



C-580-879

Administrative Review

AR: 11/06/2015 - 12/31/2016

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**DATE:** August 3, 2018

**MEMORANDUM TO:** 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

**FROM:** Edward Yang  
Senior Director, Office VII  
Antidumping and Countervailing Duty Operations

**SUBJECT:** Decision Memorandum for the Preliminary Results of the  
Countervailing Duty Administrative Review, Rescission of  
Review, in Part, and Intent to Rescind, in Part; 2015-2016: Certain  
Corrosion-Resistant Steel Products from the Republic of Korea

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## **I. Summary**

The Department of Commerce (Commerce) is conducting an administrative review of the countervailing duty (CVD) order on certain corrosion-resistant steel products (CORE) from the Republic of Korea (Korea) for the period of review November 6, 2015, through December 31, 2016. This review covers 22 producers/exporters of subject merchandise. Commerce selected Hyundai Steel Company (Hyundai Steel) and Dongbu Steel Co., Ltd. (Dongbu Steel)/Dongbu Incheon Steel Co., Ltd. (Dongbu Incheon) as mandatory respondents. We preliminarily determine that producers/exporters of subject merchandise received above *de minimis* countervailable subsidies.

## **II. Background**

On July 25, 2016, Commerce published the *CORE Order* in the *Federal Register*.<sup>1</sup> On July 3, 2017, Commerce published a notice of opportunity to request an administrative review of the *CORE Order*.<sup>2</sup> On July 31, 2017, we received a timely request for administrative review from

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<sup>1</sup> See *Certain Corrosion-Resistant Steel Products from India, Italy Republic of Korea and the People's Republic of China: Countervailing Duty Order*, 81 FR 48387 (July 25, 2016) (*CORE Order*).

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 82 FR 30833 (July 3, 2017).



Hyundai Steel.<sup>3</sup> On July 31, 2017, we also received a timely request from Nucor Corporation (the petitioner) for review of the *CORE Order* for the following firms: Bukook Steel Co., Ltd.; CJ Korea Express; DK Dongshin Co., Ltd.; Dongbu Steel and Dongbu Incheon (collectively, Dongbu); Dongbu Express; Dongkuk Steel Mill Co., Ltd.; Hongyi (HK) Hardware Products Co., Ltd.; Hyundai Steel; Jeil Sanup Co., Ltd.; Mitsubishi International Corp.; POSCO; POSCO C&C; POSCO Daewoo Corp.; Sejung Shipping Co., Ltd.; SeAH Steel, Seil Steel Co., Ltd.; Soon Hong Trading Co., Ltd.; Taisan Construction Co., Ltd.; TCC Steel Co., Ltd.; Union Steel Manufacturing Co., Ltd.; and Young Sun Steel Co.<sup>4</sup> On September 13, 2017, Commerce initiated a CVD review with regard to the 22 producers for which interested parties requested individual review.<sup>5</sup>

In the *Initiation Notice*, we stated that, in the event we limited the number of respondents selected for individual examination, we intended to select respondents based on Customs and Border Protection (CBP) data for U.S. imports during the POR. On October 3, 2017, Commerce released CBP entry data, and provided interested parties until October 10, 2017, to submit comments on the data.<sup>6</sup> On October 10, 2017, Mitsubishi International Corporation and Dongkuk Steel Mill Co., Ltd. submitted no-shipment claims. On October 10, 2017, Nucor submitted comments requesting that Commerce select Hyundai Steel and Dongbu as mandatory respondents in the review.<sup>7</sup> On the same day Hyundai Steel submitted comments requesting that Commerce select Hyundai Steel as a mandatory respondent.<sup>8</sup>

On December 15, 2017, Commerce selected Dongbu and Hyundai Steel as the mandatory respondents in the administrative review.<sup>9</sup>

On December 18, 2017, Commerce issued the Initial Questionnaire to the Government of Korea (GOK), Hyundai Steel, and Dongbu.<sup>10</sup> Hyundai Steel and Dongbu submitted their affiliation questionnaire responses on January 9, 2018, and January 11, 2018, respectively.<sup>11</sup> On February 12, 2018, Hyundai Steel and Dongbu submitted their responses to Section III of Commerce's

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<sup>3</sup> See Hyundai Steel's July 31, 2017 letter.

<sup>4</sup> See Nucor's July 31, 2017; letter Nucor's July 31, 2017 clarification letter.

<sup>5</sup> We initiated a review on: Bukook Steel Co., Ltd.; CJ Korea Express; DK Dongshin Co., Ltd.; Dongbu; Dongbu Express; Dongkuk Steel Mill Co., Ltd.; Hongyi (HK) Hardware Products Co., Ltd.; Hyundai Steel; Jeil Sanup Co., Ltd.; Mitsubishi International Corp.; POSCO; POSCO C&C; POSCO Daewoo Corp.; Sejung Shipping Co., Ltd.; SeAH Steel, Seil Steel Co., Ltd.; Soon Hong Trading Co., Ltd.; Taisan Construction Co., Ltd.; TCC Steel Co., Ltd.; Union Steel Manufacturing Co., Ltd.; and Young Sun Steel Co. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 42974 (September 13, 2017) (*Initiation Notice*). See also *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 48051 (October 16, 2017) (*Initiation Notice Correction*), at footnote 8.

<sup>6</sup> See Memorandum, "Release of U.S. Customs Entry Data for Respondent Selection," dated October 3, 2017 (CBP Query Memorandum).

<sup>7</sup> See Nucor's October 10, 2017, submission.

<sup>8</sup> See Hyundai Steel's October 10, 2017 submission.

<sup>9</sup> See Memorandum, "Respondent Selection," dated December 15, 2017.

<sup>10</sup> See Commerce's December 18, 2017 Initial Questionnaire.

<sup>11</sup> See Hyundai Steel's January 9, 2018 Affiliation Questionnaire Response (Hyundai Steel Affiliation QR) and Dongbu's January 11, 2018 Affiliation Questionnaire Response (Dongbu Affiliation QR).

December 18, 2017, Initial Questionnaire.<sup>12</sup> On the same day the GOK also submitted its response to Commerce's Initial Questionnaire.<sup>13</sup> The petitioner filed deficiency comments for Hyundai Steel, Dongbu, and the GOK.<sup>14</sup> Hyundai Steel and Dongbu filed rebuttal comments in response to the petitioner's comments.<sup>15</sup> On July 19, 2018, the petitioner filed rebuttal comments to Hyundai's rebuttal.<sup>16</sup> Commerce further issued supplemental questionnaires to Dongbu, Hyundai Steel, and the GOK, and received timely responses. On July 31, 2018, Hyundai Steel and Dongbu each submitted revised public versions of their sales figures, at the request of Commerce.<sup>17</sup>

On January 4, 2018 the Dongbu and Hyundai Steel requested that Commerce permit the mandatory respondents to base their reporting on calendar year 2016 only and exclude calendar year 2015 from their reporting, to lessen the burden on all parties.<sup>18</sup> On January 9, 2018, Commerce solicited comments on its intent to limit reporting to calendar year 2016, and base the assessment rate for the 2015 period on the subsidy information provided for 2016.<sup>19</sup> On the same day, the petitioner filed a letter opposing respondents' request.<sup>20</sup> On January 29, 2018, Commerce informed parties that the GOK and mandatory respondents were required to report information for calendar years 2015 and 2016.<sup>21</sup>

On January 17, 2018, the petitioner requested that Commerce review the GOK's provision of electricity for less than adequate remuneration.<sup>22</sup> On January 26, 2018, Dongbu and Hyundai Steel responded, requesting Commerce to reject the petitioner's request.<sup>23</sup> On January 31, 2018, the GOK filed a letter requesting that Commerce reject the petitioner's request.<sup>24</sup> There is no new information in the petitioner's request that would lead us to re-examine our determination that this program was found not countervailable in the investigation.<sup>25</sup>

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<sup>12</sup> See Hyundai Steel's February 12, 2018 Section III Initial Questionnaire Response (Hyundai Steel Initial QR) and Dongbu's February 12, 2018, Section III Initial Questionnaire Response (Dongbu Initial QR).

