2)(iii), is to determine whether the government price is consistent with market principles.[209] Therefore, we preliminarily determine to use a Tier 3 Benchmark to determine whether the KEPCO electricity tariffs are set for LTAR. Under a Tier 3 Benchmark analysis, the Department will assess whether the prices charged by KEPCO are set in accordance with market principles through an analysis of such factors as KEPCO's price-setting philosophy, costs (including rates of return sufficient to ensure future operations), or possible price discrimination.[210] We have not put these

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> whether the market conditions in the country are such that it is reasonable to conclude that the purchaser could obtain the good or service on the world market. For example, a European price for electricity normally would not be an acceptable comparison price for electricity provided by a Latin American government, because electricity from Europe in all likelihood would not be available to consumers in Latin America.

[208] *See* GOK PQR at 12.

[209] *See CVD Preamble* at 65378:

> Paragraph (a)(2)(iii) provides that, in situations where the government is clearly the only source available to consumers in the country, we normally will assess whether the government price was established in accordance with market principles. Where the government is the sole provider of a good or service, and there are no world market prices available or accessible to the purchaser, we will assess whether the government price was set in accordance with market principles through an analysis of such factors as the government's price-setting philosophy, costs (including rates of return sufficient to ensure future operations), or possible price discrimination. We are not putting these factors in any hierarchy, and we may rely on one or more of these factors in any particular case. In our experience, these types of analyses may be necessary for such goods or services as electricity, land leases, or water, and the circumstances of each case vary widely. *See, e.g., Final Affirmative Countervailing Duty Determinations: Pure Magnesium and Alloy Magnesium from Canada*, 57 FR 30946, 30954 (July 13, 1992) and *Final Affirmative Countervailing Duty Determination: Venezuelan Wire Rod*, 62 FR 55014, 55021-22 (October 22, 1997).

[210] In *Final Affirmative Countervailing Duty Determinations: Pure Magnesium and Alloy Magnesium from Canada*, 57 FR 30946, 30954 (July 13, 1992) (*Magnesium from Canada*), the Department analyzed electricity contracts that were provided to 14 companies which purchased such large amounts of electricity that the rates set in the tariff schedule were not applicable. We stated in *Magnesium from Canada*:

> As a general matter, the first step the Department takes in analyzing the potential preferential provision of electricity – assuming a finding of specificity – is to compare the price charged with the applicable rate on the power company's non-specific rate schedule. If the amount of electricity purchased by a company is so great that the rate schedule is not applicable, we will examine whether the price charged is consistent with the power company's standard pricing mechanism applicable to such companies. If the rate charged is consistent with the standard pricing mechanism and the company under investigation is, in all other respects, essentially treated no differently than other industries which purchase comparable amounts of electricity, we would probably not find a countervailable subsidy.

Therefore, the Department will examine the standard pricing mechanism used by the utility company to establish the electricity rates set forth in the tariff schedule. If the rate charged to our respondent is lower than the rates charged to other users but the rates set for the other users as well as the rate charged to our respondent are set using the same "standard pricing mechanism," then the lower rate charged to our respondent would not normally be found countervailable. The principle of the standard pricing mechanism recognizes the commercial and market practices and conditions for the provision of electricity; *i.e.*, that it may be cheaper to provide electricity to very large consumers, therefore, the rates established for those large consumers may be cheaper than the rates established for other electricity consumers. While the rates may be lower for one type of consumer compared to other types of

factors in any hierarchy, and we may rely on one or more of these factors in any particular case.[211]

For purposes of this preliminary determination, under our Tier 3 Benchmark analysis, we assessed whether the prices charged by KEPCO are set in accordance with market principles through an analysis of KEPCO's price-setting philosophy. With respect to KEPCO's price-setting philosophy, the Department stated in *Magnesium from Canada* that we will examine the electricity rates charged to our investigated respondents to determine whether the price charged is consistent with the power company's standard pricing mechanism.[212] If the rate charged is consistent with the standard pricing mechanism and the company under investigation is, in all other respects, essentially treated no differently than other companies and industries which purchase comparable amounts of electricity, then there is no benefit.[213]

