



April 26, 2018

MEMORANDUM TO: Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Countervailing Duty Order on Large Residential Washers from the
Republic of Korea: Issues and Decision Memorandum for the
Final Results of the Expedited First Sunset Review

I. SUMMARY

We analyzed the substantive response of Whirlpool Corporation,¹ a domestic producer of washing machines and the petitioner in the underlying countervailing duty (CVD) investigation (hereinafter, the petitioner), in the first five-year (sunset) review of the CVD order on large residential washers (washing machines) from the Republic of Korea (Korea).² We did not receive a response from the Government of Korea (GOK) or any other respondent interested party to the proceeding. Accordingly, the Department of Commerce (Commerce) conducted an expedited sunset review of the *Order*, pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218(e)(1)(ii)(B)(2) and (C)(2).³ We recommend that you

¹ See Letter from the petitioner, “Five-Year (‘Sunset’) Review of the Countervailing Duty Order on Large Residential Washers from Korea: Substantive Response of Whirlpool Corporation to the Notice of Initiation of First Sunset Review,” February 5, 2018 (Petitioner Substantive Response); *see also* Letter from the petitioner, “Five-Year (‘Sunset’) Review of Antidumping and Countervailing Duty Orders on Large Residential Washers from Mexico and the Republic of Korea: Notice of Intent to Participate,” January 17, 2018 (Petitioner Notice of Intent to Participate).

² See *Large Residential Washers from the Republic of Korea: Countervailing Duty Order*, 78 FR 11154 (February 15, 2013) (*Order*).

³ See Letter from Commerce, “Sunset Reviews Initiated on January 2, 2018,” February 23, 2018 (ITC Notification); *see also* Letter from Commerce, “Sunset Reviews Initiated on January 2, 2018,” February 26, 2018 (modifying the February 23, 2018 to, *inter alia*, explicitly state that Commerce would be conducted expedited sunset reviews of the listed antidumping duty and CVD orders) (Modified ITC Notification).

approve the positions described in this memorandum. A complete list of the issues addressed in this expedited sunset review is provided below.

Issue 1: Likelihood of Continuation or Recurrence of a Countervailable Subsidy

Issue 2: Net Countervailable Subsidy Likely to Prevail

Issue 3: Nature of the Subsidy

II. BACKGROUND

On February 15, 2013, Commerce published the *Order* on washing machines from Korea.⁴ Commerce initiated this first sunset review of the *Order*, pursuant to section 751(c)(2) of the Act, on January 2, 2018.⁵ The petitioner filed a notice of intent to participate within the deadline specified in 19 CFR 351.218(d)(1)(i).⁶ The petitioner claimed interested party status pursuant to section 771(9)(C) of the Act, as a producer of washing machines in the United States.⁷ On February 5, 2018, the petitioner also filed a substantive response to the *Initiation Notice*.⁸ Commerce did not receive any notice of intent to participate or substantive response from the GOK or any Korean exporters or producers of subject merchandise. Therefore, pursuant to 19 CFR 351.218(e)(1)(ii)(C)(1), Commerce notified the U.S. International Trade Commission (ITC) that we would be conducting an expedited sunset review of the *Order*, because we did not receive an adequate substantive response to the *Initiation Notice* from respondent interested parties.⁹ Commerce did not conduct a hearing because no hearing was requested.

III. HISTORY OF THE ORDER

On January 19, 2012, Commerce initiated its CVD investigation of washing machines from Korea.¹⁰ Commerce published its final affirmative CVD determination on December 26, 2012.¹¹ In the *Final Determination*, Commerce found that the following programs conferred countervailable subsidies to Korean exporters/producers of washing machines:

- Korea Development Bank (KDB) and Industrial Bank of Korea (IBK) Short-term Discounted Loans for Export Receivables,
- Research, Supply, or Workforce Development Investment Tax Deductions for “New Growth Engines” under Restriction of Special Taxation Act (RSTA) Article 10(1)(1),
- Research, Supply, or Workforce Development Expense Tax Deductions for “Core Technologies” under RSTA Article 10(1)(2),
- Tax Reduction for Research and Manpower Development: RSTA 10(1)(3),

⁴ See *Order*, 78 FR at 11154-11155.