<sup>13</sup> See the GOK's February 12, 2018 Initial Questionnaire Response (GOK Initial QR).

<sup>14</sup> See the petitioner's Deficiency Comments regarding Hyundai Steel's Questionnaire Responses, dated January 23, 2018, February 26, 2018, and July 6, 2018, and rebuttal comments dated July 19, 2018. See the petitioner's Deficiency Comments regarding Dongbu's Questionnaire Responses, dated July 16, 2018. See the petitioner's Deficiency Comments regarding the GOK's Questionnaire Responses dated February 26, 2018.

<sup>15</sup> See Hyundai Steel's rebuttal comments dated February 1, 2018 and July 16, 2018.

<sup>16</sup> See Nucor's letter, "Response to Hyundai Steel's Rebuttal," dated July 19, 2018.

<sup>17</sup> See Hyundai Steel's submission, "Resubmission of Public Version of Exhibit 39 from Initial Questionnaire Response," dated July 31, 2018; see Dongbu's submission, "Resubmission of Public Version of Exhibits 9-A and 9-B from Initial Questionnaire Response," dated July 31, 2018.

<sup>18</sup> See Dongbu and Hyundai Steel's letter re: Request to Permit Limited Reporting dated January 4, 2018.

<sup>19</sup> See Memorandum, "Limited Reporting and Period of Rate Calculation for the First Administrative Review," dated January 9, 2018.

<sup>20</sup> See Nucor's letter regarding response to mandatory respondents' request to limit reporting, dated January 9, 2018.

<sup>21</sup> See Memorandum "Reporting Period for the First Administrative Review," dated January 29, 2018.

<sup>22</sup> See Nucor's letter, "Request for review of Electricity for Less than Adequate Remuneration," dated January 17, 2018.

<sup>23</sup> See Dongbu and Hyundai Steel's letter, "Response to Nucor's Request for Review of Electricity for Less than Adequate Remuneration," dated January 26, 2018.

<sup>24</sup> See GOK letter, "Comment on the request for review of Electricity for LTAR," dated January 31, 2018.

<sup>25</sup> See *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the Republic of Korea: Preliminary Affirmative Determination*, 80 FR 68842 (November 6, 2015) (*CORE Preliminary Determination*) and accompanying Preliminary Decision Memorandum (PDM) at 18; unchanged in *Countervailing Duty Investigation*

On March 12, 2018, the petitioner submitted timely new subsidy allegations (NSA) with regard to Hyundai Steel and Dongbu.<sup>26</sup> Dongbu and Hyundai Steel rebutted the petitioner's NSAs.<sup>27</sup> On April 25, 2018, Commerce issued a supplemental questionnaire to the petitioner with respect to the new subsidy allegations,<sup>28</sup> and received its response on May 1, 2018.<sup>29</sup> On June 25, 2018, Commerce released its decision memorandum regarding the petitioner's NSAs concerning Dongbu and Hyundai Steel.<sup>30</sup> On the same day, Commerce issued the NSA questionnaire to Hyundai Steel, and the GOK.<sup>31</sup> On July 2, 2018, Hyundai Steel and the GOK each submitted its NSA questionnaire response.<sup>32</sup>

On April 20, 2018, the petitioner submitted creditworthiness and equityworthiness allegations with respect to Dongbu.<sup>33</sup> On June 29, 2018, Commerce issued a supplemental questionnaire to the GOK with respect to Dongbu's creditworthiness and equityworthiness, and the GOK filed its response on July 6, 2018.<sup>34</sup>

On July 13, 2018, the petitioner filed comments with respect to Hyundai Steel and Dongbu in advance of the preliminary results.<sup>35</sup> On July 19, 2018, Hyundai Steel filed rebuttal comments to the petitioner's comments.<sup>36</sup> To the extent possible we have considered these comments for the preliminary results.

On January 23, 2018, Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 30 through 22, 2018.<sup>37</sup> On March 23, and July

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*of Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35310 (June 2, 2016) (*CORE Final Determination*) and accompanying Issues and Decision Memorandum (IDM) .

<sup>26</sup> See the petitioner's March 12, 2018 submission, "Corrosion-Resistant Steel Products from the Republic of Korea: New Subsidy Allegations" (NSA Submission).

<sup>27</sup> See Hyundai Steel's letters dated March 27, 2018 and May 4, 2018; see Dongbu's letters dated March 27, 2018 and May 4, 2018.

<sup>28</sup> See Commerce letter, "Supplemental Questionnaire for New Subsidy Allegations," dated April 25, 2018.

<sup>29</sup> See Nucor submission, "Response to Supplemental Questionnaire for New Subsidy Allegations," dated May 1, 2018.

<sup>30</sup> See Memorandum, "New Subsidy Allegations," dated June 25, 2018 (NSA Memorandum).

<sup>31</sup> See Commerce's June 25, 2018, New Subsidies Questionnaire for Hyundai Steel Company; see also Commerce's June 25, 2018, New Subsidies Questionnaire for the GOK.

<sup>32</sup> See Hyundai Steel's submission, "Response to New Subsidies Questionnaire," dated July 2, 2018; see the GOK's submission, "New Subsidy Allegations Questionnaire Response," dated July 2, 2018.

<sup>33</sup> See Nucor letter, "Dongbu Creditworthiness and Equityworthiness Allegation," dated April 20, 2018.

<sup>34</sup> See Commerce letter, "Second Supplemental Questionnaire," dated June 29, 2018; see GOK submission, "Second Supplemental Questionnaire Response," dated July 6, 2018.

<sup>35</sup> See Nucor letter, "Comments in Advance of the Preliminary Determination," dated July 13, 2018; see Nucor letter, "Pre-Preliminary Comments on Dongbu Steel," dated July 13, 2018.

<sup>36</sup> See Hyundai Steel letter, "Rebuttal Comments on Nucor's Comments in Advance of Preliminary Determination," dated July 19, 2018.

<sup>37</sup> See January 23, 2018 Memorandum re: Deadlines Affected by the Shutdown of the Federal Government. All deadlines in this segment of the proceeding have been extended by three days.

3, 2018, Commerce extended the deadline for preliminary results of this review to no later than August 3, 2018.<sup>38</sup>

We are conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

### **III. Period of Review**

The period of review (POR) is November 6, 2015, through December 31, 2016.

Given that the POR covers part of 2015 and all of 2016, we have analyzed data for the period January 1, 2015, through December 31, 2015, to determine the countervailable subsidy rate for exports of subject merchandise made during the periods in 2015 when liquidation of entries was suspended. In addition, we have analyzed data for the period January 1, 2016, through December 31, 2016, to determine the countervailable subsidy rate for exports during that period and to establish the cash deposit rate for exports of subject merchandise subsequent to the final results.

### **IV. Scope of the Order**

The products covered by this order are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, *etc.*). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

- (1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and
- (2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products

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<sup>38</sup> See March 23, 2018 Memorandums re: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review - 2015-2016; and July 3, 2018 Memorandums re: Second Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review - 2015-2016.

with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this order are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

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

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

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (“IF”)) steels and high strength low alloy (“HSLA”) steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (“AHSS”) and Ultra High Strength Steels (“UHSS”), both of which are considered high tensile strength and high elongation steels.

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

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

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (“terne plate”), or both chromium and chromium oxides (“tin free steel”), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;
- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion-resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%-60%-20% ratio.

The products subject to the order are currently classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.

The products subject to the order may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

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

## **V. Rescission of the 2015-2016 Administrative Review, In Part**

Dongkuk Steel Mill Co., Ltd. and its cross-owned subsidiary Union Steel Manufacturing Co. Ltd. were found not subject to the *CORE Order* from the CORE investigation.<sup>39</sup> Therefore, we are rescinding this review with respect to Dongkuk Steel Mill Co., Ltd./Union Steel Manufacturing Co. Ltd.<sup>40</sup>

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<sup>39</sup> Union was merged into its parent company, Dongkuk Steel Mill Co., Ltd. on January 1, 2015. *See CORE Preliminary Determination*; unchanged in *CORE Final Determination*. Because a request for review was also received for Union, we are rescinding this review with respect to Union. Dongkuk/Union’s subsidy rate was *de minimis* in the *CORE Final Determination*, and thus not subject to the *CORE Order*.

