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Administrative Review

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February 28, 2017

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Senior Director, Office I
Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the
Countervailing Duty Administrative Review, and the Preliminary
Intent to Rescind in Part: Certain Cut-to-Length Carbon-Quality
Steel Plate from the Republic of Korea

I. Summary

In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on certain cut-to-length carbon-quality steel plate from the Republic of Korea (CTL Plate from Korea) for the period of review (POR) January 1, 2015, through December 31, 2015. The Department preliminarily determines that Hyundai Steel Co. (Hyundai Steel) received countervailable subsidies that are above *de minimis* and that Dongkuk Steel Mill Co., Ltd. (DSM) received countervailable subsidies that are *de minimis*. Therefore, we are applying to the five firms not selected for individual examination in the administrative review the above *de minimis* net subsidy rate calculated for Hyundai Steel.¹

The Department also received timely filed no shipment certifications from GS Global Corp. (GS Global), Hyundai Glovis, Hyundai Mipo Dockyard Co., Ltd (Hyundai Mipo), Hyuosung Corporation (Hyuosung), Posco Daewoo Corporation (formerly known as Daewoo International) (Posco Daewoo Corp.), Samsung C&T Corporation (Samsung C&T Corp.), SK Networks Co., Ltd. (SK Networks), and Samsung Heavy Industries. Because there is no evidence on the record to indicate that these companies had sales of subject merchandise during the POR, pursuant to 19 CFR 351.213(d)(3), the Department intends to rescind the review with respect to GS Global, Hyundai Glovis, Hyundai Mipo, Hyuosung, Posco Daewoo Corp., Samsung C&T Corp., SK Networks, and Samsung Heavy Industries.

¹ The five firms subject to the non-selected rate are: Bookuk Steel, BDP International, Samsung C&T Engineering and Construction Group, Sung Jin Steel Co., Ltd., and Samsung C&T Trading and Investment Group.



If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess CVDs on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. We intend to issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).

II. Background

On February 10, 2000, the Department published the *CTL Plate Order* in the *Federal Register*.² On February 3, 2016, the Department of Commerce (the Department) published a notice of opportunity to request an administrative review of the *CTL Plate Order*.³

On February 29, 2016, we received a timely request from Nucor Corporation (hereinafter referred to as Petitioner) for a review of the *CTL Plate Order* as it applies to the following firms: BDP International, Bookuk Steel, Daewoo International Corp., DSM, GS Global Corp., Hyundai Glovis Company Ltd., Hyundai Mipo Dockyard Co. Ltd, Hyundai Steel, Samsung C&T Corp., Samsung C&T Engineering & Construction Group, Samsung C&T Trading and Investment Group, Samsung Heavy Industries, Hyuosung Corporation, SK Networks, and Sung Jin Steel Co., Ltd.⁴ On February 29, 2016, we received a timely request for administrative review from Hyundai Steel.⁵ On April 7, 2016, the Department initiated a CVD review with regard to the 15 producers for which interested parties requested individual review.⁶

On April 15, 2016, GS Global Corporation submitted a non-shipment claim. On May 3, 2016, Hyundai Glovis and Hyundai Mipo Dockyard Co., Ltd. submitted non-shipment claims. On May 4, 2016, Samsung C&T Corporation and Samsung Heavy Industries submitted non-shipment claims. On May 5, 2016, Posco Daewoo Corporation (formerly known as Daewoo International Corporation), and SK Networks Co., Ltd. submitted non-shipment claims. On May 9, 2016, Hyosung Corporation filed a non-shipment claim.

On May 12, 2016, the Department released CBP entry data, and provided interested parties until May 19, 2016, to submit comments on the data.⁷ On May 19, 2016, Nucor submitted comments requesting that the Department select Hyundai Steel as a mandatory respondent in the review.⁸

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

³ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 81 FR 5712 (February 3, 2016).

⁴ See Nucor's February 29, 2016, letter to the Department.

⁵ See Hyundai Steels' February 29, 2016, letter to the Department.

⁶ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 20324 (April 7, 2016) (*Initiation*).

⁷ See Memorandum to the File from through Eric B. Greynolds, Program Manager, "Customs and Border Protection Data for Selection of Respondents for Individual Review," dated May 12, 2016 (CBP Query Memorandum).

⁸ See Nucor's May 19, 2016, submission.

On June 9, 2016, the Department selected DSM and Hyundai Steel as the mandatory respondents in the administrative review.⁹

On June 9, 2016, the Department issued the Initial Questionnaire to the Government of Korea (GOK), DSM, and Hyundai Steel.¹⁰ DSM and Hyundai Steel submitted their affiliation questionnaire responses on June 24, 2016 and June 30, 2016, respectively.¹¹ On August 1, 2016, DSM, and Hyundai Steel and submitted their response to Section III of the Department's June 9, 2016, Initial Questionnaire.¹² On August 1, 2016, the GOK submitted its response to the Department's Initial Questionnaire.¹³

On July 1, 2016, the Department issued a supplemental questionnaire to DSM regarding DSM's affiliations with other companies to which it responded on July 15, 2016. On September 6, 2016, the Department issued a Section III supplemental questionnaire to DSM to which it responded on September 27, 2016.

On September 8, 2016, the Department issued a supplemental questionnaire to the GOK to which the GOK responded on September 23, 2016. On August 22, 2016, Petitioner submitted deficiency comments for DSM and Hyundai Steel.¹⁴

On August 29, 2016, Petitioner submitted timely new subsidy allegations (NSA) with regard to Hyundai Steel and DSM.¹⁵ On September 8, 2016, Hyundai Steel submitted a rebuttal to Petitioner's NSAs. On November 15, 2016, the Department released its decision memorandum regarding Petitioner's NSAs as it regards DSM and Hyundai Steel.¹⁶

On October 6, 2016, the Department extended the due date of the preliminary results of this administrative review until February 28, 2017.¹⁷

⁹ See Memorandum to Eric B. Greynolds, Acting Director, Office III, Operations, "Respondent Selection," dated June 9, 2016.