With regard to this Tier 3 Benchmark, to develop the electricity tariff schedules that were applicable during the POI, KEPCO first calculated its overall cost including an amount for investment return. This cost includes the operational cost for generating and supplying electricity to the consumers as well as taxes. The cost for each electricity classification was calculated by (1) distributing the overall cost according to the stages of providing electricity (generation, transmission, distribution, and sales); (2) dividing each cost into fixed cost, variable cost, and the consumer management fee; and (3) then calculating the cost by applying the electricity load level, peak level, and the patterns of consuming electricity. Each cost was then distributed into the fixed charge and the variable charge. KEPCO then divided each cost taking into consideration the electricity load level, the usage pattern of electricity, and the volume of the electricity consumed. Costs were then distributed according to the number of consumers for each classification of electricity.[214]

In the instant investigation, POSCO and Hyundai Steel purchased electricity from KEPCO[215]. The GOK reported a tariff rate table applied throughout the POI, and that this tariff rate went into effect on November 21, 2013 and was applicable to the respondents in this investigation.[216] Further, the GOK provided its calculation of electricity costs as well as data showing its cost and investment return pertaining to the POI for the industrial users of electricity.[217] The GOK provided KEPCO's data that was submitted to MOTIE in 2013 for the tariff rates in effect during the POI, as well as explained its calculations and recovery costs.[218] The GOK stated that KEPCO applied this same price-setting philosophy or standard pricing mechanism to determine the electricity tariffs for each tariff classification including the industrial tariff that was paid by

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consumers, if the rates are established using the same standard pricing mechanism, then the lower rate does not necessarily provide a countervailable subsidy.

[211] *See CVD Preamble* at 65378.

[212] *See Magnesium from Canada* at 30954.

[213] *Id.*, at footnote 125.

[214] *See* GOK PQR at 20.

[215] *See* POSCO QR1 at 14 and Hyundai Steel QR1 at 11.

[216] *See* GOK PQR at 22.

[217] *Id.*, at 20-21.

[218] *Id.*, at 15.

the respondents during the POI.[219] Thus, we preliminarily find that there is no information on the record that POSCO and Hyundai Steel are treated differently from other industrial users of electricity that purchase comparable amounts of electricity because the rates paid were from the applicable tariff schedule applicable to all industrial users. Therefore, consistent with 19 CFR 351.511 and *Magnesium from Canada*, we preliminarily determine that this program provides no benefit to POSCO and Hyundai Steel because the prices charged to these respondents under the applicable industrial tariff were consistent with KEPCO's standard pricing mechanism.

2. VAT Exemption for Purchases of Anthracite Coal

Petitioners alleged that the GOK generally collects a 10 percent value added tax (VAT) on the domestic supply of goods and services and on the importation of goods, but provides exemptions for a limited number of goods, including briquettes and anthracite coal. Petitioners further alleged that Korean steel producers are major coal purchasers and thus likely benefitted from this program.[220]

The GOK reported that imports of anthracite coal are exempt from the VAT under RSTA Article 106,[221] which was introduced in 1979 to promote the development of the national economy.[222] However, the GOK noted that this program may not provide substantive benefits because all Korean companies receive a tax deduction of the amount equivalent to the VAT that companies pay when importing products from their sales tax amount under Article 38 of the VAT Act.[223]

In the *DRAMS* Investigation,[224] the Department explained:

> Under the GOK's VAT Act, a company is normally assessed a 10 percent VAT on imported equipment used for business. In turn, the company collects a VAT from its customer as part of the price of the goods produced by the company. The VAT paid by the company on the imported equipment is called the "input" tax, while the VAT that the company collects from the customer is called the "output" tax. The company submits a VAT report to the government on a monthly basis (see GOK May 13, 2003 submission), which reconciles the two VAT amounts by paying to the government only the amount by which the output tax exceeds the input tax. Conversely, if the input tax exceeds the output tax, the government refunds the difference to the company. Assessment and reconciliation of this tax burden continues in this manner, down through the distribution chain to the final consumer of the finished product. Thus, ultimately, the company pays nothing to the government and merely conveys the VAT; it is the final consumer, not the producer, who actually pays the VAT to the government.