<sup>40</sup> *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).

## **VI. Intent to Rescind Administrative Review, In Part**

As discussed above, Mitsubishi International Corporation claimed no shipments during the POR and CBP did not provide any contradictory information.<sup>41</sup> Therefore, based on our analysis of record evidence, and consistent with 19 CFR 351.213(d)(3), we preliminarily intend to rescind the review with respect to Mitsubishi International Corporation

## **VII. Rate for Non-Examined Companies**

The statute and Commerce's regulations do not address the establishment of a rate to be applied to individual respondents not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Tariff Act of 1930, as amended (the Act). Generally, Commerce 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, Commerce's usual practice in determining the rate for non-examined respondents 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.<sup>42</sup> 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 examined.

As indicated in the accompanying *Federal Register* notice of preliminary results, dated concurrently with this Preliminary Decision Memorandum, we preliminarily determine that Hyundai Steel and Dongbu received countervailable subsidies that are above *de minimis*. Therefore, we are applying to the non-selected companies the weighted-average of the net subsidy rates calculated for Hyundai Steel and Dongbu using publicly ranged sales data submitted by respondents.<sup>43</sup>

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<sup>41</sup> See Memorandum re: CBP reporting of negative results dated June 8, 2018 in response to Commerce's no shipment inquiry (CBP Message No.8137316 dated May 17, 2018).

<sup>42</sup> See, e.g., *Certain Pasta from Italy: Final Results of the 2008 Countervailable Review*, 75 FR 37386, 37387 (June 29, 2010) (*Pasta from Italy*).

<sup>43</sup> See Memorandum, "Preliminary Results Calculations of Subsidy Rate for Non-Selected Companies Under Review," dated concurrently with this memorandum.



## **VIII. 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 are relying on a 15-year AUL.<sup>44</sup>

### **B. Attribution of Subsidies**

Commerce’s regulations at 19 CFR 351.525(b)(6)(i) state that Commerce 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 Commerce 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 Commerce’s authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.<sup>45</sup>

Dongbu reported that during the POR, with the exception of Dongbu Incheon, none of its other affiliates produced subject merchandise and that Dongbu is not a subsidiary of any company.<sup>46</sup> Thus, it has no parent company or holding company, and no cross-owned input suppliers. Accordingly, Dongbu responded to the Initial Questionnaire with regard to Dongbu Steel and Dongbu Incheon. Therefore, pursuant to 19 CFR 351.525(b)(6)(ii), we attributed subsidies received by Dongbu Steel and/or Dongbu Incheon to the sales of both companies.

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<sup>44</sup> See U.S. Internal Revenue Service Publication 946 (2008), “How to Depreciate Property,” at Table B-2: Table of Class Lives and Recovery Periods.

<sup>45</sup> See *Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001) (*Fabrique*).

<sup>46</sup> See Dongbu Affiliation QR at 7-8.

Hyundai Steel reported that it is a publicly traded company engaged in the production and sale of steel products, including corrosion-resistant steel. Hyundai Steel reported that it is not a subsidiary of any other company and it has no parent or holding company.<sup>47</sup> Hyundai Steel further reported that none of its cross-owned companies supplied inputs for the production of subject merchandise.<sup>48</sup> Accordingly, Hyundai Steel responded to the Initial Questionnaire with regard to Hyundai Steel. At Commerce's request, Hyundai Steel also provided a full questionnaire response for Hyundai Green Power.<sup>49</sup> For these preliminary results, we do not find that cross-ownership exists between Hyundai Steel and Hyundai Green Power. Therefore, pursuant to 19 CFR 351.525(b)(6), we will not attribute any subsidies received by Hyundai Green Power to Hyundai Steel in these preliminary results. We attributed subsidies received by Hyundai Steel to the sales of Hyundai Steel.<sup>50</sup>

In its questionnaire response, Hyundai Steel requested that it be exempted from reporting on behalf of its trading companies through which it sold subject merchandise in 2015, prior to the POR.<sup>51</sup> Based on the negligible quantities of subject merchandise that were exported through these trading companies, we did not require Hyundai Steel to submit questionnaire responses for these companies.<sup>52</sup>

### **C. Benchmarks and Discount Rates**

#### **Short-Term U.S. Dollar-Denominated Loans**

Hyundai Steel and Dongbu reported receiving short-term import financing from the Korea Export-Import Bank (KEXIM) during the POR.<sup>53</sup> Respondents provided information about short-term loans from commercial banks for consideration as comparable commercial loans for purposes of identifying an interest rate benchmark. We preliminarily find that some of the loans that the respondents identified constitute comparable commercial loans, and it is appropriate to use these loans to calculate a weighted-average benchmark interest rate.<sup>54</sup>

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<sup>47</sup> See Hyundai Steel Affiliation QR at 3 and Initial QR at 12.

<sup>48</sup> See Hyundai Steel Affiliation QR at 8-10.

<sup>49</sup> See Hyundai Steel's submission, "Hyundai Green Power's Response to Section III of Initial Questionnaire," dated June 22, 2018.

<sup>50</sup> As noted below in the "Programs Preliminarily Determined Not to Confer a Benefit" section, the petitioner alleged that Hyundai Steel was cross-owned with Hyundai Green Power, an affiliated electricity provider, during the POR with the meaning of 19 CFR 351.525(b)(6)(iv) and, thus, any subsidies received by Hyundai Green Power were attributable to Hyundai Steel. However, because we have preliminarily determined that the sole alleged subsidy program involving Hyundai Green Power did not confer a countervailable benefit, the issue of whether Hyundai Green Power is cross-owned with Hyundai Steel is not relevant for purposes of these preliminary results.

<sup>51</sup> See Hyundai Steel Initial QR at 3-4.

<sup>52</sup> *Id.*

<sup>53</sup> See Dongbu Initial QR at 13-14.; Hyundai Steel Initial QR at 17.

<sup>54</sup> See Memorandum, "Calculations for the Preliminary Results: Hyundai Steel Company," dated concurrently with this memorandum (Hyundai Steel Preliminary Calculation Memorandum); Memorandum, "Calculation for the Preliminary Results: Dongbu Steel Co., Ltd./Dongbu Incheon Steel Co., Ltd.," dated concurrently with this memorandum (Dongbu Preliminary Calculation Memorandum.)

In addition, Dongbu received loans under the Korea Development Bank (KDB) short-term discounted loan program and the debt restructuring program during the POR.<sup>55</sup> Dongbu provided information about short-term loans from commercial banks for consideration as comparable commercial loans for purposes of identifying a short-term loan interest rate benchmark. We preliminarily determine that certain of the loans Dongbu identified constitute comparable commercial loans, and it is appropriate to use these loans to calculate a weighted-average short-term loan benchmark interest rate.<sup>56</sup>

### **Long-Term U.S. Dollar and Korean Won-Denominated Loans**

During the POR, Dongbu and Hyundai Steel had outstanding countervailable long-term Korean Won-denominated loans from government-owned banks. As benchmarks for countervailable, won-denominated long-term loans and as discount rates, we used, where available, the company-specific interest rates on the company's comparable commercial, won-denominated loans. If such loans were not available, we used, 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.<sup>57</sup> This is the approach Commerce has taken in several prior Korean CVD proceedings.<sup>58</sup> 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.<sup>59</sup> 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 prior Korean CVD proceedings.<sup>60</sup> 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. Dongbu also had restructured long-term debts/loans and received new long-term financing under its debt restructuring program. In addition, as we preliminarily find that Dongbu was uncreditworthy during the POR, see below, we added a risk premium to the benchmark rate in accordance with 19 CFR 351.505(a)(3)(iii), to measure Dongbu's countervailable long-term debts/loans during the POR.