¹⁰ See the Department's June 9, 2016, Initial Questionnaire.

¹¹ See DSM's June 24, 2016, Affiliation Questionnaire Response (DSM Affiliation QNR Response) and Hyundai Steel's June 30, 2016, Affiliation Questionnaire Response (Hyundai Affiliation QNR Response).

¹² See DSM's August 1, 2016, Section III Initial Questionnaire Response (DSM August 1 QR) and Hyundai Steel's August 1, 2016, Section III Initial Questionnaire Response (Hyundai Steel's August 1 QR).

¹³ See the GOK's August 1, 2016, Questionnaire Response to the Department's June 9, 2016, Initial Questionnaire (GOK's Initial Questionnaire Response).

¹⁴ See Petitioner's Deficiency Comments regarding DSM's Initial Questionnaire response, dated August 22, 2016; *see also* Petitioner's Deficiency Comments regarding Hyundai Steel's Initial Questionnaire Response, dated August 22, 2016.

¹⁵ See Petitioner's August 29, 2016 submission, "Certain Cut-to-Length Carbon-Quality Steel Plate from South Korea: New Subsidy Allegation," (NSA Submission).

¹⁶ See Memorandum to Erin Begnal, Director, Office III, Operations, "New Subsidy Allegations Memorandum for Dongkuk Steel Mill Co., Ltd. and Hyundai Steel Co., Ltd.," dated November 15, 2016 (NSA Memorandum).

¹⁷ See Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations from Erin Begnal, Director, Antidumping and Countervailing Duty Operations, Office III, through Eric Greynolds, Program Manager, Antidumping and Countervailing Duty Operations, Office III, regarding Antidumping Duty Administrative Review: Extension of Time Limit for Final Results, dated October 6, 2016.

III. Intent to Rescind the 2015 Administrative Review, in Part

As discussed above, GS Global, Hyundai Glovis, Hyundai Mipo, Samsung C&T Corp., Samsung Heavy Industries, Posco Deawoo Corp., SK Networks, and Hyosung claimed no shipments during the POR and CBP did not provide any contradictory information. Therefore, based on our analysis of record evidence, we preliminarily determine that GS Global, Hyundai Glovis, Hyundai Mipo, Samsung C&T Corp., Samsung Heavy Industries, Posco Deawoo Corp., SK Networks, and Hyosung did not ship subject merchandise to the United States during the POR. Therefore, in accordance with 19 CFR 351.213(d)(3), and consistent with our practice, we preliminarily determine to rescind the review for GS Global, Hyundai Glovis, Hyundai Mipo, Samsung C&T Corp., Samsung Heavy Industries, Posco Deawoo Corp., SK Networks, and Hyosung.¹⁸

IV. Non-Selected Rate

The statute and the Department's regulations do not address the establishment of a rate to be applied to individual respondents not selected for examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, the Department looks to section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents which we did not examine in an administrative review. Section 705(c)(5)(A) of the Act articulates a preference that we are not to calculate an all-others rate using rates which are zero, *de minimis* or based entirely on facts available. Accordingly, the Department's usual practice in determining the rate for separate-rate respondents not selected for individual examination has been to weight average the net subsidy rates for the selected companies, excluding rates that are zero, *de minimis*, or based entirely on facts available.¹⁹ Section 705(c)(5)(B) of the Act also provides that, where all rates are zero, *de minimis*, or based entirely on facts available, we may use "any reasonable method" for assigning the all-others rate, including averaging the estimated weighted-average net subsidy rates determined for the exporters and producers individually investigated.

As indicated in the accompanying *Federal Register* notice of preliminary results, dated concurrently with this Preliminary Decision Memorandum, we preliminarily determine that Hyundai Steel received countervailable subsidies that are above *de minimis* and that DSM received countervailable subsidies that are *de minimis*. Therefore, we are applying to the non-selected companies the above *de minimis* net subsidy rate calculated for Hyundai Steel.

¹⁸ See, e.g., *Aluminum Extrusions from the People's Republic of China: Notice of Partial Rescission of Countervailing Duty Administrative Review*, 79 FR 2635 (January 15, 2014).

¹⁹ See, e.g., *Certain Pasta from Italy: Final Results of the 2008 Countervailable Review*, 75 FR 37386, 37387 (June 29, 2010) (*Pasta from Italy*).

V. Scope of the Order

The products covered by the order are certain hot-rolled carbon-quality steel: (1) universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to-length (not in coils) and without patterns in relief), of iron or non-alloy-quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils). Steel products to be included in the scope of the order are of rectangular, square, circular or other shape and of rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been “worked after rolling”) -- for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non-metallic substances are included within this scope. Also, specifically included in the scope of the order is high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is two percent or less, by weight; and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of this order unless otherwise specifically excluded. The following products are specifically excluded from the order: (1) products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.*, USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

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

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

VI. Subsidies Valuation Information

A. Allocation Period

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 average useful life (AUL). In the instant review, we did not allocate any benefits over 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 subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides that the Department will attribute subsidies received by certain other companies to the combined sales of those companies when: (1) two or more corporations with cross-ownership produce the subject merchandise; (2) a firm that received a subsidy is a holding or parent company of the subject company; (3) there is cross-ownership between an input supplier and a downstream producer and production of the input is primarily dedicated to the production of the downstream product; or (4) a corporation producing non-subject merchandise received a subsidy and transferred the subsidy to a corporation with cross-ownership with the subject company.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This regulation states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations. The Court of International Trade (CIT) 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.²⁰

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

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

²⁰ See *Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001) (*Fabrique*).