⁵ See *Initiation of Five-Year (Sunset) Reviews*, 83 FR 100 (January 2, 2018) (*Initiation Notice*).

⁶ See Petitioner Notice of Intent to Participate.

⁷ *Id.* at 2.

⁸ See Petitioner Substantive Response.

⁹ See ITC Notification; see also Modified ITC Notification.

¹⁰ See *Large Residential Washers from the Republic of Korea: Initiation of Countervailing Duty Investigation*, 77 FR 4279 (January 27, 2012).

¹¹ See *Large Residential Washers from the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 75975 (December 26, 2012) (*Final Determination*), and accompanying Issues and Decision Memorandum (Investigation IDM).

- RSTA Article 25(2) Tax Deductions for Investments in Energy Economizing Facilities,
- RSTA Article 26 Tax Deduction for Facilities Investment,
- Gwangju Metropolitan City Production Facilities Subsidies: Tax Reductions/Exemptions under Article 276 of the Local Tax Act,
- GOK Subsidies for “Green Technology Research and Development (R&D)” and its Commercialization,
- GOK 21st Century Frontier R&D Program / Information Display R&D Center Program,
- Support for Small- and Medium-Sized Enterprise (SME) “Green Partnerships,”
- Grants Discovered at Verification,
- Daewoo Restructuring,
- IBK Preferential Loans to Green Enterprises, and
- Korea Export-Import Bank (KEXIM) Export Factoring.¹²

In addition, Commerce determined that one program (*i.e.*, K-SURE – Short-term Export Credit Insurance) was not countervailable during the period of investigation and that one program (*i.e.*, GOK Supplier Support Fund Tax Deduction) was not used.¹³ We calculated total *ad valorem* countervailable subsidy rates of 72.30 percent for Daewoo Electronics Corporation (Daewoo), based entirely on adverse facts available (AFA),¹⁴ and 1.85 percent for Samsung Electronics Co., Ltd. and its cross-owned affiliates (collectively, Samsung).¹⁵ LG Electronics Inc. was also selected as a mandatory company respondent in the investigation, but Commerce calculated a *de minimis* countervailable subsidy rate for the company and its cross-owned affiliates.¹⁶ A countervailable subsidy rate of 1.85 percent was assigned to all other exporters and/or producers of subject merchandise.¹⁷

The *Order* was published on February 15, 2013.¹⁸ Commerce subsequently conducted an administrative review for the June 5, 2012, through December 31, 2013 period of review.¹⁹ Commerce selected Daewoo and Samsung as mandatory company respondents, but Daewoo did not respond to Commerce’s initial questionnaire, and Samsung notified Commerce of its intent not to participate.²⁰ As a result, Daewoo and Samsung were assigned countervailable subsidy rates of 81.91 percent and 34.77 percent, respectively,²¹ based entirely on AFA.²² In addition to all of the programs found countervailable in the investigation, as AFA, Commerce found the following programs to be countervailable in the *Final Results*:

¹² See Investigation IDM at 8-23.

¹³ *Id.* at 23-24.

¹⁴ Daewoo was selected as a mandatory company respondent in the investigation but subsequently declared its intent not to participate. See Investigation IDM at 6-7.

¹⁵ See Investigation IDM at 4.

¹⁶ See *Final Determination*, 77 FR at 75977.

¹⁷ *Id.*; see also Investigation IDM at 2.

¹⁸ See *Order*, 78 FR at 11154-11155.

¹⁹ See *Large Residential Washers from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review; 2012-2013*, 80 FR 12803 (March 11, 2015), and accompanying Preliminary Decision Memorandum, unchanged in *Large Residential Washers from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2012-2013*, 80 FR 55336 (September 15, 2015) (*Final Results*), and accompanying Issues and Decision Memorandum (Administrative Review IDM).