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<sup>55</sup> See Dongbu Initial QR at 13-15.

<sup>56</sup> See Dongbu Preliminary Calculation Memorandum.

<sup>57</sup> 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).

<sup>58</sup> *Id.*; see also *Final Affirmative Countervailing Duty Determination: Structural Steel Beams from the Republic of Korea*, 65 FR 41051 (July 3, 2000), and accompanying 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."

<sup>59</sup> 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).

<sup>60</sup> See, e.g., *Final Results of CORE from Korea 2006*, and accompanying IDM at "Benchmark for Long Term Loans."

#### **D. Creditworthiness**

In the underlying investigation, we investigated Dongbu's Debt Restructuring Program and found this program to be countervailable. We are investigating this program in this review. Participation in this program allowed Dongbu to restructure certain existing loans, corporate bonds, and L/C Usance loans,<sup>61</sup> and to convert certain of Dongbu's debt into equity. As noted above, Nucor alleged that Dongbu was uncreditworthy during the instant POR.

Commerce will consider a company to be uncreditworthy if the Secretary determines that, based on information available at the time of the government-provided loan, the firm could not have obtained long-term loans from conventional commercial sources.<sup>62</sup> In the original investigation, we found Dongbu to be uncreditworthy in 2014.<sup>63</sup>

Commerce has preliminarily determined that the petitioner has provided information establishing a reasonable basis to believe Dongbu was uncreditworthy during POR, pursuant to 19 CFR 351.505(a)(6). Dongbu has not contested the petitioner's uncreditworthiness allegation, as Commerce found Dongbu to be uncreditworthy during the original investigation. The record demonstrates that Dongbu did not obtain any long-term loans from conventional commercial sources in 2015 and 2016.<sup>64</sup> Therefore, pursuant to 19 CFR 351.505(a)(4), we will continue to find Dongbu to be uncreditworthy during the POR and countervail its restructured loans provided by the government policy banks during the POR using an uncreditworthiness benchmark with an added risk premium. Parties wishing to comment on this issue should do so as part of their case briefs, as described below in the section entitled, "Disclosure and Public Comment."

#### **E. Equityworthiness**

As noted above, participation in the Debt Restructuring Program also allowed Dongbu to convert some of its debt into equity. As noted above, Nucor alleged that Dongbu was unequityworthy from June 30, 2014 to December 31, 2016. For a discussion of our analysis, see *the* "Debt to Equity Conversions" section, below.

#### **F. Denominators**

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, Commerce considers the basis for the respondent's receipt of benefits under each program. As discussed in further detail below, where the program has been found to be countervailable as a domestic subsidy, we have used total sales as the denominator for our rate calculations for Hyundai Steel. For Dongbu, we preliminarily determined that the short-term discounted loans for export receivables have been found to be countervailable as an export subsidy, therefore, we have used the recipient's export sales as the denominator. In the sections below, we describe the

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<sup>61</sup> *Id.*

<sup>62</sup> See 19 CFR 351.505(a)(4).

<sup>63</sup> See *CORE Final Determination*, 81 FR at 35310, and accompanying IDM at Comment 6.

<sup>64</sup> See Dongbu's June 14, 2018 SQR at 8-9.

denominators we used to calculate the countervailable subsidy rates for the various subsidy programs.

## **IX. Analysis of Programs**

### **A. Programs Preliminarily Determined to be Countervailable**

#### **1. Dongbu's Debt Restructuring**

The GOK and Dongbu reported that among the nine creditor banks on the Dongbu Steel Creditor Banks Committee (Creditor Bank Committee) that participated in Dongbu's Debt restructuring, the KDB, Korea Financial Corporation (KoFC), KEXIM, Woori Bank (Woori) and Industrial Bank of Korea (IBK) were majority government-owned.<sup>65</sup> The four remaining were private commercial banks (Nonghyup Bank, Shihan Bank, Hana Bank, Korea Exchange Bank).<sup>66</sup> The KDB was the prime creditor bank of Dongbu.<sup>67</sup>

The Creditor Bank Committee held a series of meetings during 2014 to resolve how to restructure Dongbu's debt. Dongbu reported that on July 7, 2014, the first Creditor Bank Committee meeting was held which established the participation of the above listed nine banks in Dongbu's debt restructuring.<sup>68</sup> At the second meeting held on July 21, 2014, the Creditor Bank Committee approved certain emergency operating loans for Dongbu.<sup>69</sup> The Creditor Bank Committee then approved a debt restructuring plan which provided for:

- the restructuring of certain existing loans, corporate bonds, and L/C Usance loans<sup>70</sup> and;
- the conversion of some of Dongbu's debt into equity.

##### **a. Restructured Loans**

In the investigation, Commerce found that the GOK-controlled banks of the Dongbu Creditor Banks Committee are authorities under section 771(5)(B) of the Act and determined that under the debt restructuring the GOK-controlled banks provided a financial contribution to Dongbu as defined under section 771(5)(D)(i) of the Act. Commerce also found this program is specific within the meaning of section 771(5A)(D)(iii)(I) of the Act, as the recipient of this special financing from the creditor banks are limited in number. We calculated the benefit from these restructured loans from GOK-controlled banks by comparing the interest actually paid on the loans during the POI to what the company would have paid on a comparable loan during the POI.

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<sup>65</sup> The Creditor Bank Committee consists of KDB, KoFC, KEXIM, Woori, IBK, Nonghyup Bank, Shihan Bank, Hana Bank, and Korea Exchange Bank. See GOK's July 6, 2018 SQR at 11-12; Dongbu's Initial QR at 34-35.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> See Dongbu's Initial QR at 22-23.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

Section 771(5)(B) of the Act defines an “authority” as a government of a country or any public entity within the territory of the country. We have found that KDB, KoFC, KEXIM, Woori, and IBK are majority government-owned policy banks in the final determination of the investigation, and no information has been provided on the record of the instant review that would cause us to reach a different determination. Thus, we continue to find that the KDB, KoFC,<sup>71</sup> KEXIM, Woori, and IBK are government-owned policy banks.<sup>72</sup> The GOK also stated that KODIT is 100% owned by the GOK.<sup>73</sup> As Commerce noted in *NOES from Korea* final, policy banks are created by a government in order to implement government industrial policies through the provision of financing to industries and enterprises; thus, a policy bank, by its very nature, is an authority under section 771(5)(B) of the Act.<sup>74</sup> Therefore, we preliminarily determine that each of the six GOK-controlled banks (*i.e.*, KDB, KoFC, KEXIM, Woori, IBK and KODIT) are authorities under section 771(5)(B) of the Act. We also preliminarily determine that under this debt restructuring these six authorities provided a financial contribution to Dongbu as defined under section 771(5)(D)(i) of the Act.

With respect to specificity, similar to the original investigation, Dongbu was one of a very limited number of companies that went through restructuring by a creditors bank during the POR and 2014. The restructuring of Dongbu’s debt was not overseen by an independent party. Instead, Dongbu’s debt restructuring was controlled by the Creditor Bank Committee, which in turn was controlled by GOK policy banks such as the KDB. We continue to find that because the actual recipients of financing pursuant to restructurings by creditors’ councils are limited in number, this subsidy is specific within the meaning of section 771(5A)(D)(iii)(I) of the Act.

Under section 771(5)(E)(ii) of the Act, there is a benefit with respect to the provision of a loan, if there is a difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market. While there were some private commercial banks involved in the debt restructuring of Dongbu, the restructuring of Dongbu’s debt was not overseen by an independent party. Instead, Dongbu’s debt restructuring was controlled by the Creditor Bank Committee, which in turn was controlled by GOK policy banks such as the KDB. Consistent with *Refrigerators from Korea*,<sup>75</sup> we preliminarily determine that the loans from private creditors on the Creditor Bank Committee cannot be construed to be “comparable commercial loans” and thus cannot be used as a commercial benchmark under section 771(5)(E)(ii) of the Act and 19 CFR 351.505(c)(2), because the Creditor Bank Committee is controlled by GOK banks.