C. Benchmarks for Long-Term Loans and Discount Rates

During the POR, DSM had outstanding countervailable long-term won-denominated loans from a government-owned bank.²¹ As benchmarks for countervailable, won-denominated long-term loans and as discount rates, we use, where available, the company-specific interest rates on the company's comparable commercial, won-denominated loans. If such loans were not available, we use, where available, the company-specific corporate bond rate on the company's public and private bonds, as we have determined that the GOK did not control the Korean domestic bond market after 1991.²² This is the approach the Department has taken in several prior Korean CVD proceedings.²³ Specifically, in those cases, we determined that, absent company-specific, commercial long-term loan interest rates, the won-denominated corporate bond rate is the best indicator of the commercial long-term borrowing rates for won-denominated loans in Korea, because it is widely accepted as the market rate in Korea.²⁴ Where company-specific rates were not available, we used the national average of the yields on three-year, won-denominated corporate bonds, as reported by the Bank of Korea (BOK). This approach is consistent with 19 CFR 351.505(a)(3)(ii) and our practice.²⁵ In accordance with 19 CFR 351.505(a)(2)(i), our benchmarks take into consideration the structure of the government-provided loans. For countervailable fixed-rate loans, pursuant to 19 CFR 351.505(a)(2)(iii), we used benchmark rates issued in the same year that the government loans were issued.

D. Denominators

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, the Department considers the basis for the respondent's receipt of benefits under each program. As discussed in further detail below, we determine that only one program, used by Hyundai Steel, was tied to export performance. Therefore, for the program tied to export performance, we use total export sales as the denominator for our calculation. For all other calculations, because they were not tied to export performance, we used total sales as the denominator for our rate calculations for both Hyundai Steel and DSM.

²¹ See DSM's August 1 QR at 9.

²² See, e.g., *Final Negative Countervailing Duty Determination: Stainless Steel Plate in Coils from the Republic of Korea*, 64 FR 15530, 15531 (March 31, 1999) and "Analysis Memorandum on the Korean Domestic Bond Market" (March 9, 1999).

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

²⁴ See *Final Affirmative Countervailing Duty Determinations and Final Negative Critical Circumstances Determinations: Certain Steel Products from Korea*, 58 FR at 37328, 37345-37346 (July 9, 1993).

²⁵ See, e.g., *Final Results of CORE from Korea 2006*, and accompanying IDM at "Benchmark for Long Term Loans."

VII. Analysis of Programs

A. Programs Preliminarily Determined to be Countervailable

1. Local Tax Exemptions on Land Outside Metropolitan Areas – Article 78

In our Initial Questionnaire, we asked the GOK, DSM, and Hyundai Steel to report the receipt of tax exemptions that were contingent upon the firms having facilities located outside of Korean metropolitan areas. In response, DSM and Hyundai Steel reported receiving tax exemptions under Articles 78²⁶ of the Restriction of Special Location Taxation Act (RSLTA).

The GOK administers the tax exemption program under Article 78 of the RSLTA to provide incentives for companies to relocate from populated areas in the Seoul metropolitan region to industrial sites in less populated parts of the country.²⁷ Under article 78 of the RSLTA, 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.²⁸ In addition, the entity located in these designated industrial complexes shall have the property tax reduced by 50 percent on the real estate for five years from the date the tax liability becomes effective. The tax exemption is increased to 100 percent of the relevant land, buildings, or facilities that are located in an industrial complex outside of the Seoul metropolitan area. The program is administered by the local tax officials of the county where the industrial complex is located.

Based on the above, we preliminarily determine that the tax reductions constitute a financial contribution in the form of revenue forgone, as described under section 771(5)(D)(ii) of the Act, and confer a benefit pursuant to 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 the subsidies are limited to enterprises located within designated geographical regions. Our findings in this regard are consistent with the Department's practice.²⁹

The tax credits provided under this program are recurring benefits, because the taxes are due annually. Thus, the benefit is expensed in the year in which it is received.³⁰ To calculate the benefit, we subtracted the amount of taxes paid by the firms from the amounts that would have been paid absent the program. To calculate the net subsidy rate, we divided the total benefit by the total sales of the company. On this basis, we determine the net subsidy rate under Article 78

²⁶ See DSM August 1 QR at Exhibit C-7 (Restriction of Special Local Tax Act (RSLTA), Article 78) and Hyundai Steel's August 1 QR at 19 for the Acquisition and Property Taxes and Exhibit C-8 (RSLTA, for the acquisitions and property law) and 25 and 26 for a narrative of RSTA Article 120 and Exhibit V-7.

²⁷ See the GOK's August 1, 2016, Questionnaire Response (GOK's August 1 QR) at 97.

²⁸ *Id.*, at 6.

²⁹ See, e.g., *Coated Free Sheet Paper from the Republic of Korea: Notice of Final Affirmative Countervailing Duty Determination*, 72 FR 60639 (October 25, 2007) (*CFS from Korea*) and accompanying IDM at "Reduction in Taxes for Operation in Regional and National Industrial Complexes" and *Final Results of CORE from Korea 2010* and accompanying IDM at "Reduction in Taxes for Operation in Regional and National Industrial Complexes."

³⁰ See 19 CFR 351.524(a).

program during the POR to be 0.11 percent *ad valorem* for Hyundai Steel and is less than 0.005 percent and thus does not result in a measurable benefit for DSM.

DSM and Hyundai Steel also reported the receipt of additional local tax reductions in connection with facilities located outside of Korean metropolitan areas. Specifically, DSM reported receiving local tax exemptions under RSLTA articles 46 and 57-2³¹ while Hyundai Steel reported receiving local tax exemptions under RSLTA articles 19, 46, 57-2, 109, and 112.³²

Upon review of the information submitted by DSM and Hyundai Steel, we find that, while the firms received these exemptions with regard to facilities located outside of metropolitan areas, the receipt of the tax exemptions were not contingent on the location of their respective facilities.³³ Moreover, we find that the information provided concerning these local tax exemptions under the RSLTA, such as the text of the RSLTA articles themselves, does not indicate that the local tax exemptions are limited, by law, to certain enterprises or industries, groups thereof, or are otherwise limited to enterprises located in certain geographic regions.³⁴ Thus, we preliminarily determine that the receipt of local tax exemptions provided under RSLTA articles 19, 46, 57-2, 109, and 112, do not fall under the purview of the Local Tax Exemptions on Land Outside Metropolitan Areas program that is at issue in this review. Thus, for purposes of these preliminary results, we have not included them in our subsidy analysis. However, the Department will continue to examine these programs in any future administrative reviews, including whether subsidies under the relevant RSTLA article are *de facto* specific.