[219] *Id.*, at 15-16.
[220] *See* Korea CVD Cold-Rolled Steel Flat Products Investigation Initiation Checklist, dated August 17, 2015.
[221] *Id.*, at 93.
[222] *Id.*, Appendix Volume at 236.
[223] *Id.* at 93-95.
[224] *See Final Affirmative Countervailing Duty Determination: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 68 FR 37122 (June 23, 2003) (*DRAMS*) and accompanying IDM at 32.

> Respondent companies were exempted from the "input" VAT normally payable at customs clearance on imported equipment for bonded factories under construction pursuant to Article 106 of the RSTA. See Hynix Verification Report and SEC Verification Report.
>
> As we discussed in our preliminary analysis of this program in the Supplemental Preliminary Determination Memo, the Department has examined similar VAT exemptions or remissions in past proceedings and found that the amount of exempted or remitted VAT was, in itself, not countervailable within the meaning of 19 CFR 351.510 and 19 CFR 351.517. The Department further determined that exempting the tax at the time of importation, rather than the alternative, *i.e.*, recovering the tax at the time of reconciliation, conferred no benefit because of the short time difference between the two events. Specifically, in Thai Hot-Rolled Steel, the Department found that the VAT was reconciled in the company's accounting records on a monthly basis, and that the potential time-value windfall from a month's lag time was insignificant and, therefore, conferred no benefit. See Thai Hot-Rolled Steel October 3, 2001 Decision Memorandum, under "VAT Exemptions Under the Investment Promotion Act."

19 CFR 351.510(a)(1) states that a benefit exists under a remission or exemption of taxes "to the extent that the taxes or import charges paid by a firm as a result of the program are less than the taxes the firm would have paid in the absence of the program." As indicated in the plain text of the regulation, and as noted in *Shrimp from India*[225] and *Thai Hot-Rolled Steel*,[226] 19 CFR 351.510(a) makes no distinction between a remission of the tax and an exemption of the tax and, therefore, does not require the Department to apply different means by which to identify and measure benefits that arise from a VAT refund compared to a VAT exemption. Instead, 19 CFR 351.510(a) directs the Department to determine a benefit by assessing whether the producer pays less under the refund or exemption program than it would normally pay without the program.

In the normal reconciliation mechanism for VAT, such as that in Korea, in which input VAT is offset against output VAT, there is no benefit within the meaning of 19 CFR 351.510(a), because the net VAT incidence to the producer is ultimately zero both under the program and in the absence of the program. This holds true whether the program involves a refund as part of the reconciliation mechanism or an exemption that obviates the need for reconciliation in the first place. In other words, 19 CFR 351.510(a) recognizes no distinction between the producer getting a refund instead of an exemption and the producer getting an exemption instead of a refund.

The information on the record of this investigation indicates that the VAT exemptions on anthracite coal operate in the same manner as those previously determined not to confer a

[225] *See Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination*, 78 FR 50385 (August 19, 2013), and accompanying IDM at Comment 8.
[226] *See Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand*, 66 FR 50410 (October 3, 2001), and accompanying IDM at "VAT Exemptions Under the Investment Promotion Act."

benefit.[227] Therefore, we preliminarily determine that the VAT exemption program conferred no benefit, and thus, is not countervailable.

C. Programs Preliminarily Determined Not to Have Conferred a Benefit or Not to Have Conferred a Benefit During the POI

We have preliminarily determined that the following programs did not confer a measurable benefit during the POI. Therefore, we do not reach a preliminary determination as to whether there is financial contribution or specificity for these programs.