²⁰ See Administrative Review IDM at 4-5.

²¹ See *Final Results*, 80 FR at 55337.

²² See Administrative Review IDM at 4-5.

- GOK Supplier Support Fund Tax Deduction,
- Subsidy for Investment in Gyeonggi Province: Infrastructure Funding under Article 29 of the Special Law,
- Subsidy for Investment in Gyeonggi Province: Financial Support under Article 19 of the Special Law,
- Subsidy for Investment in Gyeonggi Province: Exemption of Dues under Article 20 of the Special Law,
- Subsidy for Investment in Gyeonggi Province: Provision of Land for Less Than Adequate Remuneration (LTAR),
- Subsidy for Investments in Hwaseong Dongtan Semiconductor Factory: Provision of Land for LTAR,
- Subsidy for Investments in Hwaseong Dongtan Semiconductor Factory: Loan Forgiveness on Land Contract,
- Subsidy for Investments in Hwaseong Dongtan Semiconductor Factory: Provision of Preferential Water Supply Infrastructure for Free,
- Korea Electric Power Corporation Provision of Electricity for LTAR,
- RSTA Article 7-2 Tax Credit for improving Enterprise's Bill System,
- RSTA Article 22 Tax Exemption from Corporate Tax on Dividend Income from Investment in Overseas Resources Development,
- RSTA Article 24 Tax Credit for Investment, etc. in Productivity Increasing Facility,
- RSTA Article 25-3 Tax Credit for Investment in Facilities for Environmental Conservation, and
- RSTA Article 104-14 Tax Credit for Third Party Distribution Expense.²³

There have been no other administrative reviews since the issuance of the *Order*.

IV. DISCUSSION OF THE ISSUES

In accordance with section 751(c)(1) of the Act, Commerce is conducting this sunset review to determine whether revocation of the *Order* would likely lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that, in making this determination, Commerce shall consider: (1) the net countervailable subsidy, as determined in the investigation and any subsequent reviews, and (2) whether any changes in the programs which gave rise to the net countervailable subsidy have occurred that are likely to affect the net countervailable subsidy. Pursuant to section 752(b)(3) of the Act, Commerce shall provide the ITC with the net countervailable subsidy likely to prevail if the *Order* were revoked. In addition, consistent with section 752(a)(6) of the Act, Commerce shall provide the ITC with information concerning the nature of the subsidy and whether it is a subsidy described in Article 3 or Article 6.1 of the 1994 World Trade Organization Agreement on Subsidies and Countervailing Measures (SCM Agreement). These issues and the substantive response submitted by the petitioner are addressed below.

²³ *Id.* at 10-11.

Issue 1: Likelihood of Continuation or Recurrence of a Countervailable Subsidy

The Petitioner's Comments

The petitioner asserts that revocation of the *Order* would likely lead to the continuation or recurrence of countervailable subsidies to Korean exporters and producers of washing machines because such subsidization has continued at above-*de minimis* levels since the *Order* was issued.²⁴ In particular, the petitioner cites the *Final Results*, noting that the subsidy rates calculated in the administrative review were greater than the subsidy rates calculated in the investigation, indicating that the GOK's subsidization of Korean washing machine exporters and producers actually increased after publication of the *Order*.²⁵

The petitioner also argues that revocation of the *Order* would result in a significant increase in the volume of subsidized imports, as imports of washing machines from Korea decreased significantly after the *Order* was imposed in 2013.²⁶