To determine the benefit conferred to Dongbu from these loans and loan restructuring during the POR, in accordance with 19 CFR 351.505(c)(2), we calculated the benefit from these loans by comparing the interest actually paid on the loans during the POR to what the company would have paid on a comparable commercial loan that the recipient could actually obtain on the

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<sup>71</sup> KDB and KoFC merged on January 1, 2015. See GOK’s 2<sup>nd</sup> SQR at 11.

<sup>72</sup> See GOK’s July 6, 2018 SQR at 11-12.

<sup>73</sup> *Id.* With respect to KODIT, we note that it is only involved with conversion of Dongbu debt to equity.

<sup>74</sup> See *Non-Oriented Electrical Steel from the Republic of Korea: Final Negative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 79 FR 61605 (October 14, 2014) (*NOES from Korea*), and accompanying IDM at Comment 7.

<sup>75</sup> See *Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 17410 (March 16, 2012), and accompanying IDM at 111-14.

market, as described in the “Benchmarks and Discount Rates” section above, during the POR. As explained in the “Creditworthiness” section of this memorandum, we have preliminarily determined Dongbu to be uncreditworthy in 2015 and 2016. Therefore, we have adjusted the benchmark rate using the methodology set forth under 19 CFR 351.505(a)(3)(iii), by adding a risk premium to the discount rate. We then applied this benchmark to both Dongbu’s restructured long-term loans and to the new loans it received during the POR. On this basis, we determined a net countervailable subsidy rate of 7.62 percent *ad valorem* in 2015, and 8.45 percent *ad valorem* in 2016 for Dongbu.

b. Debt to Equity Conversions

The record of this review indicates that Dongbu continued to have a shortfall on operating profit and struggled to survive. PriceWaterhouseCoopers’ evaluation of Dongbu indicated that the company’s going-concern value was significantly higher than its liquidation value.<sup>76</sup> Dongbu and its creditor banks established the Corporate Workout Program under Corporate Restructuring Promotion Act (CRPA), and Dongbu Steel’s Creditor Financial Institutions’ Committee (DSCFIC) held a series of meetings to establish DSCFIC’s participating creditor banks, enter into business normalization plan, and carry out Dongbu’s debt-to-equity conversion and interest rate reduction for its loans.<sup>77</sup> The assistance to Dongbu through these agreements included Dongbu’s debt-to-equity conversion.<sup>78</sup>

Dongbu and the GOK reported that Dongbu’s creditors committee approved two debt-to-equity conversions on October 2, 2014 and March 14, 2016, respectively.<sup>79</sup> The first debt-to-equity conversion of 53 Billion KWR took place on February 13, 2015, and the second debt-to-equity conversion of 200 Billion KWR took place on May 9, 2016.<sup>80</sup> As noted above, while many of banks who were members of the Creditor Bank Committee were majority government owned during the POR (*i.e.*, the KDB, KEXIM, Woori Bank, IBK and KODIT),<sup>81</sup> the Nonghyup Bank, Shihan Bank, Hana Bank, Korea Exchange Bank were privately owned.<sup>82</sup> As noted above, we find that the KDB, KEXIM, Woori Bank, IBK and KODIT are “authorities” within the meaning of section 771(5)(B) of the Act. Their equity infusions constitute financial contributions within the meaning of section 771(5)(D)(i) of the Act.

Commerce will consider a government equity infusion as being “inconsistent with usual investment practice if the price paid by the government for newly issued shares is greater than the price paid by private investors for the same (or similar form of) newly issued shares.”<sup>83</sup> If private investor prices are available, then Commerce will compare the price paid by the government for the newly issued shares to the prices paid by the private investors for the same (or similar) newly issued shares. If private investor prices are unavailable, then Commerce may

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<sup>76</sup> See Dongbu Initial QR at 26-29.

<sup>77</sup> *Id.*, and Exhibits DEBT-9 to DEBT-14.

<sup>78</sup> *Id.*

<sup>79</sup> See GOK’s July 6, 2018 SQR at 11-12.

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

<sup>81</sup> *Id.*

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

<sup>83</sup> See 19 CFR 351.507 (a)(2).

examine whether the respondent company was equityworthy at the time of the government-provided equity infusion.<sup>84</sup>

As noted above, Dongbu had two debt-to-equity conversions during the POR, on February 13, 2015, and May 9, 2016.<sup>85</sup> The participating banks for the debt conversions included GOK-controlled policy and private commercial banks. Because information on the record indicates that private commercial banks: 1) participated in the two equity infusions at issue;<sup>86</sup> 2) paid the same per share price as the government-controlled policy banks;<sup>87</sup> and 3) purchased a significant percentage of the shares of debt that were converted to equity,<sup>88</sup> we preliminarily find that Dongbu's equity infusions are consistent with usual investment practice of private investors. Therefore, we find there is no benefit from Dongbu's debt-to-equity conversions.

## **2. Korea Development Bank (KDB) and Industrial Base Fund (IBF) Short-Term Discounted Loans for Export Receivables**

Commerce has previously determined that short-term export financing in the form of discounted documents against acceptance (D/A) loans issued by the KDB and other GOK policy banks are countervailable.<sup>89</sup> During the POR, Dongbu received D/A financing from the KDB for its export of subject merchandise to the United States.<sup>90</sup> As described above, KDB is an authority under section 771(5)(B) of the Act.<sup>91</sup> Thus, Commerce preliminarily determines that the KDB, operated as a wholly state-owned policy bank, provided a financial contribution through a direct transfer of funds to the respondents under section 771(5)(D)(i) of the Act. We also preliminarily determine that KDB lending is specific in accordance with section 771(5A)(A) and (B) of the Act, as the financing offered by the KDB is contingent upon export performance. A benefit within the meaning of section 771(5)(E)(ii) of the Act is conferred on the recipient to the extent that the recipient pays a lower discounted rate of interest on the loans than it would pay on a comparable short-term commercial loan.

Only Dongbu reported using this program. To calculate the benefit, we used the benchmarks described in the Benchmarks and Interest Rates section above, as well as the methodology described in 19 CFR 351.505(c) to calculate the interest that Dongbu would have paid on a comparable commercial loan during the POR and divided that benefit by Dongbu's total export sales of the subject merchandise to the United States during the POR. On this basis, we preliminarily determine that Dongbu received a countervailable subsidy rate of 0.01 percent *ad*

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<sup>84</sup> As noted above, Nucor alleged that Dongbu was unequityworthy from June 30, 2014 to December 31, 2016. However, because private investor prices are available, we do not reach the question of equityworthiness, pursuant to 19 CFR 351.507(a)(2)(i) and (a)(3)(i).

<sup>85</sup> See GOK's July 6, 2019 SQR at 10-11. See also Dongbu's Initial QR at 32-33.

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> See *Coated Free Sheet Paper from the Republic of Korea: Notice of Final Affirmative Countervailing Duty Determination*, 72 FR 60639 (October 17, 2007), and the accompanying IDM at 17-18.

<sup>90</sup> See Dongbu Initial QR at 14-15.

<sup>91</sup> See *NOES from Korea*, and the accompanying IDM at Comment 7.



*valorem* in 2015, and 0.02 percent *ad valorem* for Dongbu.<sup>92</sup>

### **3. Restriction of Special Location Taxation Act (RSLTA) - Local Tax Exemptions on Land Outside Metropolitan Areas – Article 78**

In our Initial Questionnaire, we asked the GOK, Dongbu, 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, Dongbu and Hyundai Steel reported receiving tax exemptions under Article 78 of the RSLTA.<sup>93</sup>

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.<sup>94</sup> 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.<sup>95</sup> In addition, the entity located in these designated industrial complexes shall have the property tax reduced by 50 percent on the real estate for five years from the date the tax liability becomes effective. The tax exemption is 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 foregone, as described under section 771(5)(D)(ii) of the Act and confer a benefit to both Dongbu and Hyundai Steel 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 prior Korean CVD proceedings.<sup>96</sup>

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.<sup>97</sup> 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

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<sup>92</sup> See Dongbu Preliminary Calculation Memorandum.

<sup>93</sup> See Dongbu Initial Questionnaire Response at 44-46 and Exhibit LOCAL TAX-1 through Exhibit LOCAL TAX-3; and Hyundai Steel Initial Questionnaire Response at 23 and Exhibits C-1 to C-5.

<sup>94</sup> See GOK Initial Questionnaire Response at 42-64.

<sup>95</sup> *Id.*

<sup>96</sup> 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 12; 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 22; see also *Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; and Rescission of Countervailing Duty Administrative Review, in Part*, 83 FR 32840 (July 26, 2018) (*CTL Plate 2016*) and accompanying IDM at 8.

<sup>97</sup> See 19 CFR 351.524(a).

the total sales of the respective company. On this basis, we preliminarily determine the net subsidy rate under the Article 78 program for Hyundai Steel to be 0.11 percent *ad valorem* for 2015, and 0.05 percent *ad valorem* for 2016.<sup>98</sup> For Dongbu, we preliminarily determine the net subsidy rate to be less than 0.005 percent for 2015 and 2016, which does not result in a measurable benefit.<sup>99</sup>

Dongbu and Hyundai Steel also reported the receipt of additional local tax reductions in connection with facilities located outside of Korean metropolitan areas. Specifically, Dongbu reported receiving local tax exemptions under RSLTA Articles 31, 46 and 84.<sup>100</sup> Hyundai Steel reported receiving local tax exemptions under RSLTA Articles 19, 31, 46, 47-2, 57-2, 84, 109, and 112.<sup>101</sup>

In the case of Dongbu, the respective tax savings it reported receiving under RSLTA Articles 31, 46, and 84 during the POR were less than 0.005 percent of its total sales and therefore are not measurable. In the case of Hyundai Steel, the respective tax savings it reported receiving under RSLTA Articles 19, 31, 46, 47-2, 84, 109, and 112 during the POR were less than 0.005 percent of its total sales and therefore are not measurable. Therefore, we preliminarily determine that only the Article 78 tax exemptions conferred any benefit under the RLSTA programs during the POR, and that benefit is solely attributed to Hyundai Steel at a rate of 0.11 percent and 0.05 percent *ad valorem*, for 2015 and 2016, respectively.

With respect to RSLTA Article 57-2, the information provided concerning this tax exemption under RSLTA does not indicate that the GOK limited this program to certain enterprises or industries.<sup>102</sup> Thus, we preliminarily find this program not to be specific for purpose of these preliminary results. We intend to seek further information on specificity after the preliminary results.

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

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.<sup>103</sup> Under the version of RSTA Article 25(3) effective during the POR, the credit

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<sup>98</sup> See Hyundai Steel Preliminary Calculation Memorandum.

<sup>99</sup> See Dongbu Preliminary Calculation Memorandum. See also *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 Commerce 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 IDM at “Programs Found Not To Confer a Countervailable Benefit During the POR.”

<sup>100</sup> See Dongbu Initial QR at Exhibit LOCAL TAX-1 through LOCAL TAX-3.

<sup>101</sup> See Hyundai Steel Initial QR at 24.

<sup>102</sup> See Hyundai Steel Initial QR at Exhibit C-9.

<sup>103</sup> See Hyundai Steel’s Initial QR at 35 and Exhibit C-18.

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 accrue credits in one year and delay claiming an exemption for up to five years.<sup>104</sup> 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, pursuant to 351.509(b)(1).

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.<sup>105</sup> 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,<sup>106</sup> we sought to recreate the specificity analysis Commerce 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).<sup>107</sup> Thus, to determine whether Hyundai Steel received a disproportionate amount of the subsidy, we compared the benefit amount received by Hyundai Steel to the average amount received by all other companies.<sup>108</sup> Under this approach, we find that in 2015, Hyundai Steel received a disproportionately large percentage of all the benefits granted under Article 25(3).<sup>109</sup> These facts demonstrate that Hyundai Steel received a disproportionate amount of the tax credits under the Article 25(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.<sup>110</sup>

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

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<sup>104</sup> *Id.*, at Exhibit C-18.

<sup>105</sup> See the GOK's Initial QR at 166.

<sup>106</sup> *Id.*, at 168-169.

<sup>107</sup> 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 at Comment 1. See also *Certain Cut-to-Length Carbon Quality Steel Plate from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review, and Preliminary Intent to Rescind in Part: Calendar Year 2015*, 82 FR 13792 (March 15, 2017) (*CTL Plate 2015 Preliminary Results*) and accompanying PDM at 11-12.

<sup>108</sup> *Id.*

<sup>109</sup> See the GOK's Initial QR at 169. See also Hyundai Steel Preliminary Calculation Memorandum.

<sup>110</sup> We note in the recent *Cold Rolled from Korea*, we found this program to be *de facto* specific, based on information provided by the GOK in the *Statistical Yearbook 2014*. See *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Preliminary Negative Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 80 FR 79567 (December 22, 2015) and accompanying PDM at 18. We intend to continue to examine *de facto* specificity and seek necessary information after the preliminary results.

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.<sup>111</sup> To calculate the benefit to Hyundai Steel we divided the tax credits by the sum of its total sales.<sup>112</sup> The resultant subsidy rate for 2015 is 0.07 percent *ad valorem* for Hyundai Steel. Hyundai Steel did not claim a tax credit under this program for 2016.<sup>113</sup>

## **5. Tax Deduction Under Restriction of Special Taxation Act (RSTA) Article 26: GOK Facilities Investment Support**

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 of the qualifying investment. 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.” The GOK noted that there were no changes made to this program during the POR.<sup>114</sup> Additionally, the tax incentives provided under the program are limited to firms located outside the Seoul Metropolitan area.<sup>115</sup> Hyundai Steel claimed tax credits under this program on the tax return filed during the POR.<sup>116</sup> Dongbu reported its taxable income for 2014 and 2015 was negative so it did not claim any tax credits or exemptions during the POR.<sup>117</sup>

We preliminarily determine that the tax reductions under RSTA Article 26 constitute a financial contribution in the form of revenue foregone, 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 benefits are limited to enterprises located within designated geographical regions. Our findings in this regard are consistent with prior Korean CVD proceedings.<sup>118</sup>

To calculate the benefit for Hyundai Steel, we subtracted the amount of taxes paid by the firms 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

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<sup>111</sup> See 19 CFR 351.524(a).

<sup>112</sup> See Hyundai Steel Preliminary Calculation Memorandum.

<sup>113</sup> See Hyundai Steel Initial QR at 35.

<sup>114</sup> See GOK Initial QR at 42.

<sup>115</sup> See Hyundai Steel Initial QR at 22-23 and Exhibits B-1 to B-3.

<sup>116</sup> *Id.*, Exhibit B-1 at pages 4-5.

<sup>117</sup> See Dongbu Initial QR at 44.

<sup>118</sup> See *CTL Plate 2015 Preliminary Results* and accompanying PDM at 13, unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review and Rescission of Countervailing Duty Administrative Review, in Part*, 82 FR 39410 (August 18, 2017) (*CTL Plate 2015 Final Results*) and accompanying IDM at 6. See also *CTL Plate 2016 Preliminary Results* and accompanying PDM at 9.

preliminarily determine the net subsidy rate under this program during the POR to be 0.27 percent for 2015 and 0.42 percent for 2016 *ad valorem* for Hyundai Steel.

## **6. 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.<sup>119</sup> 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.<sup>120</sup> Hyundai claimed tax credits under this program with regard to the income tax return filed during the POR.<sup>121</sup> Dongbu reported its taxable income for 2014 and 2015 was negative so it did not claim any tax credits or exemptions during the POR.<sup>122</sup>

In *Carbon and Alloy Plate*,<sup>123</sup> Commerce 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.<sup>124</sup> 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. In *Carbon and Alloy Plate*, we determined that this program was specific under section 771(5A)(D)(iii)(I) of the Act because the actual recipients are limited in number under this program. Based on the information provided by the GOK in this review,<sup>125</sup> and consistent with our determination in *Carbon and Alloy Plate*, we preliminarily continue to find this program *de facto* specific under section 771(5A)(D)(iii)(I) of the Act because the actual recipients are limited in number. We intend to see further information on specificity after the preliminary results.