2. Tax Deduction Under Restriction of Special Taxation Act (RSTA) Article 26

Under article 26 of the RSTA, the GOK provides tax incentives to companies that make investments in their respective fields of business. Under RSTA Article 26, taxpayers are permitted to apply for a tax deduction from the income tax or corporate tax equal to 10 percent of the value of the qualifying investment. According to the GOK, the following categories of companies qualify for the tax incentives provided under the program: (1) a small- or medium-sized enterprise, (2) a “transitioning” company, or (3) “any other company.” Additionally, the tax incentives provided under the program are limited to firms located outside the Seoul Metropolitan area.³⁵ Hyundai Steel claimed tax credits under this program on the tax return filed during the POR.³⁶ DSM reported it did not use this program during the POR.

We preliminarily determine that the tax reductions constitute a financial contribution in the form of revenue forgone, as described under section 771(5)(D)(ii) of the Act, and confer a benefit pursuant to 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

³¹ See DSM’s August 1 QR at 9-10.

³² See Hyundai Steel’s August 1 QR at 29 and Exhibits C-15 and C-18.

³³ See the relevant legislation for RSLTA Articles 19, 46, 109, and 112, as contained in Hyundai Steel’s August 1 QR at 29 and Exhibits C-15 and C-18; see relevant legislation for RSLTA Article 57-2 as contained in DSM’s August 1 QR at 2 and Exhibits D-13-D-3 and D-13-D-4.

³⁴ *Id.*

³⁵ See Hyundai Steel’s August 1 QR at 216-222.

³⁶ *Id.*, at 218.

771(5A)(D)(iv) of the Act, because benefits are limited to enterprises located within designated geographical regions. Our findings in this regard are consistent with the Department's practice.³⁷

To calculate the benefit for Hyundai Steel, we subtracted the amount of taxes paid by the firm from the amount that would have been paid absent the program. To calculate the net subsidy rate, we divided the total benefit by the total sales of the company. On this basis, we determine the net subsidy rate under this program during the POR to be 0.27 percent *ad valorem* for Hyundai Steel.

3. Tax Credit for Research and Human Resource Development Expenses under RSTA Article 10 (1)(3)

Under this program, companies can claim a credit toward taxes payable for eligible expenditures on research and human resources development. Companies can calculate their tax credit as either 40 percent of the difference between the eligible expenditures in the tax year and the average of the prior four years, or a maximum of six percent of the eligible expenditures in the current tax year. Article 10(1)(3) of the RSTA is the law authorizing the credit, and it is implemented through paragraphs 3, 4, 5 and 6 of Article 9 of the Enforcement Decree of the RSTA. According to the GOK's responses, the selection of a recipient and provision of support under Article 10(1)(3) are not contingent upon export performance, the use of domestic over imported goods or otherwise limited in law to an enterprise, industry or groups thereof.³⁸

Hyundai claimed tax credits under this program with regard to the income tax return filed during the POR.³⁹ DSM reported it did not use this program during the POR.

In *Residential Washers from the Republic of Korea*, the Department found that the law for this program, as well as the implementing provisions for this tax program, do not limit eligibility to a specific enterprise or industry or group thereof in accordance with section 771(5A)(D)(i) of the Act.⁴⁰ In our preliminary findings, we have reached the same conclusion. Therefore, we have examined whether 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. The GOK reported that it does not compile the usage data for this program in terms of business sectors or industries.⁴¹ Because the GOK does not compile the data on the basis of business sectors or industries, we were unable to determine whether this program provides benefits to a limited number of recipients on an industry-specific basis. As a result, the evidence on the record is not sufficient to evaluate predominant or disproportionate use of this program by an enterprise or industry pursuant to sections 771(5A)(D)(iii)(II) and 771(5A)(D)(iii)(III) of the Act.

Therefore, in conducting our specificity analysis under section 771(5A)(D)(iii) of the Act, we examined Hyundai Steel's receipt of benefits as a portion of the total benefits granted by the

³⁷ See *CFS from Korea* and accompanying IDM.

³⁸ See the GOK's August 1 QR at 175 for RSTA 10(1)(3) and at 203 for RSTA 25-3.

³⁹ See Hyundai Steel's August 1 QR at Exhibit B-1 and Exhibit 17 (2014 Income Tax Return).

⁴⁰ See *Large Residential Washers from the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 75975 (December 26, 2012) (*Residential Washers from Korea*) and accompanying IDM at 11-14.

⁴¹ See the GOK's August 1 QR at 197.

GOK to all companies to determine whether the company was a predominant or disproportionate user of the program. While the record contains the total amount of the subsidy disbursed during the relevant period, the GOK did not provide information regarding specific amounts for each of the recipient firms, except for the amounts received by Hyundai Steel.⁴² To determine whether Hyundai Steel received a disproportionate amount of subsidy, we compared the benefit amount received by Hyundai Steel to the average amount received by all other companies. Under this approach, we find that in 2015, Hyundai Steel received a disproportionately large percentage of all the benefits granted under Article 10(1)(3).⁴³ These facts demonstrate that Hyundai Steel received a disproportionate amount of the tax credits under the Article 10(1)(3) program. Because information provided by the GOK indicates that the tax credits under this program were provided disproportionately to Hyundai Steel, we preliminarily determine that this program is *de facto* specific, in accordance with section 771(5A)(D)(iii)(III) of the Act. Our *de facto* specificity analysis is consistent with the approach utilized in *Bottom Mount Refrigerators from Korea*.⁴⁴

The tax credits 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 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, effectively, the amount of the tax credit claimed on the tax return filed during the POI, pursuant to section 771(5)(E) of the Act and 19 CFR 351.509(a)(1).