1. Energy Savings Program: Electricity Savings for Designated Period Program

POSCO and Hyundai Steel reported that they used this program.[228] To calculate the benefit, we divided the amount of the assistance received by each respective company under this program by their total sales. The calculation of the benefit resulted in a subsidy rate that is less than 0.005 percent. [229]

2. Energy Savings Program: Electricity Savings through the Bidding Process Program

Hyundai Steel reported that it used this program.[230] To calculate the benefit, we divided the amount of assistance received by Hyundai Steel by total sales. The calculation of the benefit resulted in a subsidy rate that is less than 0.005 percent. [231]

3. Energy Savings Program: Electricity Savings upon an Emergency Reduction Program

POSCO and Hyundai Steel reported that they used this program.[232] To calculate the benefit, we divided the amount of assistance received by each company by the respective company's total sales. The calculation of the benefit resulted in a subsidy rate that is less than 0.005 percent.[233]

4. Energy Savings Program: Electricity Savings through General Management Program

Hyundai Steel reported that it used this program.[234] To calculate the benefit, we divided the amount of assistance received by Hyundai Steel's total sales. The calculation of the benefit resulted in a subsidy rate that is less than 0.005 percent.[235]

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[227] *See* GOK PQR at 246.
[228] *See* POSCO QR1 at 17 and Hyundai Steel Q1R at Exhibit A-4.
[229] *See* POSCO Preliminary Calculation Memo and Hyundai Steel Preliminary Calculation Memo.
[230] *See* Hyundai Steel QR1 at Exhibit A-4.
[231] *See* Hyundai Steel Preliminary Calculation Memo.
[232] *See* POSCO QR1 at 17 and Hyundai Steel QR1 at Exhibit A-4.
[233] *See* POSCO Preliminary Calculation Memo and Hyundai Steel Preliminary Calculation Memo.
[234] *See* Hyundai Steel QR1 at Exhibit A-4.
[235] *See* Hyundai Steel Preliminary Calculation Memo.

5. Energy Savings Program: Utilization of Capability of the Private Sector

POSCO reported that it used this program.[236] To calculate the benefit, we divided the amount of the assistance received by POSCO by the company's total sales. The calculation of the benefit resulted in a rate that is less than 0.005 percent.[237]

6. Purchase of Electricity for More than Adequate Remuneration

POSCO reported that it sold electricity through KPX during the POI.[238] For benchmark purposes, for the reasons explained above at "Provision of Electricity for Less Than Adequate Remuneration (LTAR)," a tier 3 benchmark is most appropriate for measuring remuneration of electricity. To calculate whether a benefit exists under this program, we compared the per-unit sales price of electricity from POSCO to KPX to monthly weighted-average unit price that POSCO paid to KEPCO. We applied this difference to the total quantity of electricity sold by POSCO to KPX and divided the resulting value by POSCO's total sales. The calculation of the benefit resulted in a rate that is less than 0.005 percent.[239]

7. Power Generation Price Difference Payments (PGPDP)

POSCO reported that it received benefits from the Electricity Industry Foundation Fund.[240] As noted in the GOK response, pursuant to Article 49 of the EBL, companies that provide new or renewable energy may are eligible for these benefits.[241] We treated the amount provided under this program as a recurring grant pursuant to 19 CFR 351.524(a). Thus, we divided the total amount of the grant received during the POI by POSCO's total sales. The calculation of the benefit resulted in a rate that is less than 0.005 percent.[242]

8. Korea Export-Import (KEXIM) Bank Import Financing

Hyundai Steel reported receiving import financing under this program.[243] To calculate the benefit under this program, we used the benchmarks described in the "Loan Benchmarks and Interest Rates" section above, as well as the methodology described in 19 CFR 351.505(c) to calculate the interest that Hyundai Steel would have paid on a comparable commercial loan during the POI and divided that benefit by total sales. The calculation of the benefit resulted in a rate that is less than 0.005 percent.[244]

[236] *See* POSCO QR1 at 17.
[237] *See* POSCO Preliminary Calculation Memo.
[238] *See* POSCO QR1 at Exhibit B-4.
[239] *See* POSCO Preliminary Calculation Memo.
[240] *See* POSCO's November 16, 2015 submission at B-7.
[241] *See* GOC PQR at 153.
[242] *See* POSCO Preliminary Calculation Memo.
[243] *See* Hyundai Steel QR1 at 20.
[244] *See* Hyundai Steel Preliminary Calculation Memo.