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 POR, pursuant to section 771(5)(E) of the Act and 19 CFR 351.509(a)(1).

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<sup>119</sup> See GOK Initial QR at 134.

<sup>120</sup> See GOK Initial QR at 138-139 for RSTA 10(1)(3) and at 203 for RSTA 25-3.

<sup>121</sup> See Hyundai Steel's Initial SQR at 19 and Exhibit SUPP-25.

<sup>122</sup> See Dongbu Initial QR at 44.

<sup>123</sup> See *Certain Carbon and Alloy Steel Cut-To-Length Plate from the Republic of Korea: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 82 FR 16341 (April 4, 2017), (*Carbon and Alloy Plate*) and accompanying IDM at Comment 10.

<sup>124</sup> See *CTL Plate 2015 Preliminary Results* and accompanying PDM at 10.

<sup>125</sup> See GOK Initial QR at 142.

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.<sup>126</sup> To calculate the benefit to Hyundai Steel we divided the tax credits by the sum of its total sales. The resultant subsidy rate for 2015 is 0.02 percent *ad valorem* for Hyundai Steel.<sup>127</sup> For 2016 Hyundai Steel reported it did not utilize this program. Dongbu did not use this program in 2015 or 2016.

## **7. Electricity Discounts under Trading of Demand Response Resources (DRR) Program**

Hyundai Steel used the Trading of Demand Response Resources (DRR) Program during the POR.<sup>128</sup> The legal basis for this program is Article 31(5) of the Electricity Business Law (EBL) and Chapter 12 of the Rules on Operation of Electricity Utility Market (ROEUM).<sup>129</sup> Chapter 12 of the ROEUM governs the program's operations, the purpose of which is to smooth imbalances between supply and demand of power provision by creating a competitive marketplace for the price of demand response resources. The program is divided into two sub-programs, Demand Response Peak Curtailment and Demand Response Program for Electricity Price Curtailment. The former program is designed to curtail load during peak electricity demand periods, and the latter is intended to minimize power generation costs through price competition.<sup>130</sup> The Korean Power Exchange (KPX) operates both programs.<sup>131</sup> KPX is majority-owned by the Korea Electric Power Corporation (KEPCO), which is, in turn, majority-owned by the GOK.<sup>132</sup>

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 limited number of companies were approved for the assistance under this program in the POR,<sup>133</sup> though participation in it is available to "all entities" in Korea.<sup>134</sup> We, therefore, preliminarily determine that this program is *de facto* specific under section 771(5A) (D)(iii)(I) of the Act, as the actual recipients are limited in number. Our findings in this regard is consistent with Commerce's approach in prior CVD proceedings involving Korea.<sup>135</sup>

Under this program, the KPX pays multiple private Demand Management Business Operators, also called "aggregators," which have direct, contractual relationships with end users of the program.<sup>136</sup> 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

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<sup>126</sup> See 19 CFR 351.524(a).

<sup>127</sup> See Hyundai Steel Preliminary Calculation Memorandum.

<sup>128</sup> See Hyundai Steel Initial QR at 29-31 and Exhibits D-2 and D-3; see GOK Initial QR at 254.

<sup>129</sup> See GOK Initial QR at 240-263.

<sup>130</sup> *Id.* at 253.

<sup>131</sup> *Id.*

<sup>132</sup> *Id.* at 258.

<sup>133</sup> See GOK Initial QR at 263. See also *CTL Plate 2016 Preliminary Results* and accompanying PDM at 13.

<sup>134</sup> See GOK Initial QR at 261.

<sup>135</sup> See *CTL Plate 2016 Preliminary Results* and accompanying PDM at 9, unchanged in *CTL Plate 2016 Final Results* and accompanying IDM at 5.

<sup>136</sup> *Id.* at 253.

under the program.<sup>137</sup> Consistent with our prior findings, we preliminarily find KEPCO to be an “authority” within the meaning of section 771(5)(B) of the Act.<sup>138</sup> Therefore, we determine that a financial contribution in the form of a direct transfer of funds from KPX 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 Dongbu and Hyundai Steel in accordance with 19 CFR 351.504(a). Our findings in this regard are consistent with prior Korean CVD proceeding.<sup>139</sup>

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 Hyundai Steel as a denominator to 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 Hyundai Steel received under this program to be 0.05 percent and 0.06 percent *ad valorem* for 2015 and 2016, respectively. Dongbu reported that the program did not provide measurable benefits during the POR.<sup>140</sup>

## **8. 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.<sup>141</sup> 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.<sup>142</sup>

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

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<sup>137</sup> *Id.* at 256.

<sup>138</sup> See *CTL Plate 2016 Preliminary Results* and accompanying PDM at 10. See also *CTL Plate 2015 Preliminary Results* and accompanying PDM at 13.

<sup>139</sup> See *CTL Plate 2015 Preliminary Results* and accompanying PDM at 13, unchanged in *CTL Plate 2015 Final Results* and accompanying IDM at 20-22. See also *CTL Plate 2016 Preliminary Results* and accompanying PDM at 9-11.

<sup>140</sup> See Dongbu’s Initial QR at 47-48, and Exhibit ENERGY-1 and ENERGY-4. See also Dongbu Preliminary Calculation Memorandum

<sup>141</sup> See GOK Initial QR at 230.

<sup>142</sup> *Id.* at Exhibit ITIPA-1.

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.<sup>143</sup>

We preliminarily determine the ITIPA 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 does not 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). Our findings in this regard are consistent with Commerce's prior Korean CVD proceeding.<sup>144</sup>

Dongbu reported it did not participate in this program.<sup>145</sup> During the POR, Hyundai Steel received various R&D grants pursuant to the ITIPA.<sup>146</sup> The names of the R&D projects in which Hyundai Steel has participated are business proprietary and, thus, cannot be disclosed in this decision memorandum.<sup>147</sup> We find no evidence on the record indicating that subsidies under the ITIPA program were tied to export sales. Therefore, we divided the total grants received under ITIPA by the total sales of Hyundai Steel in order to determine whether this program conferred a countervailable benefit during the POR.<sup>148</sup> Accordingly, we preliminarily determine the net subsidy rates that Hyundai Steel received under this program during the POR, are 0.02 percent *ad valorem* for 2015, and 0.01 percent *ad valorem* for 2016

## 9. 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.<sup>149</sup> 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

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<sup>143</sup> *Id.*

<sup>144</sup> See 2015 CTL Plate 2015 Preliminary Results and accompanying PDM at 14, unchanged in CTL Plate 2015 Final Results and accompanying IDM at 6. See also CTL Plate 2016 Preliminary Results and accompanying PDM at 11.

<sup>145</sup> See Dongbu Initial QR at 56.

<sup>146</sup> See Hyundai Steel Initial QR at 37-41.

<sup>147</sup> For a listing of the various R&D projects for which Hyundai Steel received grants, see Hyundai Steel Preliminary Calculation Memorandum.

<sup>148</sup> See CTL Plate 2016 Preliminary Results and accompanying PDM at 12, unchanged in CTL Plate 2016 Final Results and accompanying IDM at 5.