The tax credits provided under this program are recurring benefits, because the taxes are due annually. Thus, the benefit is expensed in the year in which it is received.⁴⁵ To calculate the benefit to Hyundai Steel we divided the tax credits by the sum of its total sales. The resultant subsidy rate is 0.02 percent *ad valorem* for Hyundai Steel.

4. Tax Credit for Research and Human Resource Development Expenses under RSTA Article 25-3

Under this program, companies can claim a credit toward taxes payable for eligible expenditures on research and human resources development.⁴⁶ Under RSTA Article 25-3, any Korean national that makes an investment in environmental conservation facilities prescribed by Article 22-3 in the Presidential Decree can apply for a tax credit amounting to 10 percent of the investment amount which can be deducted from its corporate tax.⁴⁷ Under the version of RSTA Article 25-3 effective during the POR, the credit rate for this program was three percent. However, Hyundai Steel accrued the credit it claimed under this program in previous years, when the credit rate was 10 percent. In its response, Hyundai Steel noted that companies can

⁴² *Id.*, at 197-198.

⁴³ See Memorandum from John Conniff to the File, Hyundai De-Facto Specificity Analysis, dated concurrently with this notice.

⁴⁴ See *Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea; Final Affirmative Countervailing Duty Determination*, 77 FR 17410 (March 26, 2012) (*Bottom Mount Refrigerators from Korea*) and accompanying IDM.

⁴⁵ See 19 CFR 351.524(a).

⁴⁶ See the GOK's August 1 QR at 209.

⁴⁷ See Hyundai Steel's August 1 QR at Exhibit B-4.

accrue credits in one year and delay claiming an exemption for up to 5 years.⁴⁸ Therefore, for purposes of our analysis, we relied on the claim made under the program as included in the 2014 tax return filed during the POR.

The law for this program and the implementing provisions for this tax program do not limit eligibility to a specific enterprise or industry or group thereof, in accordance with section 771(5A)(D)(i) of the Act.⁴⁹ Therefore, we examined whether 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 order to determine whether the tax credits Hyundai Steel received were *de facto* specific,⁵⁰ we sought to recreate the specificity analysis the Department conducted in *Bottom Mount Refrigerators from Korea* (e.g., a comparison of the number of recipients that received the benefits under the program during tax year 2015 to the number of companies that filed tax returns during the same period).⁵¹ However, we lack information concerning the number of corporate tax filings during the POR of the instant review. Thus, in order to recreate the analysis employed in *Bottom Mount Refrigerators from Korea*, we used the number of recipients that received benefits under Article (10)(1)(3) of the RSTA during tax year 2014, the year prior to the POR, as a proxy for the number of firms that filed corporate tax returns during the same period.⁵² We note that our use of the Article (10)(1)(3) as a proxy is conservative, given that the users of the program are a subset of the total number of corporations that filed tax returns during tax year 2014. Based on our analysis, we find that the number of firms that claimed credits under Article 25-3 of the RSTA are specific, in fact, because they are limited in number as described under section 771(5A)(D)(iii)(I) of the Act.

We preliminarily determine that the tax credits 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 to the recipient in the amount of the difference between the taxes Hyundai Steel paid and the amount of taxes that it would have paid in the absence of this program, effectively, the amount of the tax credit claimed on the tax return filed during the POR, pursuant to section 771(5)(E) of the Act and 19 CFR 351.509(a)(1).

The tax credits provided under this program are recurring benefits, because the taxes are due annually. Thus, we find that the benefit is expensed in the year in which it is received.⁵³ To calculate the benefit to Hyundai Steel we divided the tax credits by the sum of its total sales. The resultant subsidy rate is 0.07 percent *ad valorem* for Hyundai Steel.

⁴⁸ *Id.*, at Exhibit B-3.

⁴⁹ See the GOK's August 1 QR at 209.

⁵⁰ *Id.*, at 210.

⁵¹ See *Bottom Mount Refrigerators from Korea* and accompanying IDM at Comment 1.

⁵² See the GOK's August 1 QR at 193.

⁵³ See 19 CFR 351.524(a).

5. Electricity Discounts under Various Korea Electric Power Corporation (KEPCO) Programs

Hyundai Steel and DSM used the following GOK electricity program during the POR.⁵⁴

- Trading of Demand Response Resources (DRR) Program

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).⁵⁵ 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. 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.⁵⁶ The Korean Power Exchange (KPX) operates both programs.⁵⁷

The law does not limit eligibility to a specific enterprise or industry or group thereof, in accordance with section 771(5A)(D)(i) of the Act. However, the GOK submits that 1,522 companies were approved for the assistance under this program in 2015,⁵⁸ though participation in it is available to "all entities" in Korea.⁵⁹ 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.⁶⁰ End users receive payments from those aggregators. Prior to that exchange between the KPX and the aggregators, KEPCO pays the KPX for the latter's role in demand curtailment under the program.⁶¹ Consistent with our prior findings, we preliminarily find KEPCO to be an "authority" within the meaning of section 771(5)(B) of the Act.⁶² 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 DSM and Hyundai Steel in accordance with 19 CFR 351.504(a).

Because we found no evidence on the record indicating that subsidies under the DRR program were tied to export sales, we used the total sales of DSM and Hyundai Steel as a denominator to

⁵⁴ See Hyundai Steel August 1 QR at 25-28 and Exhibit E-1; see also DSM's August 1 QR at 19-21, Appendix D-15-B and Appendix D-15-B.; see the GOK's August 1 QR at 19.

⁵⁵ See the GOK's August 1 QR at 240.

⁵⁶ *Id.*, at 240-241.

⁵⁷ *Id.*, at 242.

⁵⁸ *Id.*, at 252.

⁵⁹ *Id.*, at 251.

⁶⁰ *Id.*, at 242.

⁶¹ *Id.*

⁶² 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 13-15.

determine the countervailable benefit under this program during the POR. On this basis we preliminarily determine the net subsidy rate (*i.e.*, electrical payments received from the GOK) that DSM and Hyundai Steel received under this program to be 0.12 percent *ad valorem* for DSM and 0.05 percent *ad valorem* for Hyundai Steel.

6. Various Research and Development Grants Provided Under the Industrial Technology Innovation Promotion Act

Funding for research and development projects under the Industrial Technology Innovation Promotion Act (ITIPA) is designed to enhance the competitiveness of Korea's national economy through the development of industrial technologies.⁶³ The legal basis of this program is Article 11 of the Industrial Technology Innovation Promotion Act and relevant regulations. Under these provisions, the Ministry of Trade, Industry and Energy (MOTIE) is authorized to regulate and operate this program, and the Korea Evaluation Institute of Industrial Technology (KEIT), the Korea Institute of Energy Technology Evaluation and Planning (KETEP), and the Korea Industrial Complex Corporation (KICOX) are authorized to administer this program. To implement this program, KEIT, KETEP and KICOX prepare a basic plan each year for the development of industrial technology.⁶⁴

The plan includes the technology research and development (R&D) that KEIT, KETEP and KICOX intend to pursue, and describes the application process and supporting documentation required from potential participants. According to the GOK, any person seeking to participate in one of the projects described in KEIT's basic plan then prepares an industrial technology development business plan that conforms to the requirements set forth in the basic plan, and submits that business plan to the Review Committee established by MOTIE. The Review Committee then evaluates the business plans submitted to verify their conformity with the terms and conditions set forth in the basic plan. If the business plans conform with the basic plan, MOTIE and the applicants for the program sign a contract.⁶⁵

We preliminarily determine this program to be *de jure* specific under section 771(5A)(D)(i) of the Act, because it is limited by law 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 may have to be repaid, we preliminarily 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 section 771(5)(E) of the Act and 19 CFR 351.504(a).

During the POR, DSM and Hyundai Steel received various R&D grants pursuant to the ITIPA.⁶⁶ DSM has participated in the R&D program for Demonstration of Thermo-Chemically Enhanced Smart Electric-Arc Furnace Technology for Electricity Load Reduction. The R&D activities

⁶³ *Id.*, at 8.

⁶⁴ *Id.*

⁶⁵ *Id.*, at 9.

⁶⁶ See the GOK's August 1 QR at 151; Hyundai Steel's August 1 QR at 24 and Exhibit D-5; and DSM's August 1 QR at 16-19.

under this program took place from June 1, 2013, to May 31, 2017. DSM also has participated in an R&D program for Evaluation of Characterization of Direct Reduction Iron and Development of Optimization Model for Electric Arc Furnace. The R&D activities under this program took place from December 1, 2015, to December 31, 2016.⁶⁷ The names of the R&D projects in which Hyundai Steel has participated in are business proprietary and, thus, cannot be disclosed in this decision memorandum.⁶⁸

Additionally, DSM received a grant from the Pohang City government in connection with a purchase of an electric vehicle in January, 2014.⁶⁹ We find no evidence on the record indicating that subsidy under this program is tied to export sales. Accordingly, we preliminarily determine that the benefit, when divided by total sales, resulted in a net subsidy rate that is less than 0.005 percent and, thus, consistent with our practice we find that the program did not confer a measurable benefit to DSM.⁷⁰

We find no evidence on the record indicating that subsidies under the ITIPA program were tied to export sales. Under the ITIPA program, both DSM and Hyundai Steel were awarded specific grants under separate criteria for a variety of programs. Therefore, we used the total sales of DSM and Hyundai Steel when determining whether these individual programs conferred a countervailable benefit during the POR. During the POR both Hyundai Steel and DSM each had one measurable subsidy program under the ITIPA. Accordingly, we preliminarily determine the net subsidy rates that DSM and Hyundai Steel received under these programs during the POR, when analyzed separately, are 0.01 percent for Hyundai Steel and 0.01 percent for DSM.

7. Modal Shift Program

The GOK established this grant program in 2010 in order to decrease greenhouse gas emissions in the transportation and logistics sector. Specifically, through this program, the GOK aims to increase the transport volume by railroad and vessels, in order to decrease the transport volume by heavy freight motorized vehicles.⁷¹ Under this program, the GOK provides grants from the Ministry of Land, Infrastructure and Transport to administering agencies for truck-to-rail “modal shift” entities and grants from the Ministry of Oceans and Fisheries to administering agencies for truck-to-marine freight “modal shift” entities. The legal framework for this program is Article 21 of the Sustainable Transportation Logistics Development Act, Article 24 of its Enforcement

⁶⁷ *Id.*, at 17 and Appendix D-14.

⁶⁸ For a listing of the various R&D projects for which Hyundai Steel received grants, *see* Memorandum from John Conniff to the File, “Preliminary Calculations for Hyundai Steel Co., Ltd.,” dated concurrently with this memorandum, (Hyundai Steel Calc Memo).

⁶⁹ *See* the GOK’s August 1 QR at 27.

⁷⁰ *See Certain Hot-Rolled Carbon Steel Flat Products from India: Notice of Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*, 73 FR 79791, 79800 (December 30, 2008); in which the Department refrained from determining whether a subsidy benefit constituted a financial contribution or was specific under the statute when the resulting net subsidy rate was less than 0.005 percent *ad valorem*; unchanged in *Certain Hot-Rolled Carbon Steel Flat Products from India: Final Results and Partial Rescission of Countervailing Duty Administrative Review*, 74 FR 20923 (May 6, 2009) (*HRS from India*) and accompanying Issues and Decision Memorandum at “Programs Found Not To Confer a Countervailable Benefit During the POR.”

⁷¹ *See* GOK’s August 1 QR at 230 for a description of the program.

Decree, and Articles 14 through 17 of the Regulation on Modal Shift Agreement as promulgated by the Ministry of Finance (MOF).⁷²

The GOK submits that, for the period between 2012 through 2015, there were a limited number of companies that were approved/received for assistance under this program.⁷³ Because the number of companies that received assistance under this program for these years was limited in number, we preliminarily determine that this program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act, because the actual recipients are limited in number. Furthermore, we preliminarily determine that a financial contribution from the GOK exists in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act.