Commerce's Position

As stated above, in determining the likelihood of continuation or recurrence of a countervailable subsidy, section 752(b)(1) of the Act directs Commerce to consider the net countervailable subsidy determined in the investigation and subsequent reviews and whether there has been any change in a program found to be countervailable that is likely to affect that net countervailable subsidy. According to the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), Commerce will consider the net countervailable subsidies in effect after the issuance of an order and whether the relevant subsidy programs have been continued, modified, or eliminated.²⁷ The SAA further states that continuation of a program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies.²⁸ The presence of programs that have not been used, but have not been terminated without residual benefits or replacement programs, is also probative of the likelihood of continuation or recurrence of a countervailable subsidy.²⁹ Where a subsidy program is found to exist, Commerce will normally determine that revocation of the relevant order would likely to lead to continuation or recurrence of a countervailable subsidy, regardless of the level of subsidization.³⁰

Consistent with prior determinations, two conditions must be met for a subsidy program not to be included in determining the likelihood of continued or recurring subsidization: (1) the

²⁴ See Petitioner Substantive Response at 5.

²⁵ *Id.* at 9.

²⁶ *Id.* at 5-6, 9.

²⁷ See SAA, H.R. Doc. 103-316, vol. 1 (1994), at 888.

²⁸ *Id.*

²⁹ See, e.g., *Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil: Final Results of Full Sunset Review of Countervailing Duty Order*, 75 FR 75455 (December 3, 2010), and accompanying Issues and Decision Memorandum at Comment 1.

³⁰ *Id.*

program must be terminated, and (2) any benefit stream must be fully allocated.³¹ Commerce has also stated that, in order to determine whether a program has been terminated, we will consider the legal method by which the government eliminated the program and whether the government is likely to reinstate the program.³² Commerce normally expects a program to be terminated by means of the same legal mechanism used to institute it.³³ Where a subsidy is not bestowed pursuant to a statute, regulation or decree, Commerce may find no likelihood of continued or recurring subsidization if the subsidy in question was a one-time, company-specific occurrence that was not part of a broader government program.³⁴

In the investigation, Commerce found that countervailable subsidies were being provided to Korean exporters and producers of washing machines under the 14 programs listed above.³⁵ In the only administrative review completed since the implementation of the *Order*, Commerce found that respondents continued to receive countervailable subsidies under these 14 programs, as well as 14 additional programs.³⁶ No party submitted evidence to demonstrate that these countervailable programs have expired or been terminated, and there is no information on the record of this proceeding indicating any changes to the programs found countervailable during the investigation and administrative review. Absent argument or evidence to the contrary, we find that these countervailable programs continue to exist and be used. Therefore, Commerce determines that there is a likelihood of continuation or recurrence of countervailable subsidies.

Issue 2: Net Countervailable Subsidy Likely to Prevail

The Petitioner's Comments

The petitioner argues that Commerce should report the subsidy rates calculated in the investigation to the ITC as the subsidy rates likely to prevail if the *Order* is revoked because such rates reflect the behavior of exporters and producers without the discipline of an order in

³¹ See, e.g., *Preliminary Results of Full Sunset Review: Certain Corrosion-Resistant Carbon Steel Flat Products from France*, 71 FR 30875 (May 31, 2006), and accompanying Preliminary Decision Memorandum at 5-7, unchanged in *Corrosion-Resistant Carbon Steel Flat Products from France; Final Results of Full Sunset Review*, 71 FR 58584 (October 4, 2006).

³² See, e.g., *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Full Third Sunset Review of Countervailing Duty Order*, 76 FR 70411 (November 14, 2011), and accompanying Issues and Decision Memorandum at Comment 1.

³³ See, e.g., *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from India*, 66 FR 49635 (September 28, 2001), and accompanying Issues and Decision Memorandum at Comment 7.

³⁴ See, e.g., *Stainless Steel Plate in Coils from Belgium: Final Results of Full Sunset Review and Revocation of the Countervailing Duty Order*, 76 FR 25666 (May 5, 2011), and accompanying Issues and Decision Memorandum at Comment 1.

³⁵ See Investigation IDM at 8-23. Although the Daewoo Restructuring, IBK Preferential Loans to Green Enterprises, and KEXIM Export Factoring programs were found to be not used by LG and Samsung, they were treated as countervailable subsidies in Daewoo's subsidy rate calculations.