<sup>149</sup> See GOK Initial QR at 221 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).<sup>150</sup>

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. Furthermore, we find that 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, for the period between 2012 through 2016, there were a limited number of companies that were approved for/received assistance under this program.<sup>151</sup> 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.<sup>152</sup> Our findings are consistent with Commerce's prior Korean proceedings.<sup>153</sup>

Hyundai Steel reported that it used this program and received grants during the POR.<sup>154</sup> 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.<sup>155</sup>

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 is 0.01 percent *ad valorem* in 2015 and 2016. Dongbu reported that it did not participate or receive benefits under this program.<sup>156</sup>

## 10. Suncheon Harbor

The GOK established this program in 1976 under the Harbor Act in order to compensate companies that have constructed port facilities with their own funds and have made donations to the government. The GOK authority in charge of administering this program is the Ministry of Ocean and Fishery. According to the GOK, Hyundai Hysco, which merged with Hyundai Steel, needed to construct the Suncheon port for its business, and transferred its ownership to the

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<sup>150</sup> *Id.* at 223.

<sup>151</sup> *Id.* at 228 (BPI) for a more complete description of the number of companies involved in the program.

<sup>152</sup> See e.g., *NOES from Korea* and accompanying IDM at 11 and 13; see also *Welded Line Pipe from Korea* and accompanying IDM at 36; see also Statement of Administrative Action (SAA) accompanying H.R. 5110, H.R. Doc. No. 316, 103d Cong., 2d Sess. 911, 929 (1994) (“{t}he Administration intends to apply the specificity test in light of its original purpose, which is to function as an initial screening mechanism to winnow out only those foreign subsidies which truly are broadly available and widely used throughout an economy.”).

<sup>153</sup> See *CTL Plate 2016 Preliminary Results* and accompanying PDM at 12.

<sup>154</sup> See Hyundai Steel Initial QR at 36-37.

<sup>155</sup> *Id.* at Exhibit E-1.

<sup>156</sup> See Dongbu's Initial QR at 55.

Korean government under Korean law.<sup>157</sup> In exchange for the donation of the port to the GOK, Hyundai Steel is exempted from the port usage fee payment until the exempted fee amount reaches the amount invested to construct the port.<sup>158</sup> Because the number of companies that were approved/received assistance under this program is limited in number, we preliminarily determine that this program is *de facto* specific under 771(5A)(D)(iii)(I) of the Act, because the actual recipients are limited in number.<sup>159</sup> Furthermore, we preliminarily determine that a financial contribution exists in the form of revenue foregone, 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).

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 that Hyundai Steel received during 2016 to be 0.02 percent *ad valorem*. For 2015 the rate calculated is less than 0.005 percent and thus does not result in a measurable benefit. Dongbu reported that it did not participate or receive benefits under this program.

## **B. Programs Preliminarily Determined to be Not Used or Not to Confer a Measurable Benefit**

### **Hyundai Steel**

1. KEXIM Bank Import Financing
2. KEXIM Short-Term Export Credits
3. KEXIM Export Factoring
4. KEXIM Export Loan Guarantees
5. KEXIM Loan Guarantees for Domestic Facility Loans
6. KEXIM Trade Bill Rediscounting Program
7. KEXIM Bankers Usance
8. KEXIM Overseas Investment Credit Program
9. KDB and IBK Short-Term Discounted Loans for Export Receivables
10. Loans under the Industrial Base Fund
11. K-SURE Export Credit Guarantees
12. K-SURE Short-Term Export Credit Insurance
13. Long-Term Loans from KORES and KNOC
14. Clean Coal Subsidies
15. GOK Subsidies for “Green Technology R&D” and its Commercialization
16. Support for SME “Green Partnerships”
17. Tax Deduction under RSTA Article 10(1)(1)
18. RSTA Article 10(1)(2)
19. RSTA Article 11
20. RSTA 104(14)
21. RSLTA Articles 19, 31, 46, 47-2, 84, 109, and 112
22. Tax Reductions and Exemptions in Free Economic Zones

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<sup>157</sup> See GOK Initial QR at 55.

<sup>158</sup> *Id.* at 57.

<sup>159</sup> See GOK SQR Appendix Volume, page 61.

23. Grants and Financial Support in Free Economic Zones
24. Sharing of Working Opportunities/Employment Creating Incentives
25. GOK Infrastructure Investment at Incheon North Harbor
26. Machinery & Equipment (KANIST R&D) Project
27. Grant for Purchase of Electrical Vehicle
28. Power Business Law Subsidies
29. Provision of Liquefied Natural Gas (LNG) for LTAR
30. Energy Savings Programs
  - Electricity Savings for Designated Period Program
  - Electricity Savings through the Bidding Process Program
  - Electricity Savings upon an Emergent Reduction Program
  - Electricity Savings through General Management Program
  - Management of the Electricity Load Factor Program
31. The GOK's Purchases of Electricity for MTAR
32. Incentives for Compounding and Prescription Cost Reduction
33. Subsidies for Employment Security during Period of Childbirth and Childcare
34. Incentives for Usage of Yeongil Harbor in Pohang City
35. VAT Exemptions on Imported Goods
36. Import Duty Exemptions
37. Incentives for Usage of Gwangyang Port
38. Incentives for Natural Gas Facilities
39. Subsidies for Construction and Operation of Workplace Nursery
40. Subsidies for Hyundai Steel Red Angels Women's Football Club
41. Co-existence Project for Large- Medium- Small Enterprises as Energy Companies
42. One Company for One Street Clean Management Agreement
43. Support for Smoking Cessation Treatment
44. Seoul Guarantee Insurance
45. Purchase of Land from Government Entities
46. Fast-Track Restructuring Program

## **Dongbu**

1. KEXIM Bank Import Financing
2. RSTA Article 25(2): Tax Deductions for Investments in Energy Economizing Facilities
3. RSTA Article 26: GOK Facilities Investment Support
4. Power Business Law Subsidies
5. Provision of Liquefied Natural Gas (LNG) for LTAR
6. Energy Savings Programs
  - Electricity Savings for Designated Period Program
  - Electricity Savings through the Bidding Process Program
  - Electricity Savings upon an Emergent Reduction Program
  - Electricity Savings through General Management Program
  - Management of the Electricity Load Factor Program
7. KEXIM Short-Term Export Credits

8. KEXIM Export Factoring
9. KEXIM Export Loan Guarantees
10. KEXIM Trade Bill Rediscounting Program
11. KEXIM Overseas Investment Credit Program
12. KDB and IBF Loans under the Industrial Base Fund
13. K-SURE Export Credit Guarantees
14. K-SURE Short-Term Export Credit Insurance
15. Long-Term Loans from KORES and KNOC
16. Special Accounts for Energy and Resources (SAER) Loans
17. Clean Coal Subsidies
18. GOK Subsidies for “Green Technology R&D” and its Commercialization
19. Support for SME “Green Partnerships”
20. Daewoo International Corporation Debt Work Out
21. Research, Supply or Workforce Development Investment Tax Deduction for “New Growth Engines” under RSTA Article 10(1)(1)
22. Research, Supply, or Workforce Development Expense Tax Deductions for “Core Technologies” under RSTA Article 10(1)(2)
23. Tax Reduction for Research and Human Resources Development under RSTA Article 10(1)(3)
24. Tax Credit for Investment in Facilities for Research and Manpower under RSTA Article 11
25. Tax Deduction for Investment in Environmental and Safety Facilities under RSTA Article 25(3)
26. Tax Program for Third-Party Logistics Operations under RSTA Article 104(14)
27. RSLTA Articles 46, 84
28. Tax Reductions and Exemptions in Free Economic Zones
29. Exemptions and Reductions of Lease fees in Free Economic Zones
30. Grants and Financial Support in Free Economic Zones
31. Modal Shift Program
32. Sharing of Working Opportunities/Employment Creating Incentives
33. R&D Grants under Industrial Technology Innovation Promotion Act (ITIPA)
34. GOK Infrastructure Investment at Incheon North Harbor
35. Machinery & Equipment (KANIST R&D) Project
36. Grant for the Purchase of an Electric Vehicle
37. The GOK’s Purchases of Electricity from Corrosion-Resistant Steel Producers for MTAR
38. Land Purchase at Asan Bay
39. Dongbu's Exemptions from Payment of Harbor Fees
40. Grants from the Korea Agency for Infrastructure Technology Advancement

**X. 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*.



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Agree

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Disagree

8/3/2018

X



Signed by: JAMES MAEDER

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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