9. Research and Development Grants under the Industrial Technology Innovation Promotion Act (ITIPA)

POSCO reported receiving grants under this program.[245] As a portion of this program does not have to be repaid, we treated the portion of the subsidy that does not have to be repaid as grants, and the remaining portion of the subsidy that may have to be repaid as a long-term, interest-free contingent liability loan.[246] To calculate the benefit of the grants under this program, we divided the total amount of the grants to POSCO during the POI by POSCO's total sales. To calculate the benefit of the loans under this program, we multiplied the loan amount by the corresponding benchmark interest rate as described above and summed the benefit of all interest payments. We then divided this benefit by POSCO's total sales. The calculation of the benefit resulted in a rate that is less than 0.005 percent.[247]

10. Technical Development Fund (RSTA Article 9, formerly TERCL Article 8)

POSCO reported that it used this program.[248] To calculate its benefit, we divided the amount of the assistance received by POSCO by the company's total sales. The calculation of the benefit resulted in a rate that is less than 0.005 percent.[249]

11. RSTA Article 30: Special Depreciation Tax Credit

POSCO reported that it used this program.[250] To calculate its benefit, we divided the amount of the assistance received by POSCO by the company's total sales. The calculation of the benefit resulted in a rate that is less than 0.005 percent. [251]

12. RSTA Article 104(14): Third Party Logistics Operation

DWI reported that it used this program.[252] To calculate the benefit received by DWI, we divided the amount of the tax savings received by DWI by the combined total sales of POSCO and DWI during the POI. The calculation of the benefit resulted in a rate that is less than 0.005 percent.[253]

13. Reimbursements on Construction Costs for Facilities at Inchon Harbor

Hyundai Steel reported receiving benefits under this program.[254] To calculate the benefit under this program, we first applied the "0.5 percent expense test" as described in the "Allocation Period" section above. Grant amounts that did not exceed the 0.5 percent threshold were expensed fully in the year of receipt. In calculating a benefit for these grants to Hyundai Steel,

[245] *See* Hyundai Steel QR1 at 41.
[246] *See* POSCO Preliminary Calculation Memo; see also POSCO QR1 at L-2.
[247] *See* POSCO Preliminary Calculation Memo.
[248] *See* POSCO QR1 at 53.
[249] *See* POSCO Preliminary Calculation Memo.
[250] *See* POSCO QR1 at J-15.
[251] *See* POSCO Preliminary Calculation Memo.
[252] *See* POSCO QR1 at 48.
[253] *See* POSCO Preliminary Calculation Memo.
[254] *See* Hyundai Steel QR1 at 41-43.

we preliminarily determine that these grants do not meet the 0.5 percent threshold for allocation over the AUL period, pursuant to 19 CFR 351.524(b)(2). Therefore, we preliminarily determine that grants received by Hyundai Steel offered zero measurable benefit during the AUL.[255]

14. Modal Shift Program

POSCO reported that it used this program.[256] To calculate its benefit, we divided the amount of the assistance received by POSCO by the company's total sales during the POI. The calculation of the benefit resulted in a rate that is less than 0.005 percent.[257]

15. Korea Development Bank (KDB) and Other Policy Banks' Short-Term Discounted Loans for Export Receivables

GS Global and SK Networks received export financing from the KDB and other GOK policy banks for its export of subject merchandise to the United States.[258] Specifically, SK Networks reported receipt of short-term local bank usance from the KDB for its export of subject merchandise to the United States.[259]

To calculate the benefit under this program, we used the benchmarks described in the "Loan Benchmarks and Interest Rates" section above, as well as the methodology described in 19 CFR 351.505(c) to calculate the interest that GS Global and SK Networks would have paid on a comparable commercial loan during the POI and divided that benefit by total sales. To calculate the benefit for GS Global, we divided that benefit by GS Global's total export sales of the subject merchandise to the United States during the POI. To calculate the benfit for SK Networks, we divided that benefit by SK Networks' total export sales of subject merchandise to the United States during the POI. The calculation of both benefits resulted in subsidy rates less than 0.005 percent. On this basis, we preliminary determine that the benefits under this program that are attributable to Hyundai Steel and POSCO are not measurable.[260]

D. Programs Preliminarily Determined To Be Not Used

The following programs were reported by the respondents as tied to the production of non-subject merchandisenot used for the production of subject merchandise or not received during the POI or the AUL. We intend to verify the respondents' claims of non-use.

[255] *See* Hyundai Steel Preliminary Calculation Memo.
[256] *See* POSCO QR1 at 56.
[257] *See* POSCO Preliminary Calculation Memo.
[258] *See* GS Global QR1 at 17 and Exhibit D-1 and D-2. *See also* GS Global-SUPP at D-5.
[259] *See* POSCO Preliminary Calculation Memo.
[260] *See* Hyundai Steel Preliminary Calculation Memo; see also POSCO Preliminary Calculation Memo.

1. K-SURE Short-Term Export Credit Insurance

GS Global and DWI reported purchasing export credit insurance from K-SURE during the POI.[261] GS Global claims it did not use this credit insurance for shipments of subject merchandise to the United States during the POI.[262] DWI claims it did not make any insurance claims or receive payments on insurance claims with respect to exports of the subject merchandise.[263] Therefore, pursuant to 19 CFR 351.525(b)(5), we preliminarily determine that GS Global's and DWI's use of this program during the POI was tied to non-subject merchandise.

We also preliminarily determine that respondents did not apply for or receive countervailable benefits during the POI under the following programs:

Provision of Inputs for Less Than Adequate Remuneration
Power Business Law Subsidies
Provision of Liquefied Natural Gas (LNG) for LTAR

KEXIM Countervailable Subsidy Programs
Short-Term Export Credits
Export Factoring
Export Loan Guarantees
Trade Bill Rediscounting Program

KDB and IBF Loans
Loans under the Industrial Base Fund

Korea Trade Insurance Corporation (K-SURE) – Export Insurance and Export Credit Guarantees
Export Credit Guarantees

Energy and Resource Subsidies
Special Accounts for Energy and Resources (SAER) Loans
Clean Coal Subsidies

Green Subsidies
GOK Subsidies for "Green Technology R&D" and its Commercialization
Support for SME "Green Partnerships"
Dongbu Debt Restructuring

Income Tax Programs
Research, Supply, or Workforce Development Investment Tax Deduction for "New Growth Engines" under RSTA Article 10(1)(1)
Research, Supply, or Workforce Development Expense Tax Deductions for "Core Technologies" under RSTA Article 10(1)(2)
Asset Revaluation Under Article 56(2) of the TERCL

[261] *See* GS Global QR1 at 9.
[262] *Id.*
[263] *See* POSCO QR1 at 32.

Subsidies to Companies Located in Certain Economic Zones
Tax Reductions and Exemptions in Free Economic Zones
Exemptions and Reductions of Lease Fees in Free Economic Zones
Grants and Financial Support in Free Economic Zones

Grants
Sharing of Working Opportunities/Employment Creating Incentives
Various Government Grants to POSCO
Research and Development Grants under the Industrial Technology Innovation Promotion Act (ITIPA) to Hyundai Steel

X. DISCLOSURE AND PUBLIC COMMENT

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.[264] Case briefs may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the last verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for case briefs.

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*. Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date, time and location to be determined. Parties will be notified of the date, time and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS. Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,[265] on the due dates established above.

[264] *See* 19 CFR 351.224(b).
[265] *See* 19 CFR 351.303(b)(1).

XVI. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

✓ Agree _____ Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

15 DECEMBER 2015

Date