³⁶ See Administrative Review IDM at 11.

place.³⁷ As such, the petitioner identified 73.30 percent for Daewoo, 1.85 percent for Samsung, and 1.85 percent for all other exporters and producers of washing machines from Korea as the subsidy rates likely to prevail upon revocation of the *Order*.

Commerce's Position

Consistent with the SAA and legislative history, Commerce will normally provide the ITC with the net countervailable subsidy that was determined in the investigation as the subsidy rate likely to prevail if the order is revoked because, as noted by the petitioner, it is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place.³⁸ Section 752(b)(1)(B) of the Act, however, provides that Commerce will consider whether any change in the programs which gave rise to the net countervailable subsidy determination in the investigation or subsequent reviews has occurred that is likely to affect the net countervailable subsidy. Therefore, a rate calculated in the investigation may not be the most appropriate if, for example, the rate was derived, in whole or part, from subsidy programs subsequently found to be terminated, there has been a program-wide change, or the rate ignores a program found to be countervailable in a subsequent administrative review.³⁹

In this sunset review, Commerce determined the company-specific countervailable subsidy rates likely to prevail based on the rates assigned in the investigation, adjusted to reflect the programs that Commerce found to be countervailable in the subsequent administrative review.⁴⁰ Therefore, we added the appropriate rates from the 14 additional subsidy programs countervailed in the administrative review to the net countervailable subsidy rates determined in the investigation.⁴¹ We note that, in the administrative review, the countervailable subsidy rates were determined based entirely on AFA under section 776 of the Act.⁴² However, the inclusion of additional subsidy rates based entirely on AFA is consistent with Commerce's practice.⁴³ The adjusted countervailable subsidy rates, which Commerce determines are likely to prevail upon revocation of the *Order*, are provided in the "Final Results of Review" section of this memorandum.⁴⁴

³⁷ See Petitioner Substantive Response at 10-11 (citing *Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871, 18875 (April 16, 1998) (*Policy Bulletin*)).

³⁸ See SAA at 890; see also H.R. Rep. No. 103-826 (1994) at 64.

³⁹ See, e.g., *Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Final Results of Expedited Second Sunset Review*, 75 FR 62101 (October 7, 2010), and accompanying Issues and Decision Memorandum at Comment 2.

⁴⁰ See Commerce Memorandum, "Countervailing Duty Order on Large Residential Washers from the Republic of Korea: Calculation Memorandum for the Final Results of the Expedited First Sunset Review," dated concurrently with this memorandum (Calculation Memorandum).

⁴¹ See Calculation Memorandum.

⁴² See *Final Results*; see also Administrative Review IDM.

⁴³ See *Policy Bulletin*, 63 FR at 18876 (stating, "{w}here {Commerce} has conducted an administrative review of the order, or suspension agreement, as applicable, and determined to increase the net countervailable subsidy rate for any reason, including as a result of the best information available or facts available, {Commerce} may adjust the net countervailable subsidy rate determined in the original investigation to reflect the increase in the rate"); see also *Certain Lined Paper Products from India: Final Results of Expedited Second Sunset Review of Countervailing Duty Order*, 82 FR 51390 (November 6, 2017), and accompanying Issues and Decision Memorandum at 9.

⁴⁴ See also Calculation Memorandum.

Issue 3: Nature of the Subsidies

In accordance with section 752(a)(6) of the Act, Commerce is providing the following information to the ITC concerning the nature of these subsidy programs and whether these programs constitute subsidies that fall within Article 3 or Article 6.1 of the SCM Agreement. We note that Article 6.1 of the SCM Agreement expired, effective January 1, 2000.

Commerce received no comments from the GOK or other interested parties regarding the nature of the subsidy programs determined to be countervailable in the investigation or administrative review. Therefore, consistent with Commerce's findings in the *Final Determination* and the *Final Results*, we find that the following program is a prohibited subsidy within the meaning of Article 3.1 of the SCM Agreement.

- KDB and IBK Short-term Discounted Loans for Export Receivables: Under this program, the GOK, through two government-owned banks (*i.e.*, KDB and IBK), provides support to producers of washing machines in the form of short-term export financing at discounted interest rates.⁴⁵

The programs listed below do not fall within the meaning of Article 3.1 of the SCM Agreement, but they could be subsidies described in Article 6.1 of the SCM Agreement, if the amount of the subsidy exceeds five percent, as measured in accordance with Annex IV of the SCM Agreement. The subsidies could also fall within the meaning of Article 6.1 if they constitute debt forgiveness, grants to cover debt repayment, or subsidies to cover operating losses sustained by an industry or enterprise. However, there is insufficient information on the record of this review for Commerce to make such a determination. Nevertheless, we are providing the ITC with the following program descriptions.

- Research, Supply, or Workforce Development Investment Tax Deductions for “New Growth Engines” under RSTA Article 10(1)(1): Under RSTA Article 10(1)(1), Korean companies receive tax credits for costs associated with researchers and administrative personnel engaged in R&D activities related to eligible “New Growth Engine” technologies.⁴⁶
- Research, Supply, or Workforce Development Investment Tax Deductions for “Core Technologies” under RSTA Article 10(1)(2): Under Article 10(1)(2) of the RSTA, Korean companies receive tax credits for costs associated with researchers and administrative personnel engaged in R&D activities related to eligible “Core Technologies.”⁴⁷
- Tax Reduction for Research and Manpower Development: RSTA 10(1)(3): Under Article 10(1)(3) of the RSTA, Korean companies receive tax credits for expenses

⁴⁵ See Investigation IDM at 8 (finding the program to be specific pursuant to sections 771(5A)(A) and (B) of the Act).

⁴⁶ *Id.* at 9.

⁴⁷ *Id.* at 10.

related to R&D and human resources development.⁴⁸ These tax credits are calculated as either 40 percent of the difference between eligible expenditures in the current tax year and the average of the prior four years or, alternatively, no more than 6 percent of eligible expenditures incurred in the current tax year.⁴⁹

- RSTA Article 25(2) Tax Deductions for Investments in Energy Economizing Facilities: Under Article 25(2) of the RSTA, Korean companies receive tax credits for investments in facilities to enhance energy utilization efficiency or to produce renewable energy resources.⁵⁰ These tax credits are calculated as 10 percent of the eligible investment.⁵¹
- RSTA Article 26 Tax Deduction for Facilities Investment: Under Article 26 of the RSTA, Korean companies receive tax credits equal to seven percent of investments in facilities located outside of the Seoul Metropolitan Region.⁵²
- Gwangju Metropolitan City Production Facilities Subsidies: Tax Reductions/Exemptions under Article 276 of the Local Tax Act: Under Article 78 of the Special Local Tax Treatment Control Act, administered by the Gwangju City government, corporations establishing production facilities within Gwangju City receive multiple tax reductions and exemptions.⁵³ Specifically, corporations with new or expanded facilities in an industrial complex are exempt from property, acquisition, and registration taxes; capital gains on the corporations' land and buildings are exempt from property taxes for five years after establishment/expansion and are taxed at a reduced rate for the following three years; and liability for local education taxes is set at a reduced rate of 20 percent of property taxes paid.⁵⁴
- Green Subsidies for "Green Technology R&D" and its Commercialization: Pursuant to the GOK's five-year "Green Growth Plan," which was adopted in 2009, grants are provided to companies to facilitate research, development, and commercialization of green technology in 27 core technology sectors.⁵⁵
- GOK 21st Century Frontier R&D Program / Information Display R&D Center Program: Under the 21st Century Frontier R&D Program, the GOK supports R&D projects, including the Information Display R&D Center project, related to core technologies that can be applied to a broad range of industries in Korea.⁵⁶ Under this

⁴⁸ *Id.* at 11.

⁴⁹ *Id.* at 11.

⁵⁰ *Id.* at 13.

⁵¹ *Id.* at 13.

⁵² *Id.* at 14.

⁵³ *Id.* at 15.

⁵⁴ *Id.* at 15.

⁵⁵ *Id.* at 17.

⁵⁶ *Id.* at 19.

program, companies that commit funds to eligible R&D projects receive matching funds from the GOK in the form of a long-term, interest-free loan.⁵⁷

- Support for SME “Green Partnerships”: This program was established to fund partnerships between SMEs and large corporations, through which large corporations assist and train the SMEs regarding environmentally friendly business management, clean production technology, and cultivation of human resources.⁵⁸ Under this program, large corporations that commit funds to eligible “Green Partnership” projects receive matching funds from the GOK in the form of a grant.⁵⁹
- Grants Discovered at Verification: During the investigation, Commerce conducted a verification of Samsung’s questionnaire responses and identified an unreported grant program, which provided benefits to a Samsung facility that produces components used in several Samsung products, including washing machines.⁶⁰
- Daewoo Restructuring: Under this program, the GOK provided and/or directed other entities to provide equity infusions and credit at preferential rates to Daewoo.⁶¹
- IBK Preferential Loans to Green Enterprises: Under this program, the GOK provides loans to SMEs with a “green certificate.”⁶²
- KEXIM Export Factoring: Under this program, KEXIM provides financing assistance to Korean exporters by purchasing receivables owed by foreign customers.⁶³
- GOK Supplier Support Fund Tax Deduction⁶⁴
- Subsidy for Investment in Gyeonggi Province: Financial Support under Article 19 of the Special Law: Under this program, the GOK allegedly facilitated Samsung’s investments in the Go-deok Industrial Complex, which is located in Gyeonggi Province.⁶⁵

⁵⁷ *Id.* at 19.

⁵⁸ *Id.* at 21.

⁵⁹ *Id.* at 21.

⁶⁰ *Id.* at 22.

⁶¹ *Id.* at 23; *see also* Administrative Review IDM at 10, n. 38. This program, which is specific to Daewoo, was found countervailable based on AFA.

⁶² *See* Investigation IDM at 23; *see also* Administrative Review IDM at 9-10. This program was found countervailable based on AFA.

⁶³ *See* Investigation IDM at 23; *see also* Administrative Review IDM at 10. This program was found countervailable based on AFA.

⁶⁴ *See* Administrative Review IDM at 10. The GOK did not respond to Commerce’s questions regarding this program, so no description of the program is available.

⁶⁵ *See* Administrative Review IDM at 11, n. 40. The GOK did not respond to Commerce’s questions regarding this program, which is specific to Samsung, so the description of the program is based on the petitioner’s subsidy allegations.

- Subsidy for Investment in Gyeonggi Province: Exemption of Dues under Article 20 of the Special Law: Under this program, the GOK allegedly facilitated Samsung's investments in the Go-deok Industrial Complex, which is located in Gyeonggi Province.⁶⁶
- Subsidy for Investment in Gyeonggi Province: Provision of Land for LTAR: Under this program, the GOK allegedly facilitated Samsung's investments in the Go-deok Industrial Complex, which is located in Gyeonggi Province.⁶⁷
- Subsidy for Investment in Gyeonggi Province: Infrastructure Funding under Article 29 of the Special Law: Under this program, the GOK allegedly facilitated Samsung's investments in the Go-deok Industrial Complex, which is located in Gyeonggi Province.⁶⁸
- Subsidy for Investments in Hwaseong Dongtan Semiconductor Factory: Loan Forgiveness on Land Contract: Under this program, the GOK allegedly subsidized Samsung's land acquisition and facility construction at Hwaseong City.⁶⁹
- Subsidy for Investments in Hwaseong Dongtan Semiconductor Factory: Provision of Preferential Water Supply Infrastructure for Free: Under this program, the GOK allegedly subsidized Samsung's land acquisition and facility construction at Hwaseong City.⁷⁰
- Subsidy for Investments in Hwaseong Dongtan Semiconductor Factory: Provision of Land for LTAR: Under this program, the GOK allegedly subsidized Samsung's land acquisition and facility construction at Hwaseong City.⁷¹
- Korea Electric Power Corporation Provision of Electricity for LTAR: Under this program, the Korea Electric Power Corporation allegedly provides discounted electricity to the manufacturing industry to promote export competition.⁷²

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ See Administrative Review IDM at 11, n. 41. The GOK did not respond to Commerce's questions regarding this program, which is specific to Samsung, so the description of the program is based on the petitioner's subsidy allegations.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² See Administrative Review IDM at 11, n. 42. The GOK did not respond to Commerce's questions regarding this program, so the description of this program is based on the petitioner's subsidy allegations.

- RSTA Article 7-2 Tax Credit for Improving Enterprise’s Bill System: Under Article 7-2 of the RSTA, the GOK allegedly provides tax credits for eligible payments made to SME suppliers.⁷³
- RSTA Article 22 Tax Exemption from Corporate Tax on Dividend Income from Investment in Overseas Resources Development: Under Article 22 of the RSTA, the GOK allegedly allows corporate tax exemptions for companies with dividend income from investments in eligible overseas resource development projects when such income is also tax exempt in the host country.⁷⁴
- RSTA Article 24 Tax Credit for Investment, etc. in Productivity Increasing Facility: Under Article 24 of the RSTA, the GOK allegedly provides a three percent tax credit for eligible investments in facilities designed to improve production processes, automation, and informatization, as well as investments in certain “high-technology equipment,” computers, and software.⁷⁵
- RSTA Article 25-3 Tax Credit for Investment in Facilities for Environmental Conservation: Under Article 25-3 of the RSTA, the GOK allegedly provides a ten percent tax credit for eligible investments in facilities for environmental conservation (e.g., sewage treatment facilities and water pollution prevention facilities).⁷⁶
- RSTA Article 104-14 Tax Credit for Third Party Distribution Expense: Under Article 104-14 of the RSTA, the GOK allegedly provides a tax credit for certain expenses paid to third-party distributors.⁷⁷

V. FINAL RESULTS OF REVIEW

Commerce finds that revocation of the *Order* would be likely to lead to continuation or recurrence of countervailable subsidies at the rates listed below:

Exporter/Producer	Net Countervailable Subsidy Rate
Daewoo	80.25 percent
Samsung	20.75 percent
All Others	15.28 percent

⁷³ See Administrative Review IDM at 11, n. 43. The GOK did not respond to Commerce’s questions regarding this program, so the description of this program is based on the petitioner’s subsidy allegations.

⁷⁴ See Administrative Review IDM at 11, n. 44. The GOK did not respond to Commerce’s questions regarding this program, so the description of this program is based on the petitioner’s subsidy allegations.

⁷⁵ See Administrative Review IDM at 11, n. 45. The GOK did not respond to Commerce’s questions regarding this program, so the description of this program is based on the petitioner’s subsidy allegations.

⁷⁶ See Administrative Review IDM at 11, n. 46. The GOK did not respond to Commerce’s questions regarding this program, so the description of this program is based on the petitioner’s subsidy allegations.

⁷⁷ See Administrative Review IDM at 11, n. 47. The GOK did not respond to Commerce’s questions regarding this program, so the description of this program is based on the petitioner’s subsidy allegations.

VI. RECOMMENDATION

Based on our analysis of the substantive response received, we recommend adopting the positions outlined in this memorandum. If this recommendation is accepted, we will publish the final results of this review in the *Federal Register* and notify the ITC of our findings.

☒

Agree

☐

Disagree

4/26/2018

X



Signed by: CHRISTIAN MARSH

Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance