




C-580-888  
Investigation  
**Public Document**  
E&C/Office VI: JC, YB

September 6, 2016

MEMORANDUM TO: Christian Marsh  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

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

SUBJECT: Decision Memorandum for the Preliminary Negative  
Determination: Countervailing Duty Investigation of Certain  
Carbon and Alloy Steel Cut-to-Length Plate from the Republic of  
Korea

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## I. SUMMARY

The Department of Commerce (Department) preliminarily determines that countervailable subsidies are not being provided to producers and exporters of certain carbon and alloy steel cut-to-length plate (CTL plate) 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 April 8, 2016, the Department received countervailing duty (CVD) and antidumping duty (AD) Petitions concerning imports of CTL plate from Korea, filed on behalf of ArcelorMittal USA LLC, Nucor Corporation (Nucor), and SSAB Enterprises, LLC (collectively, Petitioners).<sup>1</sup> Pursuant to section 702(b)(4)(A)(ii) of the Act, we invited representatives of the Government of Korea (GOK) for consultations with respect to the Petition.<sup>2</sup> We did not hold consultations, as none were requested by the GOK. On April 28, 2016, the Department initiated a CVD

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<sup>1</sup> See "Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria, Belgium, Brazil, the People's Republic of China, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, South Africa, Taiwan, and Turkey – Petitions for the Imposition of Antidumping and Countervailing Duties," dated April 8, 2016 (Petition).

<sup>2</sup> See Letter from Scot Fullerton, Director, AD/CVD Operations Office VI, to the Embassy of the Republic of Korea, "Certain Carbon and Alloy Steel Cut-To-Length Plate from the Republic of Korea," dated April 8, 2016.



investigation of CTL plate from Korea.<sup>3</sup> Supplements to the Petition are described in the Initiation Checklist.<sup>4</sup>

In the “Respondent Selection” section of the *Initiation Notice*, the Department stated that it intended to select respondents, where appropriate, based on U.S. Customs and Border Protection (CBP) data.<sup>5</sup> Accordingly, on May 2, 2016, the Department released CBP data to parties under the Administrative Protective Order (APO).<sup>6</sup> We received comments on the CBP data from Nucor on May 16, 2016.

On May 31, 2016, the Department determined to individually examine POSCO and Daewoo International Corp. (DWI), the two largest producers/exporters of the subject merchandise by volume, as mandatory respondents in this investigation.<sup>7</sup> On June 1, 2016, the Department issued the initial CVD questionnaire to the GOK, with instructions to forward the questionnaire to POSCO and DWI.<sup>8</sup> POSCO and POSCO Daewoo Corporation (PDC), which is a cross-owned and affiliated trading company that exported CTL plate produced by POSCO to the United States during the period of investigation (POI), submitted a joint affiliation questionnaire response on June 17, 2016.<sup>9</sup> In that jointly submitted response, POSCO stated that DWI officially changed its name to PDC on March 14, 2016.<sup>10</sup> On July 1, 2016, Nucor submitted comments regarding the POSCO-PDC AQR.<sup>11</sup>

On July 13, 2016, POSCO and PDC submitted a joint response to the Department’s initial questionnaire.<sup>12</sup> On the same day, Hyosung Corporation (Hyosung) and Hyundai Corporation (Hyundai), two unaffiliated trading companies, which exported CTL plate produced by POSCO to the United States during POI, also submitted initial questionnaire responses.<sup>13</sup> On July 15,

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<sup>3</sup> See *Carbon and Alloy Steel Cut-to-Length Plate from Brazil, the People’s Republic of China, and the Republic of Korea: Initiation of Countervailing Duty Investigations*, 81 FR 27098 (May 5, 2016) (*Initiation Notice*).

<sup>4</sup> See Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Investigation Initiation Checklist, dated April 28, 2016 (CVD Initiation Checklist).

<sup>5</sup> See *Initiation Notice*, 81 FR at 27101.

<sup>6</sup> See Letter to All Interested Parties, dated May 2, 2016 (CBP Data Release Letter).

<sup>7</sup> See Memorandum from John Corrigan and John Drury, International Trade Compliance Analysts, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Countervailing Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Respondent Selection,” dated May 31, 2016 (Respondent Selection Memorandum).

<sup>8</sup> See Countervailing Duty Questionnaire from the Department to Mr. Sung Jun Choi, Commercial Attaché, Embassy of the Republic of Korea, Washington, D.C., dated June April 1, 2016 (initial questionnaire).

<sup>9</sup> See Letter from POSCO and PDC, “Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Response to ‘Other Companies Subject to Investigation’ Questions of Initial Questionnaire,” dated June 9, 2016 (POSCO-PDC AQR).

<sup>10</sup> See POSCO-PDC AQR at 1. We, therefore, will use the company name PDC for purposes of this investigation.

<sup>11</sup> See Letter from Nucor, “Certain Carbon and Alloy Steel Cut-to-Length Plate from Korea: Nucor’s Comments on POSCO’s Affiliation Questionnaire Response,” dated July 1, 2016.

<sup>12</sup> See Letter from POSCO and PDC, “Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Initial Questionnaire Response,” dated July 13, 2016 (POSCO-PDC IQR).

<sup>13</sup> See Letter from Hyosung Corporation, “Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Initial Questionnaire Response,” dated July 13, 2016 (Hyosung IQR); and Letter from Hyundai Corporation, “Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Initial Questionnaire Response,” dated July 13, 2016 (Hyundai IQR).

2016, the GOK filed its initial questionnaire response.<sup>14</sup> On July 18, 2016, POSCO Chemtech, POS Hi-Metal, and POSCO Nippon RHF Joint Venture Co., Ltd. (PNR), three cross-owned input suppliers<sup>15</sup> that could have supplied inputs for the CTL plate produced by POSCO, submitted initial questionnaire responses.<sup>16</sup> Between July 25, 2016, and August 3, 2016, three additional cross-owned input suppliers, POSCO M-Tech, POSCO Processing & Service (POSCO P&S), and Pohang Scrap Recycling Distribution Center Co., Ltd. (PSRDC),<sup>17</sup> each submitted initial questionnaire responses.<sup>18</sup>

Between June 28 and August 5, 2016, the Department issued supplemental questionnaires to POSCO, PDC, POSCO's unaffiliated trading companies, and POSCO's cross-owned input suppliers. From July 5, 2016, through August 10, 2016, responses to our supplemental questionnaires were filed.

Between August 5, 2016, and August 12, 2016, the Department issued supplemental questionnaires to the GOK. On August 15, 2016, the GOK submitted, in part, its response to the Department's first supplemental questionnaire.<sup>19</sup> On August 18, 2016, the GOK submitted its response to the Department's second supplemental questionnaire.<sup>20</sup>

On July 27, 2016, Petitioners timely alleged that critical circumstances exist with respect to imports of CTL plate from Korea, pursuant to section 703(e)(1) of the Act and 19 CFR 351.206.<sup>21</sup> On August 15, 2016, POSCO submitted quantity and value data regarding exports of POSCO-produced subject merchandise to the United States between October 2015 and July

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<sup>14</sup> See Letter from the GOK, "Countervailing Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Response," dated July 15, 2016 (GOK IQR).

<sup>15</sup> See "Attribution of Subsidies" section below.

<sup>16</sup> See Letter from POSCO Chemtech, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Initial Questionnaire Response," dated July 18, 2016 (POSCO Chemtech IQR); Letter from POS Hi-Metal, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Initial Questionnaire Response," dated July 18, 2016 (POS Hi-Metal IQR); and Letter from PNR, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Initial Questionnaire Response," dated July 18, 2016 (PNR IQR).

<sup>17</sup> See "Attribution of Subsidies" section below.

<sup>18</sup> See Letter from POSCO M-Tech, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Initial Questionnaire Response," dated July 25, 2016 (POSCO M-Tech IQR); Letter from POSCO P&S, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Initial Questionnaire Response," dated August 3, 2016 (POSCO P&S IQR); and Letter from PSRDC, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Initial Questionnaire Response," dated August 3, 2016 (PSRDC IQR).

<sup>19</sup> See Letter from the GOK, "Countervailing Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Response," dated August 15, 2016 (GOK SQR). On August 15, 2016, the GOK requested and received an extension from the Department to submit portions of this response for which it required additional time. The GOK timely filed the remaining portions of its response on August 17, 2016. We consider both submissions to constitute a single response and refer to the second portion as GOK SQRA for pagination purposes only.

<sup>20</sup> See Letter from the GOK, "Countervailing Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Response," dated August 15, 2016 (GOK 2SQR).

<sup>21</sup> See Letter from Petitioners, "Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria, Belgium, Brazil, the Republic of Korea, Taiwan, and Turkey: Critical Circumstances Allegations," dated July 27, 2016.

2016, as requested by the Department.<sup>22</sup> On August 31, 2016, the Department issued its preliminary negative critical circumstances determination with respect to Korea.<sup>23</sup>

On July 28, 2016, Nucor timely submitted a new subsidy allegation, which the Department is still considering.<sup>24</sup> As soon as practicable following the release of this Preliminary Determination, the Department will issue a separate memorandum to announce whether it will initiate an investigation pertaining to the alleged subsidy. On August 3, 2016, Nucor submitted comments on the GOK's questionnaire response.<sup>25</sup> On August 22, 2016, Nucor submitted comments on POSCO's questionnaire responses.<sup>26</sup> On August 25, 2016, Nucor submitted pre-preliminary determination comments.<sup>27</sup> On August 30, 2016, Nucor submitted comments regarding the GOK's supplemental questionnaire response.<sup>28</sup>

## **B. Postponement of Preliminary Determination**

On June 10, 2016, the Department postponed the deadline for the preliminary determination, in accordance with section 703(c)(1)(B) of the Act and 19 CFR 351.205(f)(1), until no later than 130 days after the initiation of the investigation, *i.e.*, September 6, 2016.<sup>29</sup>

## **C. Period of Investigation**

The POI is January 1, 2015, through December 31, 2015.

## **III. SCOPE COMMENTS**

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<sup>22</sup> See Letter from POSCO, "Certain Carbon and Alloy Steel Cut-to-Length Plate from Korea. Case No. C-580-888: Submission of Quantity and Value Shipment Data for October 2015-July 2016," dated August 15, 2016 (POSCO-PDC Critical Circumstances Data).

<sup>23</sup> See Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria, Belgium, Brazil, the Republic of Korea, Taiwan, and Turkey; Antidumping and Countervailing Duty Investigations: Preliminary Determinations of Critical Circumstances, dated August 31, 2016, unpublished as of the date of this preliminary determination; *see also* Memorandum to Brian C. Davis, Program Manager, Office VI, Antidumping and Countervailing Duties Operations, "Calculations for Preliminary Determination of Critical Circumstances in the Countervailing Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea," dated August 30, 2016.

<sup>24</sup> See Letter from Petitioner, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, New Subsidy Allegations," dated July 28, 2016 (NSA Submission).

<sup>25</sup> See Letter from Nucor, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Comments on the Government of Korea's Initial Questionnaire Response," dated August 3, 2016.

<sup>26</sup> See Letter from Nucor, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Comments on POSCO's Questionnaire Responses," dated August 19, 2016.

<sup>27</sup> See Letter from Nucor, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Pre-Preliminary Comments," dated August 24, 2016.

<sup>28</sup> See Letter from Nucor, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Comments on the Government of Korea's Supplemental Questionnaire Response," dated August 29, 2016.

<sup>29</sup> See *Countervailing Duty Investigations of Certain Carbon and Alloy Steel Cut-to-Length Plate From the People's Republic of China and the Republic of Korea: Postponement of Preliminary Determinations*, 81 FR 39629 (June 17, 2016) (*Preliminary Postponement Notice*).

In accordance with the preamble to the Department's regulations,<sup>30</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>31</sup> Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*, as well as additional language proposed by the Department. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.<sup>32</sup> The Department is preliminarily modifying the scope language as it appeared in the *Initiation Notice* to clarify the exclusion for stainless steel plate.<sup>33</sup> The Department is also correcting two tariff numbers that were misidentified in the Petitions and in the *Initiation Notice*.<sup>34</sup>

#### IV. SCOPE OF THE INVESTIGATION

The products covered by this investigation are certain carbon and alloy steel hot-rolled or forged flat plate products not in coils, whether or not painted, varnished, or coated with plastics or other non-metallic substances (cut-to-length plate). Subject merchandise includes plate that is produced by being cut-to-length from coils or from other discrete length plate and plate that is rolled or forged into a discrete length. The products covered include (1) Universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a thickness of not less than 4 mm, which are not in coils and without patterns in relief), and (2) hot-rolled or forged flat steel products of a thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are not in coils, whether or not with patterns in relief. The covered products described above may be rectangular, square, circular or other shapes and include products of either rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been "worked after rolling", (*e.g.*, products which have been beveled or rounded at the edges).

For purposes of the width and thickness requirements referenced above, the following rules apply:

(1) except where otherwise stated where the nominal and actual thickness or width measurements vary, a product from a given subject country 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 unless the product is already covered by an order existing on that specific country (*e.g.*, orders on hot-rolled flat-rolled steel); and

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<sup>30</sup> *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

<sup>31</sup> *See Initiation Notice*, 81 FR at 27099.

<sup>32</sup> *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Certain Carbon and Alloy Steel Cut-to-Length Plate From Austria, Belgium, Brazil, the People's Republic of China, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, the Republic of South Africa, Taiwan, and Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations" (Preliminary Scope Decision Memorandum) dated concurrently with this preliminary determination.

<sup>33</sup> Specifically, the revised scope now states that stainless steel plate must not contain more than 1.2 percent of carbon by weight.

<sup>34</sup> *Id.*

(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; and (2) the carbon content is 2 percent or less by weight.

Subject merchandise includes cut-to-length plate that has been further processed in the subject country or a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, painting, varnishing, trimming, cutting, punching, beveling, 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 cut-to-length plate.

All products that meet the written physical description, are within the scope of this investigation unless specifically excluded or covered by the scope of an existing order. The following products are outside of, and/or specifically excluded from, the scope of this investigation:

- (1) products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances;
- (2) military grade armor plate certified to one of the following specifications or to a specification that references and incorporates one of the following specifications:
  - MIL-A-12560,
  - MIL-DTL-12560H,
  - MIL-DTL-12560J,
  - MIL-DTL-12560K,
  - MIL-DTL-32332,
  - MIL-A-46100D,
  - MIL-DTL-46100-E,
  - MIL-46177C,
  - MIL-S-16216K Grade HY80,
  - MIL-S-16216K Grade HY100,
  - MIL-S-24645A HSLA-80;
  - MIL-S-24645A HSLA-100,
  - T9074-BD-GIB-010/0300 Grade HY80,

- T9074-BD-GIB-010/0300 Grade HY100,
- T9074-BD-GIB-010/0300 Grade HSLA80,
- T9074-BD-GIB-010/0300 Grade HSLA100, and
- T9074-BD-GIB-010/0300 Mod. Grade HSLA115,

except that any cut-to-length plate certified to one of the above specifications, or to a military grade armor specification that references and incorporates one of the above specifications, will not be excluded from the scope if it is also dual- or multiple-certified to any other non-armor specification that otherwise would fall within the scope of this order;

- (3) stainless steel plate, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;
- (4) CTL plate meeting the requirements of ASTM A-829, Grade E 4340 that are over 305 mm in actual thickness;
- (5) Alloy forged and rolled CTL plate greater than or equal to 152.4 mm in actual thickness meeting each of the following requirements:
  - (a) Electric furnace melted, ladle refined & vacuum degassed and having a chemical composition (expressed in weight percentages):
    - Carbon 0.23-0.28,
    - Silicon 0.05-0.20,
    - Manganese 1.20-1.60,
    - Nickel not greater than 1.0,
    - Sulfur not greater than 0.007,
    - Phosphorus not greater than 0.020,
    - Chromium 1.0-2.5,
    - Molybdenum 0.35-0.80,
    - Boron 0.002-0.004,
    - Oxygen not greater than 20 ppm,
    - Hydrogen not greater than 2 ppm, and

- Nitrogen not greater than 60 ppm;
- (b) With a Brinell hardness measured in all parts of the product including mid thickness falling within one of the following ranges:
- (i) 270-300 HBW,
  - (ii) 290-320 HBW, or
  - (iii) 320-350HBW;
- (c) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.0, C not exceeding 0.5, D not exceeding 1.5; and
- (d) Conforming to ASTM A578-S9 ultrasonic testing requirements with acceptance criteria 2 mm flat bottom hole;
- (6) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:
- (a) Made from Electric Arc Furnace melted, Ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):
- Carbon 0.23-0.28,
  - Silicon 0.05-0.15,
  - Manganese 1.20-1.50,
  - Nickel not greater than 0.4,
  - Sulfur not greater than 0.010,
  - Phosphorus not greater than 0.020,
  - Chromium 1.20-1.50,
  - Molybdenum 0.35-0.55,
  - Boron 0.002-0.004,
  - Oxygen not greater than 20 ppm,
  - Hydrogen not greater than 2 ppm, and
  - Nitrogen not greater than 60 ppm;

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.5, C not exceeding 1.0, D not exceeding 1.5;

(c) Having the following mechanical properties:

(i) With a Brinell hardness not more than 237 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 75ksi min and UTS 95ksi or more, Elongation of 18% or more and Reduction of area 35% or more; having charpy V at -75 degrees F in the longitudinal direction equal or greater than 15 ft. lbs (single value) and equal or greater than 20 ft. lbs (average of 3 specimens) and conforming to the requirements of NACE MR01-75; or

(ii) With a Brinell hardness not less than 240 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 90 ksi min and UTS 110 ksi or more, Elongation of 15% or more and Reduction of area 30% or more; having charpy V at -40 degrees F in the longitudinal direction equal or greater than 21 ft. lbs (single value) and equal or greater than 31 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578-S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301;

(7) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.25-0.30,
- Silicon not greater than 0.25,
- Manganese not greater than 0.50,
- Nickel 3.0-3.5,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,

- Chromium 1.0-1.5,
- Molybdenum 0.6-0.9,
- Vanadium 0.08 to 0.12
- Boron 0.002-0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm.

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.0(t) and 0.5(h), B not exceeding 1.5(t) and 1.0(h), C not exceeding 1.0(t) and 0.5(h), and D not exceeding 1.5(t) and 1.0(h);

(c) Having the following mechanical properties: A Brinell hardness not less than 350 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 145ksi or more and UTS 160ksi or more, Elongation of 15% or more and Reduction of area 35% or more; having charpy V at -40 degrees F in the transverse direction equal or greater than 20 ft. lbs (single value) and equal or greater than 25 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578-S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301.

At the time of the filing of the petition, there was an existing countervailing duty order on certain cut-to-length carbon-quality steel plate from Korea. *See Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From the Republic of Korea*, 64 Fed. Reg. 73,176 (Dep't Commerce Dec. 29, 1999), as amended, 65 Fed. Reg. 6,587 (Dep't Commerce Feb. 10, 2000) (1999 Korea CVD Order). The scope of the countervailing duty investigation with regard to cut-to-length plate from Korea covers only (1) subject cut-to-length plate not within the physical description of cut-to-length carbon quality steel plate in the 1999 Korea CVD Order regardless of producer or exporter, and (2) cut-to-length plate produced and/or exported by those companies that were excluded or revoked from the 1999 Korea CVD Order as of April 8, 2016. The only revoked or excluded company is Pohang Iron and Steel Company, also known as POSCO.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030,

7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7208.40.6060, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.19.1500, 7211.19.2000, 7211.19.4500, 7211.19.6000, 7211.19.7590, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.10.0000, 7214.30.0010, 7214.30.0080, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7225.11.0000, 7225.19.0000, 7225.40.5110, 7225.40.5130, 7225.40.5160, 7225.40.7000, 7225.99.0010, 7225.99.0090, 7226.11.1000, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.0500, 7226.91.1530, 7226.91.1560, 7226.91.2530, 7226.91.2560, 7226.91.7000, 7226.91.8000, and 7226.99.0180.

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,<sup>35</sup> we are aligning the final CVD determination in this investigation with the final determinations in the companion AD investigations of CTL plate from Austria, Belgium, France, Germany, Italy, Japan, and Taiwan. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be due no later than January 18, 2017, unless postponed.<sup>36</sup>

## **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 May 20, 2016, 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 CTL plate from Korea.<sup>37</sup>

## **VII. USE OF FACTS OTHERWISE AVAILABLE**

Section 776(a)(1) and (2) of the Act provide that the Department shall, subject to section 782(d)

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<sup>35</sup> See Letter from Petitioners, "Carbon and Alloy Steel Cut-to-Length Plate from Korea: Petitioners' Request to Align the Countervailing Duty Final Determinations with the Companion Antidumping Duty Final Determinations," dated August 25, 2016.

<sup>36</sup> The AD determinations of CTL plate from Brazil, South Africa, and Turkey were not postponed. *See Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria, Belgium, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, the People's Republic of China, and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 81 FR 59185, (August 29, 2016).

<sup>37</sup> *See Certain Carbon and Alloy Steel Cut-to-length Plate from Austria, Belgium, Brazil, China, France, Germany, Italy, Japan, Korea, South Africa, Taiwan, and Turkey: Investigation Nos. 701-TA-559-561 and 731-TA-1317-1328 (May 2016) (Preliminary Report); see also Certain Carbon and Alloy Steel Cut-To-Length Plate From Austria, Belgium, Brazil, China, France, Germany, Italy, Japan, Korea, South Africa, Taiwan, and Turkey; Determinations*, 81 FR 33705 (May 27, 2016).

of the Act, use “facts otherwise available” if necessary information is not on the record; or an interested party or any other person: withholds information that has been requested; 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; significantly impedes a proceeding; or provides information that cannot be verified as provided by section 782(i) of the Act.

As indicated by the GOK in its initial questionnaire response, the *Statistical Yearbook of National Tax for 2015 (Statistical Yearbook 2015)*<sup>38</sup> is the most recently published Statistical Yearbook of National Tax, and contains data up to the year 2014.<sup>39</sup> Because statistical information covering the POI is not available on the record, it is necessary to rely on the *Statistical Yearbook 2015* as facts otherwise available under section 776(a) of the Act for purposes of our *de facto* specificity analysis with respect to the following programs: Restriction of Special Taxation Act (RSTA) Article 10(1)(3): Tax Reduction for Research and Human Resources Development; RSTA Article 11: Tax Credit for Investment in Facilities for Research and Manpower; RSTA Article 25(3): Tax Deductions for Investments in Environmental and Safety Facilities; and RSTA Article 104(14): Tax Program for Third Party Logistics Operations.

## **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.<sup>40</sup> 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.<sup>41</sup> The Department notified the respondents of the AUL in the initial questionnaire and requested data accordingly. No party in this proceeding disputed this allocation period.

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**

The Department’s regulations at 19 CFR 351.525(b)(6)(i) state that the Department will normally attribute a subsidy to the products produced by the corporation that received the

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<sup>38</sup> See GOK IQR at Exhibit Tax-15.

<sup>39</sup> See GOK IQR Appendices Volume at page 181.

<sup>40</sup> See 19 CFR 351.524(b).

<sup>41</sup> See U.S. Internal Revenue Service Publication 946 (2008), “How to Depreciate Property,” at Table B-2: Table of Class Lives and Recovery Periods.

subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) directs that the Department will attribute subsidies received by certain other companies to the combined sales of those companies if (1) cross-ownership exists between the companies, and (2) the cross-owned companies produce the subject merchandise, are a holding or parent company of the subject company, produce an input that is primarily dedicated to the production of the downstream product, or transfer a subsidy to a cross-owned company.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This regulation states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations. The Court of International Trade (CIT) has upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.<sup>42</sup>

#### *POSCO, Trading Companies, and Cross-Owned Input Suppliers*

POSCO responded to the Department's questionnaires on behalf of itself and PDC, its affiliated trading company that exported POSCO-produced subject merchandise to the United States during the POI.<sup>43</sup> Pursuant to 19 CFR 351.525(b)(6)(i), we attributed subsidies received by POSCO to the sales of POSCO. By the end of the POI, POSCO was PDC's major stockholder, and held 60.31 percent of PDC's total outstanding shares.<sup>44</sup> We, therefore, are examining PDC together with POSCO as a cross-owned, affiliated trading company.<sup>45</sup>

In addition to PDC, POSCO also reported that it made some export sales of CTL plate to the United States through the unaffiliated trading companies Hyosung and Hyundai during the POI.<sup>46</sup> In accordance with the Department's initial questionnaire, Hyosung and Hyundai submitted complete questionnaire responses and responded to supplemental questionnaires.<sup>47</sup>

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 PDC, Hyosung, and Hyundai with the benefits from subsidies received by POSCO based on the ratio of PDC's, Hyosung's and Hyundai's exports to the United States of subject merchandise that was produced by POSCO during the POI (based on value).

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<sup>42</sup> See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

<sup>43</sup> See POSCO-PDC AQR at 1.

<sup>44</sup> *Id.*, at 7.

<sup>45</sup> As a result of our preliminary cross-ownership determination, we have incorporated our analysis of PDC, which was originally selected as a mandatory respondent in this investigation, into our analysis of POSCO.

<sup>46</sup> *Id.*, at 2.

<sup>47</sup> See Hyosung IQR and Hyundai IQR.

Pursuant to 19 CFR 351.525(b)(6)(iv), the Department will attribute subsidies received by cross-owned input suppliers which produce inputs primarily dedicated to the production of the downstream subject merchandise to the combined sales of the input and downstream products produced by both the subject merchandise producer and input supplier, excluding the sales between the two corporations. We therefore required that POSCO submit questionnaire responses for certain cross-owned input suppliers which provided inputs that could be used to produce the downstream products.<sup>48</sup>

POSCO submitted responses for certain input providers.<sup>49</sup> According to POSCO's 2015 Consolidated Financial Statements, as of December 31, 2015, POSCO maintained the following percentages of ownership in each of the input suppliers for which we required complete questionnaire responses: 100 percent in POS Hi-Metal; 60 percent in POSCO Chemtech; 48.85 percent in POSCO M-Tech and an agreement that POSCO can exercise POSTECH's 4.72 percent voting rights; 96.01 percent in POSCO P&S; 70 percent in PNR; and 51 percent in PSRDC via a POSCO subsidiary.<sup>50</sup> Based on POSCO's ownership of these companies, pursuant to 19 CFR 351.525(b)(6)(vi), we therefore preliminarily find them to be cross-owned input providers. POSCO states that each of these companies either supplied inputs to POSCO, or, in the case of PSRDC, processed inputs on behalf of POSCO P&S prior to POSCO P&S supplying those inputs to POSCO.<sup>51</sup> Pursuant to 19 CFR 351.525(b)(6)(iv), we will attribute subsidies received by these cross-owned input providers to the respective input providers' total sales plus the sales of POSCO, net of inter-company sales.

### 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 (or the total combined sales of the cross-owned affiliates, as described above). 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 (or the total export sales of the cross-owned affiliates, as described above).<sup>52</sup>

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<sup>48</sup> See POS Hi-Metal IQR at 1; POSCO Chemtech IQR at 1; POSCO M-Tech IQR at 1; POSCO P&S IQR at 1; PNR IQR at 1; and PSRDC IQR at 1.

<sup>49</sup> *Id.*

<sup>50</sup> See POSCO-PDC AQR at Exhibit 3, page 11; see also Letter from POSCO, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Supplemental Questionnaire Response," dated July 5, 2016 at 2.

<sup>51</sup> POSCO designated the specific details of the relationships between POSCO and these companies as business proprietary information. See POSCO-PDC AQR at Exhibit 9; see also Letter from POSCO, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Second Supplemental Questionnaire Response," dated July 14, 2016 at 1; see also Memorandum from John Corrigan, International Trade Compliance Analyst, to the File, "Countervailing Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Preliminary Determination Calculations for POSCO," dated September 6, 2016 (POSCO Preliminary Calculation Memorandum).

<sup>52</sup> For the denominators used in the preliminary calculations, see POSCO Preliminary Calculation Memorandum at Attachment 2.

## 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 Korean U.S. Dollar (USD) and Korean Won (KRW)-Denominated Loans

PDC, Hyosung and Hyundai, each reported receiving short-term USD-denominated financing from the Korea Development Bank (KDB) during the POI.<sup>53</sup> PDC and Hyosung each provided information about short-term loans from commercial banks for consideration as comparable commercial loans for purposes of identifying an interest rate benchmark.<sup>54</sup> We preliminarily determine that some of the loans PDC and Hyosung identified constitute comparable commercial loans, and it is appropriate to use these loans to calculate a weighted-average benchmark interest rate.<sup>55</sup> Hyundai stated that it received short-term loans under programs on which we initiated an investigation, but that those loans were not tied to exports of subject merchandise to the United States during the POI, and therefore did not provide information about short-term loans from commercial banks for consideration as comparable commercial loans.<sup>56</sup> However, Hyundai did report additional non-commercial, short-term usance loans from KDB tied to one shipment of subject merchandise to the United States during the POI.<sup>57</sup> Consistent with past practice in Korean CVD proceedings,<sup>58</sup> we, therefore, are using data from the International Monetary Fund’s (IMF) *International Financial Statistics 2016* as a benchmark to measure the benefit received from Hyundai’s short-term loans, pursuant to 19 CFR 351.505(a)(1).<sup>59</sup>

POSCO M-Tech reported receiving short-term countervailable KRW-denominated financing from the Korean Export-Import Bank (KEXIM) during the POI.<sup>60</sup> POSCO M-Tech provided information about short-term loans from commercial banks for consideration as comparable commercial loans for purposes of identifying an interest rate benchmark.<sup>61</sup> We preliminarily determine that some of the loans POSCO M-Tech identified constitute comparable commercial

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<sup>53</sup> See POSCO-PDC IQR at 38, Hyosung IQR at 19 and Hyundai IQR at 33.

<sup>54</sup> See POSCO-PDC IQR at Exhibit E-5 and Hyosung IQR at Exhibit E-5.

<sup>55</sup> See POSCO Preliminary Calculation Memorandum.

<sup>56</sup> See Hyundai IQR at 16 and 18.

<sup>57</sup> *Id.*, at 33.

<sup>58</sup> 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

<sup>59</sup> See POSCO Preliminary Calculation Memorandum at Attachment 1.

<sup>60</sup> See POSCO M-Tech IQR at 16.

<sup>61</sup> *Id.*, at Exhibit C-3.

loans, and it is appropriate to use these loans to calculate a weighted-average benchmark interest rate.<sup>62</sup>

### Long-Term USD and KRW-Denominated Loans

During the POI, POSCO, PDC, and POSCO M-Tech had outstanding long-term USD-denominated and KRW-denominated loans from GOK-owned banks and financial institutions.<sup>63</sup> Furthermore, POSCO maintained long-term foreign currency loans guaranteed by GOK-owned banks.<sup>64</sup> 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.<sup>65</sup> 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.<sup>66</sup> Consistent with past practice in Korean CVD proceedings, we used POSCO's company-specific corporate bond rate based 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.<sup>67</sup>

Consistent with the Department approach in *Large Residential Washers from Korea*, we relied on data from the IMF's *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.<sup>68</sup>

As discussed further below, we preliminarily determine that under PDC's debt workout program, the restructured debt from Korea Export Insurance Corporation (K-SURE) is being provided to PDC interest free. Because the workout program for PDC was terminated on December 30, 2003,<sup>69</sup> we relied on 2004 as the year of agreement between PDC and K-SURE for its restructured debt. Under the terms of the loan agreement, PDC made quarterly installments to repay this debt over a period of 12 years.<sup>70</sup> Accordingly, a long-term KRW-denominated benchmark from this time period is required to calculate the benefit from this countervailable liability. Because PDC was unable 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

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<sup>62</sup> See POSCO Preliminary Calculation Memorandum.

<sup>63</sup> See POSCO IQR at 35 – 37 and POSCO M-Tech IQR at 20.

<sup>64</sup> See POSCO IQR at 35 – 37.

<sup>65</sup> See 19 CFR 351.505(a)(3)(i).

<sup>66</sup> See POSCO-PDC IQR at 35.

<sup>67</sup> See, e.g., *NOES from Korea* and accompanying IDM at 4-6; see also POSCO-PDC IQR at Exhibits G-5 and D-15.

<sup>68</sup> 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)).

<sup>69</sup> See POSCO IQR at 7.

<sup>70</sup> *Id.*, at Exhibit I-13.

the terms of the loan were agreed upon.<sup>71</sup> This is consistent with the approach we took most recently in *NOES from Korea*.<sup>72</sup>

## **E. 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. The discount rates used in our preliminary calculations are provided in POSCO Preliminary Calculation Memorandum.<sup>73</sup>

## **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. Energy Savings Program Subsidies: Demand Response Market Program**

POSCO and POS Hi-Metal reported receiving benefits under this program during the POI.<sup>74</sup> The GOK states that the program is actually titled “Demand Response Resources,” and that the Korea Power Exchange (KPX) developed this program at the end of 2014.<sup>75</sup> The GOK confirms that the program was in operation during the POI.<sup>76</sup>

The legal basis for this program is Article 31(5) of the Electricity Business Law (EBL) and Chapter 12 of the Rules on Operation of Electricity Utility Market (ROEUM).<sup>77</sup> Chapter 12 of the ROEUM governs the program’s operations, the purpose of which is to smooth imbalances between supply and demand of power provision by creating a competitive marketplace for the price of demand response resources.<sup>78</sup> The program is divided into two sub-programs, Demand Response Peak Curtailment and Demand Response Program for Electricity Price Curtailment. The former program is designed to curtail load during peak electricity demand periods, and the latter is intended to minimize power generation costs through price competition.<sup>79</sup> The KPX operates both programs.<sup>80</sup>

The language of the implementing provisions for this program does not limit eligibility to a

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<sup>71</sup> See POSCO Preliminary Calculation Memorandum at Attachment 1.

<sup>72</sup> 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.

<sup>73</sup> See POSCO Preliminary Calculation Memorandum.

<sup>74</sup> See POSCO-PDC IQR at 22 and POS Hi-Metal IQR at 10.

<sup>75</sup> See GOK SQR at 11.

<sup>76</sup> *Id.*

<sup>77</sup> See GOK SQR at Exhibit DRR-3 and Exhibit MTAR-2.

<sup>78</sup> See GOK SQR Appendices Volume, at 18 and 19.

<sup>79</sup> *Id.*, at 19.

<sup>80</sup> *Id.*

specific enterprise or industry or group thereof in accordance with section 771(5A)(D)(i) of the Act. However, the GOK submits that 1,522 companies were approved for the assistance under this program in 2015,<sup>81</sup> though participation in it is available to “all entities” in Korea.<sup>82</sup> We, therefore, preliminarily determine that this program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act, as the actual recipients are limited in number.

Under this program, the KPX pays multiple private Demand Management Business Operators, also called “aggregators,” which have direct, contractual relationships with end users of the program.<sup>83</sup> End users receive payments from those aggregators. Prior to that exchange between the KPX and the aggregators, the Korea Electric Power Corporation (KEPCO) pays the KPX for the latter’s role in demand curtailment under the program.<sup>84</sup> As discussed in the “Provision of Electricity for Less Than Adequate Remuneration” program description below, we preliminarily 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 a direct transfer of funds is provided to companies participating in this program under section 771(5)(D)(i) of the Act and a benefit exists in the amount of the grant provided to POSCO and POS Hi-Metal in accordance with 19 CFR 351.504(a).

To calculate the benefit, we divided the amount of funds received by POSCO under this program during the POI by its total sales during the POI. With respect to POS Hi-Metal, we divided the rebate amount the company received by the combined amount of its total sales and POSCO’s total sales during the POI, minus intercompany sales between POS Hi-Metal and POSCO.<sup>85</sup> Then, consistent with the methodology described with respect to cross-owned input suppliers in the “Attribution of Subsidies” section above, we combined the two subsidy rates. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.01 percent *ad valorem* under this program.<sup>86</sup>

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<sup>81</sup> *Id.*, at 36.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*, at 20 and 23.

<sup>84</sup> *Id.*, at 23.

<sup>85</sup> Pursuant to 19 CFR 351.525(b)(6)(iv), we calculated a company-specific denominator for each cross-owned input supplier by summing the total POI sales of POSCO and the total sales of the respective input supplier, and then subtracting intercompany sales transacted between POSCO and the input supplier during the POI. Hereafter, we will refer to the result of this calculation as each company’s “input supplier denominator.”

<sup>86</sup> See POSCO Preliminary Calculation Memorandum.

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

POSCO, Hyosung, POSCO Chemtech, and POSCO P&S reported receiving tax benefits through RSTA Article 10(1)(3).<sup>87</sup> Introduced in 1982 under the then Tax Exemption and Reduction Regulating Act, this program aims to facilitate Korean corporate investment in research and development (R&D) activities through a reduction of taxes payable for eligible expenditures.<sup>88</sup> The tax reduction is administered by the National Tax Service (NTS),<sup>89</sup> 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 three percent of the eligible expenditures in the current tax year.<sup>90</sup> 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.<sup>91</sup>

As explained in *NOES from Korea*,<sup>92</sup> the language of the law and implementing provisions for this tax program do not limit eligibility to a specific enterprise or industry or group. Therefore, consistent with *NOES from Korea*,<sup>93</sup> 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*,<sup>94</sup> 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. As stated above, the GOK indicated that the most recently published Statistical Yearbook of National Tax contains data up to the year 2014.<sup>95</sup> Because statistical information covering the POI is not available on the record, we, therefore, relied on facts otherwise available (*i.e.*, *Statistical Yearbook 2015*), pursuant to section 776(a)(1) of the Act, to determine whether the Article 10(1)(3) tax credit is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act. Based on the information provided by the GOK in this investigation, and consistent with our determination in *NOES from Korea*,<sup>96</sup> 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, based upon corporate tax returns filed in 2014.<sup>97</sup> Additionally, 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

<sup>87</sup> See POSCO-PDC IQR at 64, Hyosung IQR at 28, POSCO Chemtech IQR at 25, and POSCO P&S IQR at 24.

<sup>88</sup> See GOK IQR Appendices Volume, at 201.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*, at 214 – 215.

<sup>91</sup> *Id.*, at 214.

<sup>92</sup> 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.

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> See GOK IQR Appendices Volume at 181.

<sup>96</sup> *Id.*

<sup>97</sup> See GOK IQR at Exhibit Tax-15, wherein Table 8-1-1 indicates that 550,472 corporate tax returns were filed in 2014, and Table 8-3-2 indicates that only 1,295 of these 550,472 corporate tax returns received benefits under this tax credit program. Accordingly, that is only 0.24 percent of all corporate tax filers.

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 POSCO by its total sales during the POI. With respect to Hyosung, we divided the amount of tax savings it received by its total sales during the POI. We then multiplied that quotient by the ratio obtained upon dividing the value of POSCO-produced subject merchandise Hyosung exported during the POI by Hyosung's total POI sales.<sup>98</sup> We then allocated the resulting benefit to POSCO.<sup>99</sup> To calculate the benefit for POSCO Chemtech and POSCO P&S, POSCO's cross-owned input suppliers, we divided the amount of the tax savings each company received by their respective input supplier denominators. Finally, we combined the subsidy rates calculated for POSCO, Hyosung, POSCO Chemtech and POSCO P&S. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.11 percent *ad valorem* under this program.<sup>100</sup>

### 3. RSTA Article 11: Tax Credit for Investment in Facilities for Research and Manpower

POSCO and Hyosung reported receiving tax benefits through RSTA Article 11.<sup>101</sup> Under this program, companies receive tax deductions for facility investments on research and development. As stated by the GOK, the purpose of the program is to improve the competitive power of business and to create positive growth of the economy, through expansion of research and manpower.<sup>102</sup> The deduction amount received by companies is determined based on company size.<sup>103</sup> The tax reduction is administered by the NTS,<sup>104</sup> under the direction of the MOSF.<sup>105</sup> Large, medium and small-sized companies receive tax deductions of three, five, and ten percent, respectively.<sup>106</sup>

As discussed above in the section "Use of Facts Otherwise Available," information provided by the GOK demonstrates that only a limited number of companies, *i.e.*, 0.06 percent, claimed this tax credit in 2014.<sup>107</sup> Accordingly, we determine that this program is *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because the actual number of recipients is

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<sup>98</sup> See POSCO Preliminary Calculation Memorandum at Attachment 2, "Trading Company Exports of POSCO's Subject Merchandise, as Ratio of Trading Company's Total Sales."

<sup>99</sup> As discussed in the "Attribution of Subsidies" section above, PDC, Hyosung, and Hyundai each exported subject merchandise produced by POSCO to the United States during the POI. Pursuant to 19 CFR 351.525(c), we are cumulating benefits from subsidies provided to PDC, Hyosung, and Hyundai with benefits from subsidies provided to POSCO. Hereafter, we will refer to this calculation as the "trading company methodology."

<sup>100</sup> See POSCO Preliminary Calculation Memorandum.

<sup>101</sup> See POSCO IQR at 64 and Hyosung IQR at 28.

<sup>102</sup> See GOK IQR Appendices Volume, at 217.

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> See GOK IQR at Exhibit Tax-15, wherein Table 8-1-1 indicates that 550,472 corporate tax returns were filed in 2014, and Table 8-3-2 indicates that only 354 of these 550,472 corporate tax returns received benefits under this tax credit program. Accordingly, that is only 0.06 percent of all corporate tax filers.

limited. Furthermore, the tax reduction constitutes a financial contribution in the form of revenue forgone under section 771(5)(D)(ii) of the Act, and provides a benefit to the recipient 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 the program, pursuant to, pursuant to section 771(5)(E) of the Act and 19 CFR 351.509(a)(1).

To calculate the benefit, we divided the amount of the tax savings received by POSCO by its total sales during the POI. We then calculated Hyosung's benefit using the trading company methodology and combined the resulting subsidy rate with POSCO's subsidy rate. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.02 percent *ad valorem* under this program.<sup>108</sup>

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

POSCO, Hyosung, and POSCO Chemtech each reported receiving tax deductions under RSTA Article 25(3).<sup>109</sup> Introduced in 2007, RSTA Article 25(3) aims to motivate investments in facilities that are constructed for the purpose of preserving the environment.<sup>110</sup> The GOK submits that any entity making an investment in facilities under this program may apply for a ten percent tax deduction.<sup>111</sup> 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.<sup>112</sup> POSCO 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.<sup>113</sup>

As discussed above in the section "Use of Facts Otherwise Available," according to the *Statistical Yearbook 2015*, there were 550,472 corporate tax returns filed in 2014, 160 of which claimed the Article 25(3) tax deduction.<sup>114</sup> Because only 160 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.

To calculate the benefit, we divided the amount of the tax savings received by POSCO by its total sales during the POI. We calculated Hyosung's benefit using the trading company

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<sup>108</sup> See POSCO Preliminary Calculation Memorandum.

<sup>109</sup> See POSCO IQR at 65, Hyosung IQR at 29, and POSCO Chemtech IQR at 26.

<sup>110</sup> See GOK IQR Appendices Volume at 256.

<sup>111</sup> *Id.*, at 288-289.

<sup>112</sup> *Id.*, at 258.

<sup>113</sup> See POSCO IQR at Exhibit J-27.

<sup>114</sup> See GOK IQR, Exhibit TAX-15 at Tables 8-1-1 and 8-3-2.

methodology. With respect to POSCO Chemtech, we divided the amount of the tax savings it received by its input supplier denominator. We then combined these subsidy rates. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.03 percent *ad valorem* under this program.<sup>115</sup>

#### 5. RSTA Article 26: GOK Facilities Investment Support

POSCO, PNR, and PSRDC reported receiving benefits under this program.<sup>116</sup> 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.<sup>117</sup> Eligible companies are able to claim a tax credit of up to 10 percent in eligible investments in facilities.<sup>118</sup> 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.”<sup>119</sup>

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.<sup>120</sup> 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*.<sup>121</sup> 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 benefit, we divided the amount of the tax savings received by POSCO by its total sales during the POI. With respect to PNR and PSRDC, we divided the amount of tax savings each company received by its respective input supplier denominator. We then combined the resulting subsidy rates for PNR and PSRDC with POSCO’s subsidy rate. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.27 percent *ad valorem* under this program.<sup>122</sup>

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<sup>115</sup> See POSCO Preliminary Calculation Memorandum.

<sup>116</sup> See POSCO-PDC IQR at 65, PNR IQR at 24 and PSRDC IQR at 25.

<sup>117</sup> See GOK IQR Appendices Volume at 272 and 285.

<sup>118</sup> *Id.*, at 274.

<sup>119</sup> *Id.*, at 272.

<sup>120</sup> *Id.*, at 274.

<sup>121</sup> 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)).

<sup>122</sup> See POSCO Preliminary Calculation Memorandum.

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

POSCO reported receiving tax deductions under RSTA Article 104(14).<sup>123</sup> This tax credit was introduced in 2007, with the purpose of motivating manufacturing companies to outsource logistics business operations to third parties that specialize in logistics by offering a tax incentive for doing so.<sup>124</sup> Administered by the NTS, under the direction of the MOSF, Article 104(14) is the law authorizing the tax incentive, which is implemented through Article 104(14) of the Enforcement Decree of the RSTA.<sup>125</sup>

Under this program, where a company used third party distribution companies (*e.g.*, unaffiliated outside trucking company, ocean-shipping company, or loading/unloading company) and paid for distribution expenses, the company may apply for this tax credit if the company meets two requirements prescribed by Article 104(14) of the Enforcement Decree of the RSTA: (1) the third party distribution expense spent for the tax year shall be at least fifty percent or more of the total distribution expense spent by the company for the tax year; and (2) the ratio (*i.e.*, third party distribution expense divided by total distribution expense) for the tax year shall not be lower than that ratio for the previous year.<sup>126</sup> If the company meets these two requirements, it can apply for a tax credit based on three percent of the increased amount of third party distribution expenses (*i.e.*, the third party expenses spent for tax year minus the third party expenses spent for the previous year).<sup>127</sup> The GOK states that the limit of the tax credit under this program is 10 percent of corporate income tax.<sup>128</sup>

As discussed above in the section “Use of Facts Otherwise Available,” the *Statistical Yearbook 2015* indicates that there were 550,472 corporate tax returns filed in 2014, 151 of which claimed the Article 104(14) tax deduction.<sup>129</sup> Because only 151 companies used this program during 2014, we find this program *de facto* specific under section 771(5A)(D)(iii)(I) of the Act because the actual number of recipients is limited. Additionally, we preliminarily determine that the tax credit is a financial contribution in the form of revenue foregone by the GOK, as described in section 771(5)(D)(ii) of the Act, and 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 POSCO by its total sales during the POI. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.03 percent *ad valorem* under this program.<sup>130</sup>

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<sup>123</sup> See POSCO IQR at 66.

<sup>124</sup> See GOK IQR Appendices Volume at 294.

<sup>125</sup> *Id.*, at 296.

<sup>126</sup> *Id.*, at 296 – 297.

<sup>127</sup> *Id.*

<sup>128</sup> *Id.*

<sup>129</sup> See GOK IQR, Exhibit TAX-15 at Tables 8-1-1 and 8-3-2.

<sup>130</sup> See POSCO Preliminary Calculation Memorandum.

7. RSTA Article 9: Reserve for Research and Human Resources Development

POSCO reported using this program.<sup>131</sup> Under Article 9 of the RSTA,<sup>132</sup> a corporation that has accumulated reserves for research and human resources development may deduct the reserves up to an amount equal to three percent of its net income for the tax year, independent of the actual expenditures for research and development and human resources during the tax year.<sup>133</sup> Corporations that claim this provision and deduct all or part of its accumulated reserves, subsequently, must recognize income in future years.<sup>134</sup>

The language of the implementing provisions and related appendices for this tax program limits eligibility for the use of this program to “necessary expenses for independent research and development in case of research and development for the development of new service and service delivery systems.”<sup>135</sup> Therefore, we find that the provision of this tax benefit is *de jure* specific, pursuant to 771(5A)(D)(i) of the Act to enterprises incurring the specified expenses. Tax deductions are financial contributions in the form of revenue foregone by the government under section 771(5)(D)(ii) of the Act and provide a benefit under 19 CFR 351.509(a).

To calculate a benefit under this program, we treated the amount that POSCO retained as a balance in reserves on its tax return filed during the POI as a as a short-term, interest-free contingent liability loan. We then 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 POSCO would have paid on a comparable commercial loan during the POI by multiplying the balance amount by the benchmark short-term interest rate. We then divided the product of that calculation by POSCO’s total POI sales. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.10 percent *ad valorem*.<sup>136</sup>

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

POSCO, POSCO Chemtech, POS Hi-Metal, POSCO M-Tech, PNR, PSRDC, and POSCO P&S reported receiving certain exemptions from local acquisition taxes and local property taxes under paragraph (4) of RSLTA Article 78.<sup>137</sup> 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.<sup>138</sup> 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

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<sup>131</sup> See POSCO-PDC IQR at 59; see also POSCO-PDC IQR at Exhibit 24 at 7.

<sup>132</sup> See GOK SQR at Exhibit GSQR1-TX3.

<sup>133</sup> See GOK SQR Appendices Volume at 124.

<sup>134</sup> *Id.*

<sup>135</sup> *Id.*, at Exhibit TX3.

<sup>136</sup> See POSCO Preliminary Calculation Memorandum.

<sup>137</sup> See POSCO IQR at 66, POSCO Chemtech IQR at 27, POS Hi-Metal IQR at 23, POSCO M-Tech IQR at 25, PNR IQR at 24, PSRDC IQR at 26, and POSCO P&S IQR at 26.

<sup>138</sup> See GOK IQR at 334.

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.<sup>139</sup> The purpose of the program is to promote the development of the underdeveloped areas in Korea and to appropriately allocate the industries nationwide.<sup>140</sup>

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 CFR 351.509(a). We further preliminarily determine that the tax exemptions provided under this program are specific under section 771(5A)(D)(iv) of the Act because benefits are provided by local governments to enterprises located within designated industrial complexes within their respective jurisdictions.

To calculate the benefit for POSCO, we divided the amount of the tax savings by the company's total sales during the POI. To calculate the benefits for POSCO Chemtech, POS Hi-Metal, POSCO M-Tech, PNR, PSRDC, and POSCO P&S, we divided the amount of the tax savings each company received by its respective input supplier denominator. We then combined the resulting six subsidy rates with POSCO's subsidy rate. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.03 percent *ad valorem*.<sup>141</sup>

#### 9. R&D Grants under the Industrial Technology Innovation Promotion Act (ITIPA)

POSCO, POSCO Chemtech, and POSCO M-Tech reported receiving grants under this program during the POI.<sup>142</sup> This program is administered by MOTIE and the Korea Evaluation Institute of Industrial Technology (KEIT). It was designed to promote new industries and enhance the competitiveness of Korea's national economy through the development of industrial technologies. Under the ITIPA program, the GOK provides grants to support technological development in certain industries, including industrial materials.<sup>143</sup>

The program is operated pursuant to Article 11 of the ITIPA.<sup>144</sup> To implement the program, KEIT prepares and publicly announces the basic plan which may encompass multiple projects that the KEIT forecasts will support the development of the Korean national economy. According to the GOK, any party wishing to participate in the program prepares a business plan that meets the requirements set forth in the basic plan and then submits the application to the MOTIE Review Committee, which then evaluates the application to determine if it conforms to the terms and conditions set forth in the basic plan. If the application is approved, the company enters into an R&D agreement with KEIT, and KEIT announces the amount of the grant to be provided.<sup>145</sup>

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<sup>139</sup> *Id.*

<sup>140</sup> *Id.*

<sup>141</sup> See POSCO Preliminary Calculation Memorandum.

<sup>142</sup> See POSCO-PDC IQR at 67, POSCO Chemtech IQR at 28, and POSCO M-Tech IQR at 26.

<sup>143</sup> See GOK IQR at 80 – 81 and Appendices Volume at 370.

<sup>144</sup> See GOK IQR at 80; see also GOK SQR Appendices Volume at 39.

<sup>145</sup> See GOK SQR Appendices Volume at 43.

The costs of the R&D projects under this program are shared by the company (or research institution) and KEIT. Specifically, the grant ratio for project costs are as follows: (1) for projects with one small/medium-sized enterprise (SME), KEIT provides grants of up to 75 percent of total project costs; (2) for other companies, KEIT grants 50 percent of total project costs; (3) for projects with more than one participant, KEIT grants 75 percent of the total project cost if two thirds of the participants are SMEs; (4) otherwise, KEIT provides 50 percent of project costs.<sup>146</sup>

When the project is evaluated as “successful” upon completion, the participating companies typically must repay 40 percent of the R&D grant to the GOK over five years. However, when the project is evaluated as “not successful,” the participating company does not have to repay the GOK any of the R&D grant amount.<sup>147</sup>

We determine this program to be *de jure* specific under section 771(5A)(D)(i) of the Act because it is limited to projects in the basic plan that KEIT forecasts will support the development of the Korean national economy. For the portion of the subsidy that does not have to be repaid, we determine that a financial contribution was provided within the meaning of section 771(5)(D)(i) of the Act because the GOK’s payments constitute a direct transfer of funds, and a benefit exists in the amount of the grant provided in accordance with 19 CFR 351.504(a). For the portion of the subsidy that may have to be repaid, we determine that a financial contribution was provided within the meaning of section 771(5)(D)(i) of the Act because the GOK’s payments constitute a direct transfer of funds through loans, and a benefit exists under 19 CFR 351.505(a).

With respect to the portion of the subsidy that we are treating as a long-term, interest-free contingent liability loan, pursuant to 19 CFR 351.505(d)(1) for the reasons described above, we find the benefit to be equal to the interest that POSCO, POSCO Chemtech, and POSCO M-Tech would have paid during the POI had they borrowed the full amount of the contingent liability loan during the POI. Pursuant to 19 CFR 351.505(d)(1), we used a long-term interest rate as our benchmark to calculate the benefit of the contingent liability interest-free loan because the event upon which repayment of the duties depends (*i.e.*, the completion of the R&D project) occurs at a point in time more than one year after the date in which the funds were received. Specifically, we used the long-term benchmark interest rates as described in the “Subsidies Valuation” section of this memorandum.

To calculate the net subsidy amount for the loan portion, we multiplied each company’s loan amount by the corresponding benchmark interest rate and summed the benefit from all interest payments to calculate a total benefit for each company. We then divided POSCO’s benefit by its total sales during the POI. We divided POSCO Chemtech and POSCO M-Tech’s respective benefits by their respective input supplier denominators. On this basis, we calculated a net subsidy rate of 0.001 percent for POSCO, 0.000 percent for POSCO Chemtech, and 0.000 percent for POSCO M-Tech. Finally, we summed the three companies’ benefits in order to attribute them to POSCO. The resulting total loan benefit is 0.001 percent.<sup>148</sup>

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<sup>146</sup> *Id.*, at 45.

<sup>147</sup> See POSCO-PDC IQR at 70.

<sup>148</sup> See POSCO Preliminary Calculation Memorandum.

For the portion of this subsidy we are treating as a grant, we preliminarily determine that the grants provided under this program are non-recurring, in accordance with 19 CFR 351.524(c), which provides that the Department will normally treat grants as non-recurring subsidies.<sup>149</sup> To calculate the net subsidy amount for the grant portion, we multiplied the total amount of the grants that POSCO, POSCO Chemtech, and POSCO M-Tech received by the percentage that they were permitted to keep. For POSCO, we then divided that benefit amount by its total POI sales. With respect to POSCO Chemtech and POSCO M-Tech, we divided each company's benefit amount by its respective input supplier denominator. On this basis, we calculated a net subsidy rate of 0.019 percent for POSCO, 0.001 percent for POSCO Chemtech, and 0.000 percent for POSCO M-Tech. Finally, we summed the three companies' benefits in order to attribute them to POSCO. The resulting total grant benefit is 0.020 percent.<sup>150</sup>

Lastly, we combined the total benefits of the loan and grant portions of this program. On this basis, we preliminarily calculated a combined subsidy rate of 0.02 percent *ad valorem* for POSCO under this program during the POI.<sup>151</sup>

## **B. Programs Preliminarily Determined To Be Not Countervailable**

### **1. Granting of Rights to Import, Store and/or Re-Export Liquefied Natural Gas (LNG)**

Petitioners alleged that the GOK grants rights to POSCO to import, store, and/or re-export LNG, which they contend is a countervailable subsidy.<sup>152</sup> Petitioners state that only three private companies, including a subsidiary of KEPCO, imported LNG into Korea during 2014.<sup>153</sup> Additionally, private companies are only allowed to import natural gas (NG) for captive use. Petitioners in this instant case allege that as a result of the GOK allowing POSCO to import LNG, POSCO is able to own and operate what could be one of the only private LNG terminals in Korea. Moreover, Petitioners allege that POSCO's terminal is the only LNG terminal to have been used for re-exports, allowing POSCO to pursue seasonal LNG arbitrage opportunities, *i.e.*, purchase LNG at times when prices are low, store it, and then later sell it when prices rise.<sup>154</sup>

Section 771(5)(D)(ii) of the Act defines a financial contribution as "foregoing or not collecting revenue that is otherwise due, such as granting tax credits or deductions from taxable income."<sup>155</sup> In order for the GOK to have foregone revenue otherwise due under this program, POSCO would have to be obligated or required to purchase LNG from Korea Gas Corporation (KOGAS), and then the GOK would have had to have excused such purchases by allowing imports. However, record evidence demonstrates that POSCO has several avenues by which it

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<sup>149</sup> In their initial questionnaire responses, POSCO, POSCO Chemtech, and POSCO M-Tech stated that grants received under this program are recurring. *See* POSCO-PDC IQR at Exhibit L-2 at page 6, POSCO Chemtech IQR at Exhibit L-3 at page 6, and POSCO M-Tech at Exhibit L-2 at page 6. We intend to request additional information about these grants following this Preliminary Determination.

<sup>150</sup> *Id.*

<sup>151</sup> *Id.*

<sup>152</sup> *See* CVD Initiation Checklist.

<sup>153</sup> *Id.*

<sup>154</sup> *Id.*

<sup>155</sup> *See* section 771(5)(d)(ii) of the Act.

may purchase LNG or natural gas; two of which do not directly involve KOGAS.<sup>156</sup> Additionally, POSCO may seek alternative energy sources to generate power.<sup>157</sup> While KOGAS is the only entity that may supply gas in Korea, the urban/local gas suppliers are the firms that sell gas to end consumers.<sup>158</sup> Moreover, the urban/local suppliers are in a position to meet the additional demand that would occur if POSCO chose to purchase LNG or natural gas domestically from non-GOK sources rather than importing.<sup>159</sup> Therefore, there are no physical barriers to POSCO choosing to purchase from the urban gas suppliers, nor is there a general or legal obligation for POSCO to purchase LNG from KOGAS, or any obligation for POSCO to make any type of payments to KOGAS for the provision of LNG.

The mere option to purchase LNG from KOGAS is not a sufficient basis for finding that the GOK is foregoing revenue otherwise due by allowing POSCO to import LNG. This is due to the fact that even absent POSCO's imports of LNG, there is no revenue otherwise due to KOGAS or the Government of Korea for purchases of LNG. Therefore, based upon the information on the record, and consistent with the Department's determination in *Hot-Rolled Steel from Korea*, we find that there was no financial contribution provided under this program.<sup>160</sup>

### **C. Programs Preliminarily Determined Not to Have Conferred a Benefit**

We preliminarily determine that the programs below did not confer a measurable benefit during the POI. Consistent with our past practice, we do not include programs with non-measurable benefits, calculated rates of less than 0.005 percent, in a respondent company's net subsidy calculation.<sup>161</sup> In addition, because the benefits from these programs are not measureable, we do not reach a preliminary determination as to whether there is financial contribution or specificity for these programs.

#### **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.<sup>162</sup> KEPCO was established under the Korea Electric Power Corporation Act and its Enforcement Decree.<sup>163</sup> KEPCO is an integrated electric utility company engaged in the transmission and distribution of substantially all of the electricity in Korea.<sup>164</sup> In addition, through its six wholly-owned power-generating

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<sup>156</sup> See POSCO-PDC IQR at 27 – 28; see also GOK IQR at 44.

<sup>157</sup> See Petition at 26.

<sup>158</sup> See POSCO-PDC IQR at 27 – 28.

<sup>159</sup> *Id.*

<sup>160</sup> See *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products From the Republic of Korea: Final Affirmative Determination*, 81 FR 53439 (August 12, 2016) (*Hot-Rolled Steel from Korea*), and accompanying IDM at 25.

<sup>161</sup> See, e.g., *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products From the Russian Federation: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 81 FR 49935 (July 29, 2016), and accompanying IDM at 31-32.

<sup>162</sup> See CVD Initiation Checklist.

<sup>163</sup> See GOK IQR, Appendices Volume at 350.

<sup>164</sup> *Id.*

subsidiaries, KEPCO generates the substantial majority of the electricity produced in Korea.<sup>165</sup> MOTIE also has the authority to regulate and supervise the electricity business in Korea.<sup>166</sup> 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.<sup>167</sup> Accordingly, we preliminarily determine, as we did in the *Welded Line Pipe from Korea* investigation,<sup>168</sup> 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.<sup>169</sup> Accordingly, we find KEPCO to be an "authority" within the meaning of section 771(5)(B) of the Act.

POSCO purchased electricity from KEPCO.<sup>170</sup> The GOK reported that 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.<sup>171</sup> Further, the GOK provided its calculation of electricity costs as well as data showing its cost and investment return pertaining to the POI for industrial users of electricity.<sup>172</sup> The GOK provided KEPCO's data that was submitted to MOTIE in 2013 for the tariff in effect during the POI, as well as explained its calculations and recovery costs.<sup>173</sup> 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 POSCO during the POI.<sup>174</sup> Thus, we preliminarily find that there is no information on the record that POSCO is 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 *Cold-Rolled Steel from Korea* and *Hot-Rolled Steel from Korea*, we find that there was no benefit provided under this program.<sup>175</sup>

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<sup>165</sup> 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 IQR.

<sup>166</sup> See GOK IQR at 5.

<sup>167</sup> See KEPCO Form 20-F Filing with the SEC at 23, provided as Exhibit E-2 to the GOK IQR.

<sup>168</sup> See *Welded Line Pipe from Korea*, and accompanying IDM at 13.

<sup>169</sup> See, e.g., KEPCO Form 20-F Filing with the SEC at 7, provided as Exhibit E-2 to the GOK IQR.

<sup>170</sup> See POSCO-PDC IQR at 16.

<sup>171</sup> See GOK IQR at Exhibit E-15.

<sup>172</sup> *Id.*, at 19-20 and Exhibits E-11, E-12, and E-16.

<sup>173</sup> *Id.*, at 12 and Exhibit E-11.

<sup>174</sup> *Id.*, at 14.

<sup>175</sup> See Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products From the Republic of Korea: Final Affirmative Determination, 81 FR 49946 (July 29, 2016) (*Cold-Rolled Steel from Korea*), and accompanying IDM at 45; see also *Hot-Rolled Steel from Korea* and accompanying IDM at 44.

2. Energy Savings Program Subsidies - Demand Adjustment Program of Emergency Load Reduction

POSCO and POS Hi-Metal each reported using this program during the POI.<sup>176</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>177</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

3. Purchase of Electricity for More than Adequate Remuneration

POSCO reported that it sold electricity through KPX during the POI.<sup>178</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>179</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

4. Power Generation Price Difference Payments

POSCO reported that it received benefits from the Electricity Industry Foundation Fund during the POI.<sup>180</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>181</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

5. KEXIM Bank Import Financing

POSCO M-Tech reported receiving import financing under this program during the POI.<sup>182</sup> PDC and Hyosung also reported used of this program, but pursuant to 19 CFR 351.525(b)(5) we preliminarily determine that PDC and Hyosung's use of this program was tied to non-subject merchandise.<sup>183</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>184</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

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<sup>176</sup> See POSCO IQR at 21 and POS Hi-Metal IQR at 10.

<sup>177</sup> See POSCO Preliminary Calculation Memorandum.

<sup>178</sup> See POSCO IQR at Exhibits B-1 and B-4.

<sup>179</sup> See POSCO Preliminary Calculation Memorandum.

<sup>180</sup> See Letter from POSCO, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Fourth Supplemental Questionnaire Response," dated August 10, 2016 at 3.

<sup>181</sup> See POSCO Preliminary Calculation Memorandum.

<sup>182</sup> See POSCO M-Tech IQR at 16.

<sup>183</sup> See POSCO-PDC IQR at 33 and Hyosung IQR at 17.

<sup>184</sup> See POSCO Preliminary Calculation Memorandum.

6. KEXIM Overseas Investment Credit Program

POSCO and PDC reported receipt of loans under this program during the POI.<sup>185</sup> Hyosung also reported use of this program, but pursuant to 19 CFR 351.525(b)(5) we preliminarily determine that Hyosung's use of this program was tied to non-subject merchandise.<sup>186</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>187</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

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

PDC, Hyosung, and Hyundai received export financing from the KDB for exports of subject merchandise to the United States during the POI.<sup>188</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>189</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

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

During the POI, POSCO and PDC maintained outstanding long-term loans from KNOC and KORES, while POSCO M-Tech maintained outstanding long-term loans from KORES under this program during the POI.<sup>190</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>191</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

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<sup>185</sup> See POSCO-PDC IQR at 35.

<sup>186</sup> See Hyosung IQR at 18.

<sup>187</sup> See POSCO Preliminary Calculation Memorandum.

<sup>188</sup> See POSCO-PDC IQR at 38, Hyosung IQR at 19 Hyundai IQR at 14 and 33. With respect to Hyundai, we preliminarily determine, pursuant to 19 CFR 351.525(b)(5), that the loans discussed at page 14 and Exhibit D-1 of the Hyundai IQR are tied to non-subject merchandise. Our analysis, as described above, pertains to the KDB short-term usance loans discussed at page 33 and contained in Exhibit N-1 of the Hyundai IQR. Hyosung also reported additional KDB facility and usance loans in addition to its use of KDB short-term loans for export receivables related to the exportation of subject merchandise. See Hyosung IQR at 34. We preliminarily find that these additional reported loans were either not provided to the Hyosung Trading Performance Group or are not tied to the export of subject merchandise to the United States.

<sup>189</sup> See POSCO Preliminary Calculation Memorandum.

<sup>190</sup> See POSCO-PDC IQR at 43 and POSCO M-Tech IQR at 20. Pursuant to 19 CFR 351.525(b)(5), we preliminarily determine that POSCO and PDC's loans from KNOC were tied to non-subject merchandise. We intend to verify this information.

<sup>191</sup> See POSCO Preliminary Calculation Memorandum.

9. 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.<sup>192</sup> Petitioners further alleged that Korean steel producers are major coal purchasers and thus likely benefitted from this program.<sup>193</sup> However, 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 benefit.<sup>194</sup> Therefore consistent with the Department's findings in *Cold-Rolled Steel from Korea* and *Hot-Rolled Steel from Korea*, we find that there was no benefit provided under this program.<sup>195</sup> Therefore, we preliminarily determine that the VAT Exemption for Purchases of Anthracite Coal program conferred no benefit, and thus, is not countervailable.

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

Hyosung and POSCO Chemtech reported that they used this program.<sup>196</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>197</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

11. PDC's Debt Workout

PDC reported that it used this program during the AUL.<sup>198</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>199</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

12. Modal Shift Program

POSCO reported that it used this program during the POI.<sup>200</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>201</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

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<sup>192</sup> See CVD Initiation Checklist.

<sup>193</sup> *Id.*

<sup>194</sup> See GOK IQR at 68.

<sup>195</sup> See *Cold-Rolled Steel from Korea* and accompanying IDM at 38; see also *Hot-Rolled Steel from Korea* and accompanying IDM at 25.

<sup>196</sup> See Hyosung IQR at 29 and POSCO Chemtech IQR at 26.

<sup>197</sup> See POSCO Preliminary Calculation Memorandum.

<sup>198</sup> See POSCO IQR at 50 – 58.

<sup>199</sup> See POSCO Preliminary Calculation Memorandum.

<sup>200</sup> See POSCO IQR at 70.

<sup>201</sup> See POSCO Preliminary Calculation Memorandum.

13. Various Government Grants Contained in Financial Statements

POSCO and PDC reported that they received various grants during the POI.<sup>202</sup> However, the calculation of the benefits from these grants resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>203</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

14. RSTA Article 7-2: Tax Credit to Improve Corporate Payment System Including Negotiable Instruments

POSCO reported that it used this program.<sup>204</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>205</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

15. RSTA Article 8-3: Tax Credit when Making Contributions to Funds for Collaborative Cooperation between Large Enterprises and SMEs

POSCO and POSCO Chemtech reported that they used this program.<sup>206</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>207</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

16. RSTA Article 24: Investment in Productivity Improving Facilities

POSCO and Hyosung reported that they used this program.<sup>208</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>209</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

17. RSTA Article 25: Investment in Certain Enumerated Safety Facilities

POSCO, Hyosung, and POSCO Chemtech reported that they used this program.<sup>210</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as

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<sup>202</sup> See POSCO-PDC IQR at 71. POSCO and PDC reported receiving separate, unrelated grants. POSCO reported receipt of a grant related to the establishment of a facility related to magnesium production and PDC reported a grant related to a workplace facility.

<sup>203</sup> See POSCO Preliminary Calculation Memorandum.

<sup>204</sup> See POSCO-PDC IQR at 58.

<sup>205</sup> See POSCO Preliminary Calculation Memorandum.

<sup>206</sup> See POSCO-PDC IQR at 58 and POSCO Chemtech IQR at 23.

<sup>207</sup> See POSCO Preliminary Calculation Memorandum.

<sup>208</sup> See POSCO-PDC IQR at 60 and Hyosung IQR at 27.

<sup>209</sup> See POSCO Preliminary Calculation Memorandum.

<sup>210</sup> See POSCO-PDC IQR at 60, Hyosung IQR at 27, and POSCO Chemtech IQR at 23.

such, does not have an impact on POSCO's overall subsidy rate.<sup>211</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

18. RSTA Article 30: Investment in Certain Fixed Assets for Use for Business Purposes

POSCO reported that it used this program.<sup>212</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>213</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

19. RSTA Article 94: Acquisition of Facilities to Improve Employee Welfare

POSCO and Hyosung reported that they used this program.<sup>214</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>215</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

20. RSTA Article 104(15): Development of Overseas Resources

POSCO reported that it used this program.<sup>216</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>217</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

21. RSTA Article 22: Exemption from Corporate Tax on Dividend Income from Investment in Overseas Resource Development

PDC reported that it used this program.<sup>218</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>219</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

22. RSTA Article 104(8)(1): Tax Credits for Electronic Returns

PDC and POSCO Chemtech reported that they used this program.<sup>220</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not

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<sup>211</sup> See POSCO Preliminary Calculation Memorandum.

<sup>212</sup> See POSCO-PDC IQR at 60.

<sup>213</sup> See POSCO Preliminary Calculation Memorandum.

<sup>214</sup> See POSCO-PDC IQR at 61 and Hyosung IQR at 27.

<sup>215</sup> See POSCO Preliminary Calculation Memorandum.

<sup>216</sup> See POSCO-PDC IQR at 61.

<sup>217</sup> See POSCO Preliminary Calculation Memorandum.

<sup>218</sup> See POSCO-PDC IQR at 61.

<sup>219</sup> See POSCO Preliminary Calculation Memorandum.

<sup>220</sup> See POSCO-PDC IQR at 62 and POSCO Chemtech IQR at 24.

have an impact on POSCO's overall subsidy rate.<sup>221</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

23. RSTA Article 121(2): Corporate Tax Reductions or Exemptions for Foreign Investment

PNR reported that it used this program.<sup>222</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>223</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

24. Pre-1992 Directed Credit Loans

POSCO reported that it had outstanding loans during the POI under this program.<sup>224</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>225</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

25. R&D and Other Subsidies in AUL Period

POSCO reported receipt of grants throughout the AUL period, *i.e.*, 2001 through 2015.<sup>226</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>227</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

26. Grants from the Korea Workers' Compensation & Welfare Service

POSCO Chemtech reported that it used this program during the POI.<sup>228</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as such, does not have an impact on POSCO's overall subsidy rate.<sup>229</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

27. Port Usage Grants for Pohang Youngil Port

POSCO and POSCO M-Tech reported use of this program during the POI.<sup>230</sup> However, the calculation of the benefits resulted in a rate that is less than 0.005 percent *ad valorem*, and, as

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<sup>221</sup> See POSCO Preliminary Calculation Memorandum.

<sup>222</sup> See PNR IQR at 22.

<sup>223</sup> See POSCO Preliminary Calculation Memorandum.

<sup>224</sup> See POSCO-PDC IQR at 75.

<sup>225</sup> See POSCO Preliminary Calculation Memorandum.

<sup>226</sup> See POSCO-PDC IQR at 76.

<sup>227</sup> See POSCO Preliminary Calculation Memorandum.

<sup>228</sup> See POSCO Chemtech IQR at 31 – 32.

<sup>229</sup> See POSCO Preliminary Calculation Memorandum.

<sup>230</sup> See Letter from POSCO, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Fifth Supplemental Questionnaire Response," dated August 10, 2016 at 3 and POSCO M-Tech IQR at 29.

such, does not have an impact on POSCO's overall subsidy rate.<sup>231</sup> Consistent with our past practice, we did not include this program in our net subsidy rate calculations for POSCO.

#### **D. Programs Preliminarily Determined To Be Not Used**

The following programs were reported by the respondents as tied to the production of non-subject merchandise, not 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.

##### **1. K-SURE Short-Term Export Credit Insurance**

PDC, Hyosung, and Hyundai reported purchasing export credit insurance from K-SURE during the POI.<sup>232</sup> PDC states that it did not receive any reimbursements from K-SURE because it had no claims paid under its K-SURE policy related to exports of CTL plate to the United States.<sup>233</sup> Hyosung and Hyundai state that they did not use this credit insurance for shipments of subject merchandise to the United States during the POI.<sup>234</sup> Therefore, pursuant to 19 CFR 351.520, we preliminarily determine no benefit was provided under this program during the POI.

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

##### *Provision of Inputs for Less Than Adequate Remuneration*

1. Power Business Law Subsidies
2. Provision LNG for LTAR

##### *KEXIM Countervailable Subsidy Programs*

3. Short-Term Export Credits
4. Export Factoring
5. Export Loan Guarantees
6. Trade Bill Rediscounting Program

##### *KDB and Industrial Base Fund Loans*

7. Loans under the Industrial Base Fund

##### *K-SURE – Export Insurance and Export Credit Guarantees*

8. Export Credit Guarantees

##### *Energy and Resource Subsidies*

9. Special Accounts for Energy and Resources (SAER) Loans
10. Clean Coal Subsidies

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<sup>231</sup> See POSCO Preliminary Calculation Memorandum.

<sup>232</sup> See POSCO-PDC IQR at 41, Hyosung IQR at 22, and Hyundai IQR at 20.

<sup>233</sup> See POSCO-PDC IQR at 41.

<sup>234</sup> See Hyosung IQR at 22 and Hyundai IQR at 20.

### *Green Subsidies*

11. GOK Subsidies for “Green Technology R&D” and its Commercialization
12. Support for SME “Green Partnerships”

### *Income Tax Programs*

13. Research, Supply, or Workforce Development Investment Tax Deduction for “New Growth Engines” under RSTA Article 10(1)(1)
14. Research, Supply, or Workforce Development Expense Tax Deductions for “Core Technologies” under RSTA Article 10(1)(2)
15. Adjustment for any Foreign Source Income under Article 57 of the Corporate Tax Act

### *Subsidies to Companies Located in Certain Economic Zones*

16. Tax Reductions and Exemptions in Free Economic Zones
17. Exemptions and Reductions of Lease Fees in Free Economic Zones
18. Grants and Financial Support in Free Economic Zones

### *Grants*

19. Sharing of Working Opportunities/Employment Creating Incentives
20. Dongbu’s Debt Restructuring

### *Other Subsidies*

21. PDC – Various Transactions with KDB During 2015
22. Hyosung – Korea Finance Corporation/KDB Facility Loans
23. Hyosung – KDB Usance Loans<sup>235</sup>
24. Hyosung – Industrial Bank of Korea Short-Term Discounted Loans for Export Receivables
25. PNR – Long-Term Facility and General Loans from KDB

## **E. Programs for Which Additional Information is Required**

POSCO reported receiving multiple R&D grants outside of the ITIPA program during the POI.<sup>236</sup> Specifically, POSCO states that it received grants from the Ministry of Land, Infrastructure and Transports, the city of Pohang, and the Human Resources Development Service of Korea.<sup>237</sup> POSCO also reported receiving income tax benefits under RSTA Article 10-2, “Special Taxation for Contribution, etc. for R&D.”<sup>238</sup> Finally, POSCO reported its 1989 revaluation certain assets pursuant to Article 56(2) of the Tax Reduction and Exemption Control Act.<sup>239</sup> We intend to request that POSCO and the GOK provide further information regarding these grants and tax programs. If appropriate, we will address these grants in a post-preliminary analysis.

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<sup>235</sup> See Hyosung IQR at 34 and footnote 188 above.

<sup>236</sup> See POSCO-PDC IQR at 76.

<sup>237</sup> See POSCO-PDC IQR at Exhibit M-4.

<sup>238</sup> See POSCO-PDC IQR at 59.

<sup>239</sup> *Id.*, at 75.

## **X. ITC NOTIFICATION**

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an APO, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(3) of the Act, if our final determination is affirmative, the ITC will make its final determination within 75 days after the Department makes its final determination.

## **XI. 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.<sup>240</sup> 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.<sup>241</sup>

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.<sup>242</sup> This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing, or to participate if one is requested, must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*.<sup>243</sup> 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.<sup>244</sup> Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time on the due dates established above.<sup>245</sup>

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<sup>240</sup> See 19 CFR 351.224(b).

<sup>241</sup> See 19 CFR 351.309(c) – (d); *see also* 19 CFR 351.303 (for general filing requirements).

<sup>242</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>243</sup> See 19 CFR 351.310(c).

<sup>244</sup> See 19 CFR 351.303(b)(2)(i).

<sup>245</sup> See 19 CFR 351.303(b)(1).

## **XII. VERIFICATION**

As provided in section 782(i)(1) of the Act, we intend to verify the factual information submitted in response to the Department's questionnaires.

## **XVI. CONCLUSION**

We recommend that you approve the preliminary findings described above.

  
\_\_\_\_\_  
Agree                      Disagree

  
\_\_\_\_\_  
Christian Marsh  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

  
\_\_\_\_\_  
Date