Hyundai Steel reported that it used this program and received a grant during the POR. The criterion that Hyundai Steel had to meet to qualify for assistance was to shift some of its truck transportation to shipping by boat in order to promote a low-carbon transportation logistics system by reducing greenhouse gas emissions. Because the proposals were consistent with the Sustainable Transportation Logistics Development Act, the proposals were approved by the Korean Shipping Association.⁷⁴

We find no evidence on the record indicating that subsidies under this program are tied to export sales. To calculate the benefit to Hyundai Steel that it received under this grant program during the POR, we divided the value of the grant that it received by its total sales. Accordingly, we preliminarily determine the net subsidy rate that Hyundai Steel received under this program during the POR is 0.01 percent.

B. Programs Preliminarily Determined Not to Confer a Measurable Benefit

1. GOK Directed Credit: 1992-2001 Directed Credit

During the POR, DSM was the only company that had an outstanding loan for this program, which was a loan received from the Korea Housing Bank in 1995 to provide rental housing to employees and which is now held by Kookmin Bank (following a merger with the Korea Housing Bank).⁷⁵

To determine whether this loan conferred a benefit upon DSM during the POR, we compared the amount of interest paid during the POR to the amount of interest that would have been paid on a comparable commercial loan.⁷⁶ We used as our loan benchmark, the national average yield on three-year corporate bonds, as described in the “Loan Benchmarks and Interest Rates” section

⁷² *Id.*

⁷³ *Id.*, at 236 through 239 (BPI) for a more complete description of the number of companies involved in the program.

⁷⁴ See Hyundai Steel’s August 1 QR at Exhibit H-1.

⁷⁵ See DSM’s August 1 QR at 8 and Appendix D-11-A; see also the GOK’s August 1 QR at 2.

⁷⁶ See 19 CFR 351.505(a).

above.⁷⁷ Next, we divided the benefit by DSM's total sales for the POR, which resulted in a rate that was less than 0.005 percent *ad valorem*. On this basis, we preliminarily determine the net subsidy rate under the directed credit program and, thus, does not result in a measurable benefit for DSM.⁷⁸ Therefore, consistent with the Department's practice, we preliminarily determine that this loan did not result in a numerically significant benefit to DSM during the POR.

2. Article 84 of the RSLTA

Article 84 of the RSLTA provides property tax and local education tax exemptions for land, buildings, and houses "on which the projects of urban planning facilities have not been implemented for a period of ten or more years after the relevant topographical map was announced . . ." by the administering authority.⁷⁹ Thus, based on this information, we preliminarily determine that the local tax exemptions provided under Article 84 of the RSLTA are limited to facilities that are deemed to be "urban planning facilities" by the GOK. We find that information from DSM supports our preliminary finding that the local tax exemptions under Article 84 of the RSLTA are contingent upon the location of a firm's facilities.

Both DSM and Hyundai Steel received exemptions from property taxes and local education taxes during the review period pursuant to Article 84 of the RSLTA. Receipt of the exemptions for DSM and Hyundai Steel was based on the location of their warehouses and plants in areas in which the projects of urban planning facilities prescribed in subparagraph 7 of Article 2 of the National Land Planning and Utilization Act had not been implemented for a period of ten or more years after the relevant topographical map had been announced publicly, as prescribed in Article 32 of the Same Act.⁸⁰

Based on the above, we preliminarily determine that the tax reductions constitute a financial contribution in the form of revenue forgone, as described under section 771(5)(D)(ii) of the Act, and confer a benefit pursuant to 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 the subsidies are limited to enterprises located within designated geographical regions. Our findings in this regard are consistent with the Department's practice.⁸¹

To calculate the benefit, we subtracted the amount of taxes paid by the firms from the amounts

⁷⁷ See, e.g., *Certain Cut to-Length Carbon-Quality Steel Plate from the Republic of Korea: Notice of Preliminary Results and Preliminary Partial Rescission of Countervailing Duty Administrative Review*, 72 FR at 65299-65300 (November 20, 2007) (*2006 Preliminary Results*), unchanged in *Final Results*, 73 FR 14770 (March 19, 2008).

⁷⁸ See Memorandum from Jolanta Lawski to the File, "Preliminary Calculations for Dongkuk Steel Mill Co., Ltd.," dated concurrently with this memorandum, (DSM Prelim Calc Memo).

⁷⁹ See DSM's August 1 QR at D-13-C-1 and D-13-C-3.

⁸⁰ *Id.*, at Exhibit D-13-C-1, emphasis added.

⁸¹ See, e.g., *Coated Free Sheet Paper from the Republic of Korea: Notice of Final Affirmative Countervailing Duty Determination*, 72 FR 60639 (October 25, 2007) (*CFS from Korea*) and accompanying IDM at "Reduction in Taxes for Operation in Regional and National Industrial Complexes" and *Final Results of CORE from Korea 2010* and accompanying IDM at "Reduction in Taxes for Operation in Regional and National Industrial Complexes." (CFS from Korea and IDM).

that would have been paid absent the program. To calculate the net subsidy rate, we divided the total benefit by the total sales of the company. On this basis, we preliminarily determine the net subsidy rate under Article 84 of the RSTLA program is less than 0.005 percent and, thus, does not result in a measurable benefit for DSM or Hyundai Steel.

3. Demand Adjustment Program of Emergent Reduction (ER) (former Emergency Road Reduction (ELR))

For the ER program, we found that the benefit to both companies is less than 0.005 percent *ad valorem* during the POR. Therefore, consistent with the Department's practice, we preliminarily determine that this program did not confer a numerically significant benefit to DSM and Hyundai Steel during the POR.⁸²

C. Programs Preliminarily Determined to Not be Countervailable

1. Loan from Korea National Oil Corporation (KNOC) and Korea Resources Corporation (KORES)

Hyundai Steel did not take out loans directly from KNOC or KORES, but Hyundai HYSCO did take out such loans. These loans became Hyundai Steel's loans after it acquired Hyundai HYSCO in July 2015 and are referred to herein as Hyundai Steel loans.⁸³

In *CORE from Korea*, the Department found that:

for a success-contingent loan, the repayment obligation is subject to the results of the development project.⁸⁴ In the event that the project fails, the company will be exempted for all or a portion of the loan repayment obligation. However, if the project succeeds, a portion of the project income is payable to KNOC.⁸⁵

During the POR, Hyundai Steel had outstanding loans from KNOC and KORES related to projects not related to the subject merchandise. Based upon examination of the loan documents and our determinations concerning these loans in *CORE from Korea*, we preliminarily determine that the KNOC and KORES loans are tied to petroleum and mining exploration, which does not involve subject merchandise.⁸⁶ On this basis, we preliminarily determine that the KNOC loans are tied and, thus, attributable to non-subject merchandise. Therefore, we preliminarily determine that Hyundai Steel did not receive a benefit from this program with respect to the subject merchandise during the POR.

⁸² See DSM Prelim Calc Memo; see also Hyundai Steel Calc Memo.

⁸³ See Hyundai Steel's August 1 QR at Exhibit H-5.

⁸⁴ See *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review*; 2011, 78 FR 55241 (September 10, 2013) (*CORE from Korea*).

⁸⁵ See *Preliminary Results of CORE from Korea 2009*, 76 FR 54209 (August 31, 2011) unchanged in *Final Results of CORE from Korea 2009*; see also *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*; 2010, 78 FR 19210 (March 29, 2013), and accompanying IDM at "Overseas Resource Development Program: Loan from Korea National Oil Corporation."

⁸⁶ See Hyundai Steel's August 1 QR at Exhibits H-5 and H-8.

The Department has previously found these tax programs listed below to be not countervailable.⁸⁷

2. Tax Credit for Research and Human Recourse Development Expenses under RSTA Article 10 (1)(3)

3. Tax Credit for Research and Human Resource Development Expenses under RSTA Article 25-3

D. Other Programs

1. Loans to DSM from the Korean Development Bank (KDB)

In its initial response, DSM indicated that it had loans from the KDB that were outstanding during the POR. It further indicated that none of these loans were contingent on export activity or otherwise provided under government programs that the Department has previously found countervailable.⁸⁸

In a supplemental questionnaire, we requested that DSM provide supporting documentation regarding these loans. On February 14, 2017, DSM submitted the requested information.⁸⁹ Upon review of this information, we have preliminarily determined that none of the KDB loans were contingent on exports or otherwise provided under a program that the Department has previously countervailed.⁹⁰ Further, we note that under 19 CFR 351.505(a)(6)(ii):

The Secretary will not investigate a loan provided by a government-owned bank absent a specific allegation that is supported by information reasonably available to petitioners indicating that: (A) The loan meets the specificity criteria in accordance with section 77a(5A) of the Act; (B) A benefit exists within the meaning of paragraph (A)(1) of this section.

Thus, based on the above, and in the absence of a new subsidy allegation from Petitioner regarding these KDB loans, we have not include the KDBs in our subsidy analysis.

E. Additional Programs Preliminarily Determined to Be Not Used During the POR

DSM reported non-use of the following programs:

- GOK Pre-1992 Directed Credit Program

⁸⁷ See *Certain Cold-Rolled Carbon Steel Flat Products from the Republic of Korea*, 67 FR 9685 (Mar. 4, 2002) (preliminary affirmative countervailing duty determination) and *Certain Cold-Rolled Carbon Steel Flat Products from the Republic of Korea*, 67 FR 62102 (Oct. 3, 2002) and accompanying IDM at Section I.F (unchanged in final determination).

⁸⁸ See DSM's August 1 QR at 27.

⁸⁹ See DSM's February 14, 2017 Supplemental Questionnaire Response at 1-3.

⁹⁰ *Id.*, at Appendices 4.

- GOK Infrastructure Investment at Incheon North Harbor
- Tax Program Under the Restriction of Special Taxation Act (RSTA) and/or the Tax Reduction and Exemption Control Act (TERCL) -Asset Revaluation (TERCL 56(2))
- Reserve for Investment (Special Case of Tax for Balanced Development Among Areas) (RSTA Article 58) (TERCL Articles 42, 43, 44, and 45)
- Price Discounts for DSM Land Purchase at Asan Bay
- Exemption of VAT on Imports of Anthracite Coal
- Provision of Land for Less than Adequate Remuneration in the Godae Complex
- Lease Discounts Provided to Companies Operating in Free Economic Zones
- Tax Reductions Granted to Companies Operating in the Godae Complex
- Tax Subsidies Provided to Companies Operating in Free Economic Zones
- Government Grants and Financial Support to Companies Operating in Free Economic Zones
- Provision of Liquefied Natural Gas (LNG) from (LTAR)
- Electricity Discount under the Power Business Law Program

Hyundai Steel reported non-use of the following programs:

- GOK Pre-1992 Directed Credit Program
- GOK Infrastructure Investment at Incheon North Harbor
- Tax Program Under the Restriction of Special Taxation Act (RSTA) and/ or the Tax Reduction and Exemption Control Act (TERCL) -Asset Revaluation (TERCL 56(2))
- Reserve for Investment (Special Case of Tax for Balanced Development Among Areas) (RSTA Article 58) (TERCL Articles 42, 43, 44, and 45)
- Price Discounts for DSM Land Purchase at Asan Bay
- Exemption of VAT on Imports of Anthracite Coal
- Provision of Land for Less than Adequate Remuneration in the Godae Complex
- Lease Discounts Provided to Companies Operating in Free Economic Zones
- Tax Reductions Granted to Companies Operating in the Godae Complex
- Tax Subsidies Provided to Companies Operating in Free Economic Zones
- Government Grants and Financial Support to Companies Operating in Free Economic Zones
- Provision of Liquefied Natural Gas (LNG) for Less than Adequate Remuneration (LTAR)

VIII. Recommendation

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



Agree

Disagree

2/28/2017

X *Ronald K. Lorentzen*

Signed by: RONALD LORENTZEN

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance