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DATE: October 30, 2018

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Results of the
Countervailing Duty Administrative Review, 2016: Certain Hot-
Rolled Steel Flat Products from the Republic of Korea

I. Summary

The Department of Commerce (Commerce) is conducting an administrative review of the countervailing duty (CVD) order on certain hot-rolled steel flat products (hot-rolled steel) from the Republic of Korea (Korea) for the period of review (POR) August 12, 2016, through December 31, 2016. This review covers nine producers/exporters of subject merchandise. Commerce selected Hyundai Steel Company, Ltd. (Hyundai Steel) and POSCO as mandatory respondents. We preliminarily determine that producers/exporters of subject merchandise received above *de minimis* countervailable subsidies.

II. Background

On October 3, 2016, Commerce published the *Hot-Rolled Steel Order* in the *Federal Register*.¹ On October 4, 2017, Commerce published a notice of opportunity to request an administrative review of the *Hot-Rolled Steel Order*.² On October 25, 2017, we received a timely request for

¹ See *Certain Hot-Rolled Steel Flat Products from Brazil and the Republic of Korea: Amended Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders*, 81 FR 67960 (October 3, 2016) (*Hot-Rolled Steel Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 82 FR 46218 (October 4, 2017).



administrative review from Hyundai Steel and POSCO.³ On October 31, 2017, we also received a timely request from the petitioners⁴ for review of the *Hot-Rolled Steel Order* for the following firms: DCE Inc.; Dong Chuel America Inc.; Dongbu Steel Co., Ltd.; Dongkuk Industries Co., Ltd.; Hyewon Sni Corporation (H.S.I.); Hyundai Steel Company; Soon Hong Trading Co., Ltd.; Sung-A Steel Co., Ltd.⁵ On December 7, 2017, Commerce initiated a CVD review with regard to the nine producers for which interested parties requested individual review.⁶

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.⁷ On December 7, 2017, Commerce released CBP entry data, and provided interested parties until December 15, 2017, to submit comments on the data.⁸ On December 15, 2017, POSCO and Nucor submitted comments that Commerce should select the two largest producers or exporters of subject merchandise.⁹ No other party submitted comments or rebuttal comments regarding respondent selection, and no party requested to be considered as a voluntary respondent in this administrative review.

On January 3, 2018, Commerce selected Hyundai Steel and POSCO as the mandatory respondents in the administrative review.¹⁰

On January 4, 2018, Commerce issued the Initial Questionnaire to the Government of Korea (GOK), Hyundai Steel, and POSCO.¹¹ Hyundai Steel and POSCO submitted their affiliation questionnaire responses on January 19, 2018, and January 24, 2018, respectively.¹² On February 23, 2018, Hyundai Steel and POSCO submitted their responses to Section III of Commerce's January 4, 2018 Initial Questionnaire.¹³ On March 2, 2018, the GOK also submitted its response to Commerce's Initial Questionnaire.¹⁴ Between May 4, 2018, and October 10, 2018, Commerce issued supplemental questionnaires to Hyundai Steel, POSCO, and the GOK, and received

³ See Hyundai Steel's Letter, "Request for Administrative Review," dated October 25, 2017; POSCO's Letter, "Request for Administrative Review," dated October 25, 2017.

⁴ AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation (Nucor), SSAB Enterprises, LLC, Steel Dynamics, Inc., and United Steel Corporation are collectively the petitioners.

⁵ See Nucor's Letter, "Request for Administrative Review," dated October 31, 2017.

⁶ We initiated a review on: DCE Inc.; Dong Chuel America Inc.; Dongbu Steel Co., Ltd.; Dongkuk Industries Co., Ltd.; Hyewon Sni Corporation (H.S.I.); Hyundai Steel Company; POSCO; Soon Hong Trading Co., Ltd.; Sung-A Steel Co., Ltd. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 57705 (December 7, 2017) (*Initiation Notice*).

⁷ *Id.*

⁸ See Memorandum, "U.S. Customs Data for Respondent Selection," dated December 7, 2017; see also Memorandum, "Nucor's Request for an Extension of Time to Submit comments on CBP Data for Respondent Selection," dated December 12, 2017.

⁹ See POSCO's letter, "Comments on CBP Data and Respondent Selection," dated December 15, 2017; The Petitioners' Letter, "Comments on CBP Data and Respondent Selection," dated December 15, 2017.

¹⁰ See Memorandum, "Respondent Selection," dated January 3, 2018.

¹¹ See Commerce Letter re: Countervailing Duty Questionnaire, dated January 4, 2018 (Initial Questionnaire).

¹² See Hyundai Steel's January 19, 2018 Affiliation Questionnaire Response (Hyundai Steel Affiliation QR) and POSCO January 24, 2018 Affiliation Response (POSCO Affiliation QR).

¹³ See Hyundai Steel's February 23, 2018 Section III Initial Questionnaire Response (Hyundai Steel Initial QR), and POSCO's February 23, 2018, Section III Initial Questionnaire Responses (POSCO Initial QR).

¹⁴ See the GOK's March 2, 2018 Initial Questionnaire Response (GOK Initial QR).

timely responses. Nucor filed deficiency comments for Hyundai Steel, POSCO, and the GOK.¹⁵ Hyundai Steel and POSCO filed rebuttal comments in response to Nucor's comments.¹⁶

On March 22, 2018, Nucor submitted timely new subsidy allegations (NSAs) with regard to Hyundai Steel and POSCO.¹⁷ On April 2, 2018, POSCO and Hyundai Steel submitted comments in response to the NSA Submission.¹⁸ On April 25, 2018, Commerce issued a supplemental questionnaire to Nucor regarding the NSAs.¹⁹ Nucor timely responded to Commerce's supplemental questionnaire on May 1, 2018.²⁰ On June 6, 2018, Commerce released its decision memorandum regarding Nucor's NSAs concerning Hyundai Steel and POSCO.²¹ On June 6, 2018, Commerce issued the NSA questionnaire to Hyundai Steel and the GOK.²² On June 12, 2018, and June 13, 2018, the GOK and Hyundai Steel, respectively, submitted its NSA questionnaire response.²³

On October 9, 2018, Nucor filed new factual information regarding the relationship between the GOK and the Korean financial and banking sectors and benchmarks for assessing whether producers and/or exporters in Korea benefitted from the GOK's provision of land for less than adequate remuneration (LTAR).²⁴ On October 19, 2018, Nucor filed comments with respect to Hyundai Steel and POSCO in advance of the preliminary results.²⁵ On October 24, 2018 and October 25, 2018, Hyundai Steel and POSCO filed rebuttal comments to Nucor's comments.²⁶ 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 20, 2018, through 22, 2018.²⁷ On June 12,

¹⁵ See Nucor's deficiency comments regarding Hyundai Steel's Questionnaire Responses, dated February 7, 2018, March 9, 2018, June 7, 2018, June 27, 2018, August 9, 2018, August 14, 2018, and October 11, 2018. See Nucor's deficiency comments regarding POSCO's Questionnaire Responses, dated February 7, 2018, March 9, 2018, May 1, 2018, June 1, 2018, June 20, 2018, and July 16, 2018. See Nucor's deficiency comments regarding the GOK's Questionnaire Responses dated March 7, 2018, June 26, 2018, and August 14, 2018.

¹⁶ See Hyundai Steel's rebuttal comments dated February 16, 2018, May 4, 2018 August 16, 2018; and POSCO's rebuttal comments, dated and May 4, 2018, June 8, 2018, and July 23, 2018.

¹⁷ See Nucor's Letter, "New Subsidy Allegations," dated March 22, 2018 (NSA Submission).

¹⁸ See POSCO's Letter, "Response to Nucor's New Subsidy Allegation," dated April 2, 2018; Hyundai Steel's Letter, "Response to Nucor's New Subsidy Allegation," dated April 2, 2018.

¹⁹ See Commerce Letter re: Supplemental Questionnaire for New Subsidy Allegations, dated April 25, 2018.

²⁰ See Nucor's May 1, 2018 Supplemental Questionnaire Response," dated May 1, 2018 (Nucor May 1, 2018 SQR).

²¹ See Memorandum, "New Subsidy Allegations," dated June 6, 2018.

²² See Commerce Letter re: New Subsidies Questionnaire for Hyundai Steel, dated June 6, 2018; Commerce Letter re: New Subsidies Questionnaire for the GOK, dated June 6, 2018.

²³ See GOK's Letter, "Response to New Subsidies Questionnaire," dated June 12, 2018; Hyundai Steel's Letter, "Response to New Subsidies Questionnaire," dated June 13, 2018.

²⁴ See Nucor's Letter, "Submission of Other Factual Information," dated October 9, 2018; Nucor's Letter, "Submission of Benchmark Information," dated October 9, 2018.

²⁵ See Nucor letter, "Pre-Preliminary Results Comments," dated October 19, 2018.

²⁶ See Hyundai Steel letter, "Rebuttal to Nucor Corporation's Pre-Preliminary Results Comments," dated October 25, 2018; POSCO letter, "Rebuttal to Nucor's Pre-Preliminary Comments," dated October 24, 2018.

²⁷ 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.

2018, Commerce extended the deadline for preliminary results of this review to no later than November 5, 2018.²⁸

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 August 12, 2016, through December 31, 2016.

While the POR covers part of 2016, we have analyzed data for the period January 1, 2016, through December 31, 2016, to determine the countervailable subsidy rate for exports of subject merchandise made during the periods in 2016 when liquidation of entries was suspended.

IV. Scope of the Order

The products covered by this order are certain hot-rolled, flat-rolled steel products, with or without patterns in relief, and whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement (“width”) of 12.7 mm or greater, regardless of thickness, and 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 of 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 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 unless the resulting measurement makes the product covered by the existing antidumping²⁹ or countervailing duty³⁰ orders on Certain Cut-To-Length Carbon-Quality Steel Plate Products from the Republic of Korea (A-580-836; C-580-837), and

(2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

²⁸ See Memorandum “Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review; 2016,” dated June 12, 2018.

²⁹ See *Notice of Amendment of Final Determinations of Sales at Less than Fair Value and Antidumping Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate Products from France, India, Indonesia, Italy, Japan and the Republic of Korea*, 65 FR 6585 (February 10, 2000).

³⁰ See *Notice of Amended Final Determinations: Certain Cut-to-Length Carbon-Quality Steel Plate from India and the Republic of Korea; and Notice of Countervailing Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy, and the Republic of Korea*, 65 FR 6587 (February 10, 2000).

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, or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium.

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

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

Subject merchandise includes hot-rolled steel that has been further processed in a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, 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 hot-rolled steel.

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

- Universal mill plates (*i.e.*, hot-rolled, flat-rolled products not in coils that have

been rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, of a thickness not less than 4.0 mm, and without patterns in relief);

- Products that have been cold-rolled (cold-reduced) after hot-rolling;³¹
- Ball bearing steels;³²
- Tool steels;³³ and
- Silico-manganese steels;³⁴

The products subject to this order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.10.1500, 7208.10.3000, 7208.10.6000, 7208.25.3000, 7208.25.6000, 7208.26.0030, 7208.26.0060, 7208.27.0030, 7208.27.0060, 7208.36.0030, 7208.36.0060, 7208.37.0030, 7208.37.0060, 7208.38.0015, 7208.38.0030, 7208.38.0090, 7208.39.0015, 7208.39.0030, 7208.39.0090, 7208.40.6030, 7208.40.6060, 7208.53.0000, 7208.54.0000, 7208.90.0000, 7210.70.3000, 7211.14.0030, 7211.14.0090, 7211.19.1500, 7211.19.2000, 7211.19.3000, 7211.19.4500, 7211.19.6000, 7211.19.7530, 7211.19.7560, 7211.19.7590, 7225.11.0000, 7225.19.0000, 7225.30.3050, 7225.30.7000, 7225.40.7000, 7225.99.0090, 7226.11.1000, 7226.11.9030, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.5000, 7226.91.7000, and 7226.91.8000. The products subject to the order may also enter under the following HTSUS numbers: 7210.90.9000, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7214.99.0060, 7214.99.0075, 7214.99.0090, 7215.90.5000, 7226.99.0180, and 7228.60.6000.

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

V. 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

³¹ For purposes of this scope exclusion, rolling operations such as a skin pass, levelling, temper rolling or other minor rolling operations after the hot-rolling process for purposes of surface finish, flatness, shape control, or gauge control do not constitute cold-rolling sufficient to meet this exclusion.

³² Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

³³ Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) more than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

³⁴ Silico-manganese steel is defined as steels containing by weight: (i) not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

an administrative review pursuant to section 777A(e)(2) of 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 individually examined companies, excluding rates that are zero, *de minimis*, or based entirely on facts available.³⁵ Section 705(c)(5)(A)(ii) 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 POSCO 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 POSCO using publicly ranged sales data submitted by respondents, pursuant to section 705(c)(5)(A)(i) of the Act.³⁶

VI. Subsidies Valuation Information

A. Allocation Period

For non-recurring subsidies, we applied the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for the same year. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the average useful life (AUL). In the instant review, we are relying on a 15-year AUL.³⁷

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

³⁵ See, *e.g.*, *Certain Pasta from Italy: Final Results of the 2008 Countervailable Review*, 75 FR 37386, 37387 (June 29, 2010).

³⁶ See Memorandum, "Preliminary Results Calculations of Subsidy Rate for Non-Selected Companies Under Review," dated concurrently with this memorandum.

³⁷ See U.S. Internal Revenue Service Publication 946 (2008), "How to Depreciate Property," at Table B-2: Table of Class Lives and Recovery Periods.

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.³⁸

Hyundai Steel reported that it is a publicly traded company engaged in the production and sale of steel products, including hot-rolled steel.³⁹ Hyundai Steel reported that it is not a subsidiary of any other company and it has no parent or holding company.⁴⁰ Hyundai Steel further reported that none of its cross-owned companies supplied inputs for the production of subject merchandise.⁴¹ Accordingly, Hyundai Steel responded to the Initial Questionnaire with regard to Hyundai Steel. We attributed subsidies received by Hyundai Steel to the sales of Hyundai Steel.⁴²

POSCO reported that it had one affiliated Korean trading company through which it exported all subject merchandise, POSCO Daewoo Corporation (PDC).⁴³ For POSCO, we are preliminarily attributing subsidies received by POSCO to its own sales in accordance with 19 CFR 351.525(b)(6)(i). For PDC, because PDC is POSCO's trading company for all of POSCO's exports of subject merchandise, we have cumulated benefits from subsidies to PDC with benefits from subsidies provided to POSCO that are sold through the PDC based on the ratio of PDC's exports to the United States of subject merchandise that were produced by POSCO during the POR, pursuant to 19 CFR 351.525(c).

POSCO stated that it also had input suppliers with which it is cross-owned: POSCO Chemtech; POSCO Nippon RHF Joint Venture Co., Ltd. (PNR); POSCO P&S, Pohang Scrap Recycling Distribution Center (Pohang SRDC), and POSCO M-Tech. Each of these companies supplied

³⁸ See *Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

³⁹ See Hyundai Steel Affiliation QR at 3.

⁴⁰ *Id.*

⁴¹ *Id.* at 14-15.

⁴² As noted below in the "Programs Preliminarily Determined Not to Confer a Benefit" section, Nucor 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.

⁴³ See POSCO Affiliation QR at 2. POSCO Reported that PDC also supplied POSCO with raw materials. See POSCO Affiliation QR at Exhibit 5.

inputs to POSCO for the production of the downstream product.⁴⁴ Pursuant to 19 CFR 351.525(b)(6)(iv), we preliminarily attributed subsidies received by these cross-owned input providers to the respective input providers' total sales plus the sales of POSCO, net of inter-company sales.⁴⁵

Either POSCO or POSCO's cross-owned input suppliers acquired the following companies during the AUL:⁴⁶

- POSCO merged with POS-Himetal during the POR and, afterward, POS-Himetal no longer existed as a separate company;⁴⁷
- POSCO AST, POSCO NST and Daemyeong TMS: Between 2007 and 2010, POSCO incrementally acquired all of the shares of POSCO AST.⁴⁸ Subsequently, in 2010, POSCO AST merged with Daemyeong TMS, POSCO AST's subsidiary.⁴⁹ In 2012, POSCO AST merged with POSCO TMS, POSCO AST's subsidiary.⁵⁰ In 2012, POSCO AST also merged with POSCO's subsidiary POSCO NST.⁵¹ Afterward, POSCO NST no longer existed as a separate company.⁵² In 2016, POSCO P&S acquired 100 percent of the shares of POSCO AST from POSCO and merged with POSCO AST.⁵³ Afterward, POSCO AST no longer existed as a separate company.⁵⁴
- POSCO TMC: In 2016 POSCO TMC merged with POSCO P&S and, afterward, no longer existed as a separate company.⁵⁵
- Ricco Metal and Nine-Digit: In January 2013, Ricco Co. (Ricco Metal) merged into POSCO M-Tech and, afterward, no longer existed as a separate company.⁵⁶ In January 2013, Nine Digits Co. (Nine Digit) merged into POSCO M-Tech and, afterward, no

⁴⁴ See POSCO Affiliation QR at 2, 8-16. Pohang SRDC processed scrap which it provided to POSCO through POSCO P&S. See POSCO Affiliation QR at 14-15

⁴⁵ We preliminarily find that, among these input suppliers, only POSCO Chemtech, and POSCO M-Tech received countervailable subsidies that conferred measurable benefits. See Memorandum, "Preliminary Calculations for POSCO," dated concurrently with this memorandum (POSCO Preliminary Calculation Memo), and the accompanying Excel spreadsheet.

⁴⁶ As explained in the "Use of Facts Otherwise Available" section, below, we have preliminarily applied neutral FA with respect to Ricco Metal, we intend to examine and if necessary, collect further information regarding POSCO M-Tech's, POSCO AST's and SRDC's responses with respect to Ricco Metal, Nine Digit, Daemyeong TMS, Pohang SPFC, and Gunsan SPFC, after the preliminary results.

⁴⁷ See POSCO Affiliation QR at 22.

⁴⁸ See POSCO's Letter, "Notification of Reporting Difficulty and Request to Modify Reporting Instructions," dated May 17, 2018 at 5-6 (POSCO May 17, 2018 Reporting Difficulties Letter).

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ See POSCO Affiliation QR at 24.

⁵⁶ *Id.* at 25-26; see also POSCO May 17, 2018 Reporting Difficulties Letter at 3-4.

longer existed as a separate company.⁵⁷

- Pohang SPFC and Gunsan SPFC: Pohang SPFC was formed in 2008 and merged into SPFC in January 2013.⁵⁸ Gunsan SPFC was formed in 2010 and merged into SPFC in January 2013.⁵⁹
- SPFC: In November 2016, SPFC merged into POSCO P&S and, afterward, no longer existed as a separate company.⁶⁰

POSCO reported no other cross-owned producers and POSCO reported that it has no holding company parent.⁶¹ Regarding these above-referenced companies that were acquired by POSCO or by POSCO's cross-owned companies, POSCO provided responses for these companies. Our preliminary analysis indicates that none of these companies received subsidies that conferred measurable benefits.⁶²

C. Benchmarks and Discount Rates

Short-Term U.S. Dollar-Denominated Loans

Hyundai Steel and POSCO (and POSCO's cross-owned affiliates) reported receiving short-term import financing from the Korea Export-Import Bank (KEXIM) during the POR, short-term export factoring from KEXIM, short-term-export financing from KEXIM, payment guarantees from KEXIM, KEXIM and other bank's short-term discount loans for export receivables, short-term operating loans from Korea Development Bank (KDB), short-term factoring loans from government banks, operating and facilities loans from KDB, and import usance loans from KDB.⁶³ As benchmarks, 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 certain 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.⁶⁴

⁵⁷ *Id.*

⁵⁸ See POSCO May 17, 2018, Notification of Reporting Difficulties Letter at 7.

⁵⁹ *Id.* at 7-8.

⁶⁰ *Id.*

⁶¹ See POSCO Affiliation QR at 8-9.

⁶² See Memorandum, "Calculation for the Preliminary Results: POSCO," dated concurrently with this memorandum (POSCO Preliminary Calculation Memorandum).

⁶³ See Hyundai Steel Initial QR at 20; see, e.g., POSCO Initial QR at 22.

⁶⁴ See Memorandum, "Calculations for the Preliminary Results: Hyundai Steel Co., Ltd.," dated concurrently with this memorandum (Hyundai Steel Preliminary Calculation Memorandum); POSCO Preliminary Calculation Memorandum.

Long-Term Korean Won, U.S. Dollar and French Franc-Denominated Loans and Credit Guarantees

During the POR, Hyundai Steel and POSCO had outstanding long-term Korean won, U.S. dollar, and euro-denominated loans from government-owned banks.⁶⁵ As benchmarks for 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 1991.⁶⁶ This is the approach Commerce has taken in several prior Korean CVD proceedings.⁶⁷ 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.⁶⁸

Where company-specific rates were not available, we used the national average of the yields on three-year, won-denominated corporate bonds, published in the International Monetary Fund's (IMF's) *International Financial Statistics (IFS Yearbook)*. This approach is consistent with 19 CFR 351.505(a)(3)(ii) and prior Korean CVD proceedings.⁶⁹ 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. For U.S. dollar-denominated bonds, we used the interest rates for United States Baa bonds published by Federal Reserve Bank of St. Louis.⁷⁰ POSCO reported outstanding "euro"-denominated credit guarantees⁷¹ for long-term loans from a French financial institution and provided loan information for the covered loans. For these loans, we used French franc interest rates from the year of the loan agreement which we used in the CVD investigation of Non-Oriented Electrical Steel from the Republic of Korea.⁷²

⁶⁵ See, e.g., POSCO Affiliation QR at Exhibit 2.

⁶⁶ 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).

⁶⁷ *Id.*; see also *Final Affirmative Countervailing Duty Determination: Structural Steel Beams from the Republic of Korea*, 65 FR 41051 (July 3, 2000), and accompanying Issues and Decision Memorandum (IDM) at "Benchmark Interest Rates and Discount Rates;" and *Final Affirmative Countervailing Duty Determination: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 68 FR 37122 (June 23, 2003), and accompanying IDM at "Discount Rates and Benchmark for Loans."

⁶⁸ 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).

⁶⁹ See, e.g., *Final Results of CORE from Korea 2006*, and accompanying IDM at "Benchmark for Long Term Loans."

⁷⁰ See <https://fred.stlouisfed.org/series/WBAA>, accessed September 26, 2018.

⁷¹ POSCO identified the currency of these loan guarantees as euro, but these loans and loan guarantees appear to be some of the same loans and loan guarantees on French Franc loans received before the launch of the euro which POSCO reported in *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*). See also POSCO Preliminary Calculation Memo.

⁷² See *NOES from Korea* and accompanying IDM at 4.

D. 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 and POSCO. In the sections below, we describe the denominators we used to calculate the countervailable subsidy rates for the various subsidy programs.

E. Discount Rates

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

V. USE OF FACTS OTHERWISE AVAILABLE

Sections 776(a)(1) and (2) of the Act provide that Commerce shall, subject to section 782(d) of the Act, select from among the "facts otherwise available" on the record (FA) if necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(c) of the Act provides that, when Commerce relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise."⁷³ It is Commerce's practice to consider information to be corroborated if it has probative value.⁷⁴ In analyzing whether information has probative value, it is Commerce's practice to examine the reliability and relevance of the information to be used.⁷⁵ However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.⁷⁶

Finally, under the new section 776(d) of the Act, Commerce may use any countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a CVD rate for a subsidy program from a

⁷³ See, e.g., SAA at 870.

⁷⁴ See SAA at 870.

⁷⁵ See, e.g., SAA at 869.

⁷⁶ See SAA at 869-870.

proceeding that the administering authority considers reasonable to use, including the highest of such rates.

For purposes of these preliminary results, we are applying FA in the circumstances outlined below.

A. Application of FA: Hyundai HYSCO and SPP Yulchon Energy

In its response, Hyundai Steel reported that it acquired the cold-rolling and coating assets and business of Hyundai HYSCO on December 31, 2013.⁷⁷ Hyundai HYSCO ceased to exist as an ongoing entity after July 1, 2015, when it was merged into Hyundai Steel.⁷⁸ Hyundai Steel also reported that it acquired all of the assets of SPP Yulchon Energy in June 2015, and SPP Yulchon Energy no longer exists as an ongoing entity.⁷⁹

Because Hyundai HYSCO and SPP Yulchon Energy were acquired by Hyundai Steel during the AUL period, we considered whether any non-recurring subsidies that HYSCO or SPP received could pass through to Hyundai Steel. Therefore, in a supplemental questionnaire dated September 7, 2018, we requested that Hyundai Steel submit complete questionnaire responses for Hyundai HYSCO and SPP Yulchon Energy. Hyundai Steel responded by notifying Commerce of reporting difficulties, and it requested that Commerce modify its reporting instructions.⁸⁰ Specifically, Hyundai Steel stated that it could not report for Hyundai HYSCO for the period 2002 through 2005, because no records exist for this part of the AUL period.⁸¹ Hyundai Steel also stated that it could not provide any response for SPP Yulchon Energy.⁸² Hyundai Steel explained that SPP Yulchon Energy was in bankruptcy at the time of Hyundai Steel's acquisition, and that it purchased SPP Yulchon Energy from a bankruptcy trustee.⁸³ Hyundai Steel further explained that SPP Yulchon Energy's financial records are in the custody of the Korean bankruptcy court.⁸⁴ Hyundai Steel had requested these records from the court; however, the court has not responded, and it is unclear if Hyundai Steel's request will be approved.⁸⁵ Hyundai Steel also tried to gather Commerce's requested information by purchasing the information in possession of the accounting corporation that acted as SPP Yulchon Energy's adviser during the bidding process to sell its assets in bankruptcy.⁸⁶ Hyundai Steel submitted an index of this information to demonstrate that none of the information is relevant to Commerce's request.⁸⁷

⁷⁷ See Hyundai Steel Affiliation Response at III-18.

⁷⁸ *Id.*

⁷⁹ *Id.* at III-19.

⁸⁰ See Hyundai Steel letter, "Certain Hot-Rolled Steel Flat Products from the Republic of Korea, Case No. C-580-884: Notification of Reporting Difficulty and Request to Modify Reporting Instructions," dated September 11, 2018 (Notification of Difficulty).

⁸¹ *Id.* at 2.

⁸² *Id.* at 7.

⁸³ *Id.* at 5.

⁸⁴ *Id.* at 6.

⁸⁵ *Id.* at 7.

⁸⁶ *Id.*

⁸⁷ *Id.* at Exhibit 6.

On September 13, 2018, the petitioners objected to Hyundai Steel's request to modify the reporting requirements.⁸⁸ In a letter dated September 14, 2018, Commerce informed Hyundai Steel that it was granting its request to be excused for reporting for Hyundai HYSCO for the period 2002 through 2005 and reporting for SPP Yulchon Energy.⁸⁹ Accordingly, for purposes of these preliminary results, in accordance with section 776(a) of the Act, we are selecting from among the facts otherwise available, since necessary information is not on the record. As FA, we are relying on subsidies information for Hyundai HYSCO from the 2010 administrative review of Corrosion-Resistant Carbon Steel Flat Products from Korea.⁹⁰ Specifically, we are relying on the countervailing duty rate that was calculated for Hyundai HYSCO's non-recurring subsidies. The only non-recurring subsidy for Hyundai HYSCO during this period was for the "Promotion of Specialized Enterprises for Parts and Materials," in the amount of 0.01 percent *ad valorem*.⁹¹ We are cumulating this 0.01 percent rate with the countervailing duty rate calculated for Hyundai Steel in this administrative review.

For SPP Yulchon Energy, we are similarly selecting from among the facts otherwise available, pursuant to section 776(a) of the Act, and, as FA, we have therefore treated Hyundai Steel's acquisition price as a non-recurring subsidy. To calculate the benefit, we divided the acquisition price by Hyundai Steel's total sales in 2015,⁹² consistent with our methodology for calculating the benefit of non-recurring subsidy. This results in a subsidy rate of 0.78 percent for 2015. In accordance with 19 CFR 351.507(c), we treated the benefit as a non-recurring subsidy and allocated the benefit over the AUL, pursuant to 19 CFR 351.524(d). On this basis, we determine that the acquisition of SPP Yulchon Energy provided a net subsidy rate of 0.07 percent *ad valorem* for the POR.

Although Hyundai Steel did submit some requested information regarding SPP Yulchon Energy, Commerce does not yet have complete information regarding the potential extinguishment of any subsidies received by this company.⁹³ We intend to request additional information concerning SPP Yulchon Energy after these preliminary results. Hyundai Steel's responses concerning Hyundai HYSCO and SPP Yulchon Energy are subject to verification.

B. Application of FA: Ricco Metal

As explained above, in January 2013, Ricco Co. (Ricco Metal) merged with POSCO M-Tech and, afterward, no longer existed as a separate company.⁹⁴ POSCO M-Tech closed the former

⁸⁸ See Nucor letter, "Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Response to Hyundai Steel's Request to Modify Reporting Requirements," dated September 13, 2018.

⁸⁹ See Commerce letter to Hyundai Steel, dated September 14, 2018.

⁹⁰ See *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).

⁹¹ See Memorandum, "Placing Documents on the Record of This Review: Hyundai Hysco," dated October 3, 2018.

⁹² Hyundai Steel proposed this treatment of the acquisition in its Notification of Difficulty at 7.

⁹³ See, e.g., Nucor Letter, "Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Comments on Hyundai Steel's Third Supplemental Questionnaire Response and Hyundai HYSCO's Initial Questionnaire Response," dated October 11, 2018.

⁹⁴ See POSCO Affiliation QR at 25-26.

Ricco Metal's business and sold its assets in 2015.⁹⁵ At that time, POSCO M-Tech disposed of certain of Ricco Metal's accounting records which pre-dated the 2013 merger.⁹⁶ POSCO maintained accounting records during the period 2013 through 2014, but disposed of the bulk of the business records from before the merger in 2013 and does not have access to any records from after the sale of Ricco Metal's assets in 2015, as POSCO M-Tech owned those assets, and by 2016, Ricco Metal longer existed.⁹⁷ However, POSCO M-Tech was able to respond with respect to certain non-recurring subsidies (*i.e.*, R&D grants) received by Ricco Metal during the period 2009 through 2012 by accessing accounting vouchers from the period which it found that it still them had on file.⁹⁸ Nevertheless, POSCO M-Tech reported that information was not available to determine the amount of any R&D grants received between 2002 and 2008.⁹⁹

Because Ricco Metal was acquired by POSCO M-Tech during the AUL, we considered whether any non-recurring subsidies that Ricco Metal received could pass through to POSCO M-Tech. Thus, we requested that POSCO M-Tech complete questionnaire responses for Ricco Metal. However, as described above, POSCO M-Tech is unable to provide certain information for Ricco Metal for the 2002 through 2008 reporting period. Accordingly, in accordance with section 776(a) of the Act, for the purpose of these preliminary results, we have selected from among the facts otherwise available with respect to Ricco Metal, because necessary information is not on the record. Thus, as FA, we assume Ricco Metal used the same non-recurring subsidies during the years for which we are missing information. On this basis, we preliminarily determine that Ricco Metal did not receive subsidies that conferred a measurable benefit.

VII. Analysis of Programs

A. Programs Preliminarily Determined to be Countervailable

1. 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, Hyundai Steel, and POSCO to report the receipt of tax exemptions that were contingent upon the firms having facilities located outside of Korean metropolitan areas. In response, Hyundai Steel and POSCO (and POSCO's cross-owned affiliates) reported receiving tax exemptions under Article 78 of the RSLTA.¹⁰⁰

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.¹⁰¹ 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.¹⁰² In

⁹⁵ See POSCO May 17, 2018 Reporting Difficulties Letter at 2-4.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ See POSCO's May 30, 2018 Supplemental Questionnaire Response (POSCO May 30, 2018 SQR).

⁹⁹ *Id.*

¹⁰⁰ See Hyundai Steel Initial Questionnaire Response at 30-32; *see, e.g.*, POSCO Initial QR at 37, 41-43.

¹⁰¹ See GOK Initial QR at 235-237.

¹⁰² *Id.*

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 Hyundai Steel and POSCO 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 within the jurisdiction of the authority(ies) providing the subsidy. Our preliminary findings in this regard are consistent with prior Korean CVD proceedings.¹⁰³

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.¹⁰⁴ To calculate the benefit, we subtracted the amount of taxes paid by the firms from the amounts that would have been paid absent the program. To calculate the net subsidy rate, we divided the total benefit by the total sales of the respective company. On this basis, we preliminarily determine the net subsidy rate under the Article 78 program for Hyundai Steel to be 0.05 percent *ad valorem*.¹⁰⁵ For POSCO, we preliminarily determine the net subsidy rate under the Article 78 program to be less than 0.005 percent, which does not result in a measurable benefit.¹⁰⁶

Hyundai Steel also reported the receipt of additional local tax reductions in connection with facilities located outside of Korean metropolitan areas. Specifically, Hyundai Steel reported receiving local tax exemptions under RSLTA Articles 19, 31, 46, 47-2, 57-2, 84, 109, and 112.¹⁰⁷

In the case of POSCO and its cross-owned affiliates, the respective tax savings it reported receiving under RSLTA Articles 78(1), 78(2), and 78(8) during the POR were less than 0.005 percent of its total sales and, therefore, are not measurable. However, as discussed separately below, POSCO, PNR, Pohang SRDC, POSCO AST, POSCO Chemtech, POSCO M-Tech, POSCO P&S, POSCO TMC, and SPFC also reported tax savings under RSTLA Article 78(4). In the case of Hyundai Steel, the respective tax savings it reported receiving under RSLTA

¹⁰³ 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.

¹⁰⁴ See 19 CFR 351.524(a).

¹⁰⁵ See Hyundai Steel Preliminary Calculation Memorandum.

¹⁰⁶ See POSCO Preliminary Calculation Memorandum.

¹⁰⁷ See Hyundai Steel Initial QR at 32-34.

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 0.05 percent *ad valorem*.

POSCO, PNR, Pohang SRDC, POSCO AST, POSCO Chemtech, POSCO M-Tech, POSCO P&S, POSCO TMC, and SPFC also, reported receiving partial exemptions from local acquisition taxes and local property taxes under paragraph (4) of RSLTA Article 78.¹⁰⁸ Acquisition and property tax exemptions under Article 78(4) of the RSLTA are available to persons other than project implementers in an industrial complex for properties acquired by construction or expansion, or acquired after substantial repair of an industrial buildings, etc.¹⁰⁹ The program is administered by the local governments in Korea.¹¹⁰ The purpose of the program is to promote the development of the underdeveloped areas in Korea and to appropriately allocate the industries nationwide.¹¹¹

In the underlying investigation, we examined this program.¹¹² The GOK reported that there were no changes to this program during the POR.¹¹³ Thus, 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 under section 771(5)(E) of the Act and 19 CFR 351.509(a). We further 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 within the jurisdiction of the authority(ies) providing the subsidy. To calculate the benefits for POSCO, PNR, Pohang SRDC, POSCO AST, POSCO Chemtech, POSCO M-Tech, POSCO P&S, POSCO TMC, and SPFC, we divided the amount of the tax savings by appropriate sales during the POR. On this basis, we preliminarily determine that only POSCO and POSCO M-Tech received a countervailable subsidy at a rate of 0.06 percent *ad valorem* under this program.¹¹⁴

POSCO reported receiving tax savings under RSLTA Article 57(2), RSTA Article 8-3, RSTA Article 10-2, RSTA Article 94, and Article 57 of the Corporate Tax Act.¹¹⁵ However, the information provided concerning these tax exemptions do not indicate that the GOK limited these programs to certain enterprises or industries.¹¹⁶ Thus, we preliminarily find these programs not to be specific for purpose of these preliminary results within the meaning of section 771(5)(A) of the Act. We intend to seek further information on the specificity of these programs

¹⁰⁸ See, e.g., POSCO Initial QR at 41-43 and Exhibits J-8 and J-9.

¹⁰⁹ See GOK Initial QR at 237-247.

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² See *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Preliminary Negative Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 81 FR 2172 (January 15, 2015) (*Hot-Rolled Steel from Korea Preliminary Determination*) and accompanying PDM at 18 (unchanged in *Hot-Rolled Steel from Korea Final Determination*).

¹¹³ See GOK Initial QR at 237-247.

¹¹⁴ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

¹¹⁵ See POSCO Initial QR at 30-33, 52.

¹¹⁶ See GOK Initial QR at 139-142.

after the preliminary results.

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

POSCO and Hyundai Steel reported receiving tax exemptions under RSTA Article 26.¹¹⁷ 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 company categories 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.” Commerce previously determined that this program was countervailable in the *Hot-Rolled Steel from Korea Final Determination*.¹¹⁸ The GOK stated that there were no changes made to this program during the POR.¹¹⁹ Hyundai Steel claimed tax credits under this program on the tax return filed during the POR.¹²⁰

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.¹²¹

To calculate the benefit for Hyundai Steel, we subtracted the amount of taxes paid by the firm from the amount that would have been paid absent the program. To calculate the net subsidy rate, we divided the total benefit by the total sales of the company. On this basis, we preliminarily determine the net subsidy rate under this program during the POR to be 0.42 percent *ad valorem* for Hyundai Steel.

In the case of POSCO, to calculate the benefits for POSCO, as we did with Hyundai Steel, we divided the amount of the tax savings by POSCO’s total sales during the POR. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.27 percent *ad valorem* under this program.¹²²

¹¹⁷ See POSCO Initial QR at 36 and Exhibits I-22 to I-23; Hyundai Steel Initial QR at 29-30.

¹¹⁸ See *Hot-Rolled Steel from Korea Preliminary Determination* and accompanying PDM at 13-14 (unchanged in *Hot-Rolled Steel from Korea Final Determination*) (finding Article 26 encouraged companies to make investments outside of the overcrowding control region of the Seoul Metropolitan Area, thus it is geographically limited to locations outside Seoul).

¹¹⁹ See GOK Initial QR at 39-40.

¹²⁰ See Hyundai Steel Initial QR at Exhibit 32.

¹²¹ 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.

¹²² See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

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

POSCO reported that it received tax exemptions under RSTA Article 104(15).¹²³ This program was introduced to develop overseas resources and secure stable supply of energy resources and to strengthen the effectiveness of tax support by providing tax deduction to investments on an overseas local corporation by a national corporation.¹²⁴ Under Article 104-15 of the RSTA, when a business operator specializing in the development of overseas resources makes investments or contributions on or before December 31, 2013, in order to develop mineral resources, the income tax or the corporate tax shall be reduced by an amount equivalent to 3/100 of the invested or contributed amount.¹²⁵

The GOK reported that there were no changes to this program during the POR.¹²⁶ Thus, we preliminarily determine that the tax reductions under this program 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 preliminarily determine that this program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because this program is limited to companies that are investing in development of foreign resources in a specific sector such as mining.¹²⁷

To calculate the benefits for POSCO, we divided the amount of the tax savings by POSCO's total sales during the POR. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.07 percent *ad valorem* under this program.¹²⁸

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

POSCO reported that it received tax exemptions under RSTA Article 11.¹²⁹ The program provides for tax deductions as a percentage of facility investments on R&D according to the size of the company: if investments are made on the facilities for R&D or commercialization of new technologies (excluding used goods and investment using the lease instruments described under the Enforcement Decree) until December 31 of 2018, the amount equal to 1 percent of the investments (3 percent for medium-sized companies, and 6 percent for small-sized companies) shall be deducted from the income tax or corporate tax of the year when the investment has been completed.¹³⁰ Commerce previously determined that this program was countervailable in the *Hot-Rolled Steel from Korea Final Determination*.¹³¹

¹²³ See POSCO Initial QR at 32 and Exhibit I-8 and Exhibit I-9.

¹²⁴ GOK's October 11, 2018 Supplemental Questionnaire Response at Appendix 34 (GOK August 15, 2018 SQR).

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

¹²⁹ See POSCO Initial QR at 34 and Exhibit I-13.

¹³⁰ GOK August 15, 2018 SQR at Appendix 34, page 277 and 281-282.

¹³¹ See *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Affirmative Determination*, and accompanying IDM at 31-32.

The GOK reported that there were no changes to this program during the POR.¹³² Thus, we preliminarily determine that this program is *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because the actual number of recipients is limited. This program results in a financial contribution from the GOK to recipients in the form of revenue foregone, as described in section 771(5)(D)(ii) of the Act and confers a benefit pursuant to section 771(5)(E) of the Act, and 19 CFR 351.509(a).

To calculate the benefits for POSCO, we divided the amount of the tax savings by POSCO's total sales during the POR. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.13 percent *ad valorem* under this program.¹³³

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

POSCO and POSCO Chemtech reported that it received tax exemptions under RSTA Article 25(3).¹³⁴ Introduced in 2007, RSTA Article 25(3) aims to motivate investments in facilities that are constructed for the purpose of preserving the environment.¹³⁵ Any entity making an investment in facilities under this program may apply for a ten percent tax deduction.¹³⁶ Commerce previously determined that this program was countervailable in the *Hot-Rolled Steel from Korea Final Determination*.¹³⁷

The GOK reported that there were no changes to this program during the POR.¹³⁸ Thus, we preliminarily determine that this program is *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because the actual number of recipients is limited. This program results in a financial contribution from the GOK to recipients in the form of revenue foregone, as described in section 771(5)(D)(ii) of the Act and confers a benefit pursuant to section 771(5)(E) of the Act, and 19 CFR 351.509(a).

To calculate the benefits for POSCO and POSCO Chemtech, we divided the amount of the tax savings by the appropriate sales denominator during the POR. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.14 percent *ad valorem* under this program.¹³⁹

¹³² See GOK Initial QR at 37-38.

¹³³ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

¹³⁴ See, e.g., POSCO Initial QR at 36.

¹³⁵ See *Hot-Rolled Steel from Korea Preliminary Determination* and accompanying PDM at 16-17 (unchanged in *Hot-Rolled Steel from Korea Final Determination*).

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ See GOK Initial QR at 39.

¹³⁹ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

6. RSTA Article 30: Special Depreciation Tax Credit

POSCO reported that it received tax exemptions under RSTA Article 30.¹⁴⁰ Under Article 30 of the RSTA, a company that acquires certain fixed assets for use for business purposes may deduct depreciation costs related to those assets based on useful lives that differ from those used to calculate depreciation for financial accounting reporting purposes.¹⁴¹ Commerce previously determined that this program was countervailable in the *Hot-Rolled Steel from Korea Final Determination*.¹⁴²

The GOK reported that there were no changes to this program during the POR.¹⁴³ Thus, we preliminarily determine that this program is *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because the actual number of recipients is limited. We further preliminarily determine that this program results in a financial contribution from the GOK to recipients in the form of revenue foregone, as described in section 771(5)(D)(ii) of the Act and confers a benefit pursuant to section 771(5)(E) of the Act and 19 CFR 351.509(a).

To calculate the benefits for POSCO, we divided the amount of the tax savings by POSCO's total sales during the POR. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.01 percent *ad valorem* under this program.¹⁴⁴

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

POSCO and POSCO Chemtech reported that each received tax exemptions under RSTA Article 9.¹⁴⁵ Under Article 9 of the RSTA, a corporation that has accumulated reserves for research and human resources development may deduct the reserves up to an amount equal to three percent of its net income for the tax year, independent of the actual expenditures for research and development and human resources during the tax year.¹⁴⁶ Commerce previously determined that this program was countervailable in the *Hot-Rolled Steel from Korea Final Determination*.¹⁴⁷

The GOK reported that there were no changes to this program during the POR.¹⁴⁸ Thus, we preliminarily determine that this program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act. We further preliminarily determine that this program results in a financial contribution from the GOK to recipients in the form of revenue foregone, as described in section 771(5)(D)(ii) of the Act and confers a benefit pursuant to section 771(5)(E) of the Act and 19 CFR 351.509(a).

¹⁴⁰ See POSCO Initial QR at 37 and Exhibits I-24 and I-25.

¹⁴¹ See *Hot-Rolled Steel from Korea Final Determination* and the accompanying IDM at 32.

¹⁴² *Id.*

¹⁴³ See GOK Initial QR at 10.

¹⁴⁴ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

¹⁴⁵ See POSCO Initial QR at POSCO III-25 and Exhibits 21, B-26 and B-27.

¹⁴⁶ See *Hot-Rolled Steel from Korea Preliminary Determination* and the accompanying IDM at 31.

¹⁴⁷ *Id.*

¹⁴⁸ See GOK Initial QR at 40.

To calculate the benefits for POSCO and POSCO Chemtech, we divided the amount of the tax savings by the appropriate sales denominator during the POR. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.73 percent *ad valorem* under this program.¹⁴⁹

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

POSCO Chemtech reported that it received tax exemptions under RSTA Article 10(1)(3).¹⁵⁰ Administered under the Tax Deduction on Research and Workforce Development Act, this program aims to facilitate Korean corporate investment in research and development activities through a reduction of taxes payable for eligible expenditures.¹⁵¹ Commerce previously determined that this program was countervailable in the *Hot-Rolled Steel from Korea Final Determination*.¹⁵²

The GOK reported that there were no changes to this program during the POR.¹⁵³ Thus, we preliminarily find this program *de facto* specific under section 771(5A)(D)(iii)(I) of the Act because the actual recipients are limited in number. The tax credits provided under this program constitute financial contributions in the form of revenue foregone by the government under section 771(5)(D)(ii) of the Act, and this program confers a benefit to the recipient in the amount of the difference between the taxes it paid and the amount of taxes that it would have paid in the absence of this program, pursuant to section 771(E) of the Act and 19 CFR 351.509(a)(1).

To calculate the benefits for POSCO Chemtech, we divided the amount of the tax savings by the appropriate sales denominator during the POR. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.24 percent *ad valorem* under this program.¹⁵⁴

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

POSCO Chemtech reported that it received tax exemptions under RSTA Article 25(2).¹⁵⁵ The purpose of this program is to facilitate the enhancement of energy efficiency in business sectors

¹⁴⁹ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

¹⁵⁰ See POSCO Chemtech's February 23, 2018 Initial Questionnaire Response at 24 and Exhibits I-9 and I-10 (POSCO Chemtech Initial QR).

¹⁵¹ See *Hot-Rolled Steel from Korea Preliminary Determination* and accompanying PDM at 13-14 (unchanged in *Hot-Rolled Steel from Korea Final Determination*).

¹⁵² *Id.*

¹⁵³ See GOK Initial QR at 7.

¹⁵⁴ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

¹⁵⁵ See POSCO Initial QR at POSCO Chemtech III-20 and Exhibits B-5 and B-6.

through a deduction from taxes payable.¹⁵⁶ Commerce previously determined that this program was countervailable in the *Hot-Rolled Steel from Korea Final Determination*.¹⁵⁷

The GOK reported that there were no changes to this program during the POR.¹⁵⁸ Thus, we preliminarily find this program *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because the actual number of recipients is limited. We further preliminarily determine that this program results in a financial contribution from the GOK to recipients in the form of revenue foregone, as described in section 771(5)(D)(ii) of the Act. The benefit conferred on the recipient is the difference between the amount of taxes it paid and the amount of taxes that it would have paid in the absence of this program, as contemplated by section 771(5)(E) of the Act and as described in 19 CFR 351.509(a); effectively, the benefit is the amount of the tax credit claimed.

To calculate the benefits for POSCO Chemtech, we divided the amount of the tax savings by the appropriate sales denominator during the POR. On this basis, we preliminarily determine that POSCO Chemtech received a countervailable subsidy rate of 0.02 percent *ad valorem* under this program.¹⁵⁹

10. Electricity Discounts under Trading of Demand Response Resources (DRR) Program

Hyundai Steel used the Trading of Demand Response Resources (DRR) Program during the POR.¹⁶⁰ 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).¹⁶¹ 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.¹⁶² The Korean Power Exchange (KPX) operates both programs.¹⁶³ KPX is majority-owned by the Korea Electric Power Corporation (KEPCO), which is, in turn, majority-owned by the GOK.¹⁶⁴

The relevant laws do not expressly 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 a

¹⁵⁶ See *Hot-Rolled Steel from Korea Preliminary Determination* and the accompanying PDM at 16-18 (unchanged in *Hot-Rolled Steel from Korea Final Determination*).

¹⁵⁷ *Id.*

¹⁵⁸ See GOK Initial QR at 39.

¹⁵⁹ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

¹⁶⁰ See Hyundai Steel Initial QR at 11-13.

¹⁶¹ See GOK Initial QR at 47 and Appendix N-1.

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.*

limited number of companies were approved for the assistance under this program in the POR,¹⁶⁵ though participation in it is available to “all entities” in Korea.¹⁶⁶ 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 are consistent with Commerce’s approach in prior CVD proceedings involving Korea.¹⁶⁷

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.¹⁶⁸ End users receive payments from those aggregators. Prior to that exchange between the KPX and the aggregators, KEPCO pays the KPX for the latter’s role in demand curtailment under the program.¹⁶⁹ Consistent with our prior findings, we preliminarily find KEPCO to be an “authority” within the meaning of section 771(5)(B) of the Act.¹⁷⁰ 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 Hyundai Steel in accordance with 19 CFR 351.504(a). Our findings in this regard are consistent with prior Korean CVD proceedings.¹⁷¹

Because we found no evidence on the record indicating that subsidies under the DRR program were tied to export sales, we used Hyundai Steel’s total sales as the 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 0.06 percent *ad valorem*.

11. 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.¹⁷² 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

¹⁶⁵ *Id.* See also *CTL Plate 2016 Preliminary Results* and accompanying PDM at 13.

¹⁶⁶ See GOK Initial QR at 47 and Appendix N-1.

¹⁶⁷ See *CTL Plate 2016 Preliminary Results* and accompanying PDM at 9, unchanged in *CTL Plate 2016 Final Results* and accompanying IDM at 5.

¹⁶⁸ See GOK Initial QR at 47 and Appendix N-1.

¹⁶⁹ *Id.* at 256.

¹⁷⁰ See *CTL Plate 2016 Preliminary Results* and accompanying PDM at 10. See also *CTL Plate 2015 Preliminary Results* and accompanying PDM at 13.

¹⁷¹ 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 (unchanged in *CTL Plate Final Results 2016*).

¹⁷² See GOK Initial QR at 42-43.

implement this program, KEIT, KETEP, and KICOX prepare a basic plan each year for the development of industrial technology.¹⁷³

The plan includes the technology research and development (R&D) that KEIT, KETEP, and KICOX intend to pursue, and describes the application process and supporting documentation required from potential participants. According to the GOK, any person seeking to participate in one of the projects described in KEIT's basic plan then prepares an industrial technology development business plan that conforms to the requirements set forth in the basic plan and submits that business plan to the Review Committee established by MOTIE. The Review Committee then evaluates the business plans submitted to verify their conformity with the terms and conditions set forth in the basic plan. If the business plans conform with the basic plan, MOTIE and the applicants for the program sign a contract. Further, a portion of the program does not need to be repaid.¹⁷⁴

We preliminarily determine the ITIPA program to be *de jure* specific under section 771(5A)(D)(i) of the Act, because it is expressly limited to an enterprise or industry, *i.e.*, 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 is 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 is conferred in the amount of the grant provided, pursuant to 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 proceedings.¹⁷⁵

During the POR, Hyundai Steel and POSCO received various R&D grants pursuant to the ITIPA.¹⁷⁶ 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.¹⁷⁷ We find no evidence on the record indicating that subsidies under the ITIPA program were tied to export sales.

For Hyundai Steel, we divided the total grants received under ITIPA by the total sales of Hyundai Steel in order to determine whether this program conferred a measurable benefit during the POR.¹⁷⁸ Accordingly, we preliminarily determine the net subsidy rate that Hyundai Steel received under this program to be 0.01 percent *ad valorem*.

For POSCO, we divided the total grants received under ITIPA by the total sales of POSCO in order to determine whether this program conferred a measurable benefit during the POR. The

¹⁷³ *Id.* at Appendix K.1.

¹⁷⁴ *Id.*

¹⁷⁵ 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.

¹⁷⁶ See Hyundai Steel Initial QR at Exhibit Grants-3; POSCO Initial QR at 27-28 and Exhibits 19 and F-7.

¹⁷⁷ For a listing of the various R&D projects for which Hyundai Steel received grants, see Hyundai Steel Preliminary Calculation Memorandum.

¹⁷⁸ See CTL Plate 2016 Preliminary Results and accompanying PDM at 12, unchanged in CTL Plate 2016 Final Results and accompanying IDM at 5.

benefits received under the ITIPA R&D grants program were less than 0.005 percent of its total sales and, therefore, are not measurable. Accordingly, we preliminarily determine that POSCO did not receive a measurable benefit under this program during the POR.

12. 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.¹⁷⁹ 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 Decree, and Articles 14 through 17 of the Regulation on Modal Shift Agreement as promulgated by the Ministry of Finance (MOF).¹⁸⁰

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.¹⁸¹ 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.¹⁸² Our findings are consistent with Commerce’s prior Korean proceedings.¹⁸³ We further preliminarily determine that this program confers a benefit on a recipient in the amount of the grant, pursuant to section 771(5)(E) of the Act and 19 CFR 351.504.

Hyundai Steel reported that it used this program and received grant(s) during the POR.¹⁸⁴ 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

¹⁷⁹ See GOK Initial QR at 44.

¹⁸⁰ *Id.* at Appendix K.2.

¹⁸¹ *Id.*

¹⁸² 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.”).

¹⁸³ See *CTL Plate 2016 Preliminary Results* and accompanying PDM at 12 (unchanged in *CTL Plate Final Results 2016*).

¹⁸⁴ See Hyundai Steel Initial QR at 39-40.

Sustainable Transportation Logistics Development Act, the proposals were approved by the Korean Shipping Association.¹⁸⁵

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(s) 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*.

13. Suncheon Harbor

The GOK established this program in 1976 under the Harbor Act to compensate companies that have constructed port facilities with their own funds and have made donations to the government.¹⁸⁶ The GOK authority in charge of administering this program is the Ministry of Ocean and Fishery.¹⁸⁷ 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 Korean government under Korean law.¹⁸⁸ 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.¹⁸⁹ Because the number of companies that were approved and 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.¹⁹⁰ 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 that the program confers 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 under this program during 2016 to be 0.02 percent *ad valorem*.

7. Loans and Credits - KEXIM Overseas Investment Credit Program

POSCO and PDC reported receipt of loans under this program.¹⁹¹ Beginning in 1976, this program provides financial assistance from KEXIM to Korean companies through capital contributions, as well as through the acquisition of stocks and provision of long-term funds, thus enabling Korean companies to make foreign investments.¹⁹² Commerce previously determined that this program was countervailable in *Hot-Rolled Steel from Korea Final Determination*.¹⁹³

¹⁸⁵ *Id.* at Exhibit GRANTS-6.

¹⁸⁶ See GOK's July 23, 2018 Supplemental Questionnaire Response at 61-71 (GOK July 23, 2018 SQR).

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

¹⁹¹ See, e.g., POSCO Initial QR at 21-22 and Exhibits C-1, C-2, C-6 and C-7.

¹⁹² See *Hot-Rolled Steel from Korea Preliminary Determination* and the accompanying PDM 21-22 (unchanged in *Hot-Rolled Steel from Korea Final Determination*).

¹⁹³ *Id.*

The GOK reported that there were no changes to this program during the POR.¹⁹⁴ Thus, we preliminarily determine that because KEXIM is an authority under section 771(5)(B) of the Act, this program results in a financial contribution in the form of a direct transfer of funds through loans under section 771(5)(D)(i) of the Act, and confers a benefit under section 771(5)(E) of the Act and 19 CFR 351.505(a). We also preliminarily determine that this program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because this program is limited to companies that are investing in foreign mines pursuant to Article 18(1)(5) of the KEXIM Act, Article 15(1) of its Enforcement Decree, and Articles 67 through 69 of KEXIM's Regulation Governing Financing Operations.¹⁹⁵

To calculate the benefit under this program, we used the benchmarks described in the "Loan Benchmarks and Interest Rates" section above, as well as the methodology described in 19 CFR 351.505(c) to calculate the interest that PDC and POSCO would have paid on a comparable commercial loan during the POR and divided that benefit by the appropriate sales. On this basis, we preliminarily determine that POSCO and PDC received a countervailable subsidy rate of 0.01 percent *ad valorem* under this program.¹⁹⁶

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

POSCO and PDC received export financing from the KDB and other GOK policy banks for its export of subject merchandise to the United States.¹⁹⁷ Commerce previously determined that this program was a countervailable export program in *Hot-Rolled Steel from Korea Final Determination*.¹⁹⁸ The GOK reported that there were no changes to this program during the POR.¹⁹⁹ We preliminarily determine that because KDB is an authority under section 771(5)(B) of the Act, this program results in a financial contribution in the form of a direct transfer of funds through loans under section 771(5)(D)(i) of the Act, and confers a benefit under section 771(5)(E) of the Act and 19 CFR 351.505(a). This program is specific under section 771(5A)(A) and (B) of the Act, because the loans were contingent on export performance. Our finding is consistent with a prior Korea CVD proceeding.²⁰⁰

To calculate the benefit under this program, we used the benchmarks described in the "Loan Benchmarks and Interest Rates" section above, as well as the methodology described in 19 CFR 351.505(c) to calculate the interest that PDC and POSCO would have paid on a comparable commercial loan during the POR and divided that benefit by the appropriate sales. On this basis, we preliminarily determine that POSCO and PDC received a countervailable subsidy rate of 0.03

¹⁹⁴ See GOK Initial QR at 21-22 and Appendix C-6.

¹⁹⁵ *Id.*

¹⁹⁶ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

¹⁹⁷ See, e.g., POSCO Initial QR at 22 and Exhibit D-1.

¹⁹⁸ See *Hot-Rolled Steel from Korea Preliminary Determination* and the accompanying PDM at 38 (unchanged in *Hot-Rolled Steel from Korea Final Determination*).

¹⁹⁹ See GOK Initial QR at 21-30.

²⁰⁰ See *Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 17410 (March 26, 2012), and accompanying IDM at 51.

percent *ad valorem* under this program.²⁰¹

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

POSCO, PDC, and POSCO M-Tech had outstanding long-term borrowings from KNOC and KORES during calendar year 2016.²⁰² This program initiated in 1982, with the purpose of assisting the exploitation of overseas natural resources by a Korean national, thereby enhancing the stability of supply of energy resources for the national economy.²⁰³ The Ministry of Trade, Industry and Energy (MOTIE) is the government agency responsible for this program.²⁰⁴ The authority to execute this program, however, is delegated to KNOC for the development of oil fields, and to KORES for the development of other natural resources.²⁰⁵ The relevant laws and regulations to this program applicable to calendar year 2016 are Articles 5 and 11 (clause 1 and 2) of the Overseas Resources Development Business Act, Article 11 (clause 1) of its Enforcement Decree, Article 3 (paragraph 1) of its Ministerial Decree as well as Articles 5, 6 (clause 1), 7 (clause 1), 20 (clause 1 and 2), 20-2, and 22-2 (clause 1, 2, and 4) as well as appendices 1 and 2 of the Ministerial Notice promulgated by the Minister of MOTIE on the Criteria for Overseas Resources Development Business Fund (“Criteria for Loans”).²⁰⁶ In order for the applicant to receive loans under this program, the Financing Review Board, the reviewing body responsible for making these determinations, must be satisfied with the applicant’s business plan, which will be evaluated based on certain criteria, including the credit rating of the applicant and the feasibility of the project, which includes the business plan and technical standard of the applicant.²⁰⁷ However, the final approval is granted by MOTIE.²⁰⁸ POSCO was eligible for KORES and KNOC loans because it was a Korean national that reported overseas resource development business plans to MOTIE pursuant to Article 5 of the Overseas Resources Development Business Act.²⁰⁹

POSCO’s, PDC’s, and POSCO M-Tech’s KNOC loans are related to investments in overseas natural resources development projects, the details of which are proprietary.²¹⁰ PDC claims these loans are tied to non-subject merchandise and unrelated to PDC’s exports to the United States of subject merchandise produced by POSCO.²¹¹ In the *Hot-Rolled Steel from Korea Final Determination*, Commerce determined that the loans from KORES to POSCO and PDC were countervailable, but found that POSCO’s KNOC loans were tied to non-subject merchandise.²¹² After examining the record of this review, we preliminarily find loans from KNOC to POSCO

²⁰¹ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

²⁰² See, e.g., POSCO Initial QR at 25-26.

²⁰³ See GOK October 11, 2018 SQR at Appendix 66.

²⁰⁴ *Id.*

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ *Id.*

²⁰⁸ *Id.*

²⁰⁹ *Id.*

²¹⁰ See POSCO Initial QR at 25-26.

²¹¹ *Id.*

²¹² See *Hot-Rolled Steel from Korea Preliminary Determination* and the accompanying PDM at 24-25 (unchanged in *Hot-Rolled Steel from Korea Final Determination*).

and PDC are tied to non-subject merchandise. As such, our analysis solely pertains to loans from KORES to PDC and POSCO M-Tech.

The GOK reported that there were no changes to this program during the POR.²¹³ Thus, we continue to find this program *de jure* specific. Further, because the loans are provided by an authority as defined under section 771(5)(B) of the Act (KORES), we preliminarily determine that the program provides a financial contribution in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act. We further determine that a benefit is conferred under section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a) in the amount of the difference between the amount of interest PDC and POSCO M-Tech paid on the KORES loans and the amount the recipient would pay on a comparable commercial loan.

To calculate the benefit under this program, we used the benchmarks described in the “Loan Benchmarks and Interest Rates” section above, as well as the methodology described in 19 CFR 351.505(c) to calculate the interest that each company would have paid on a comparable commercial loan during the POR and divided that benefit by the appropriate sales. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.02 percent *ad valorem* under this program.²¹⁴

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 Article 25(2)

²¹³ See GOK Initial QR at 4.

²¹⁴ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

21. RSTA 104(14)
22. RSLTA Articles 19, 31, 46, 47-2, 84, 109, and 112
23. Tax Reductions and Exemptions in Free Economic Zones
24. Grants and Financial Support in Free Economic Zones
25. Sharing of Working Opportunities/Employment Creating Incentives
26. GOK Infrastructure Investment at Incheon North Harbor
27. Machinery & Equipment (KANIST R&D) Project
28. Grant for Purchase of Electrical Vehicle
29. Power Business Law Subsidies
30. Provision of Liquefied Natural Gas (LNG) for LTAR
31. 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
32. The GOK's Purchases of Electricity for MTAR
33. Incentives for Compounding and Prescription Cost Reduction
34. Subsidies for Employment Security during Period of Childbirth and Childcare
35. Incentives for Usage of Yeongil Harbor in Pohang City
36. VAT Exemptions on Imported Goods
37. Import Duty Exemptions
38. Incentives for Usage of Gwangyang Port
39. Incentives for Natural Gas Facilities
40. Subsidies for Construction and Operation of Workplace Nursery
41. Subsidies for Hyundai Steel Red Angels Women's Football Club
42. Co-existence Project for Large- Medium- Small Enterprises as Energy Companies
43. One Company for One Street Clean Management Agreement
44. Support for Smoking Cessation Treatment
45. Seoul Guarantee Insurance
46. Purchase of Land from Government Entities
47. Fast-Track Restructuring Program

POSCO

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 Import Financing
9. Loans under the Industrial Base Fund
10. K-SURE Export Credit Guarantees
11. K-SURE Short-Term Export Credit Insurance

12. Clean Coal Subsidies
13. GOK Subsidies for “Green Technology R&D” and its Commercialization
14. Support for SME “Green Partnerships”
15. Tax Deduction under RSTA Article 10(1)(1)
16. RSTA Article 10(1)(2)
17. RSLTA Articles 19, 31, 46, 47-2, 84, 109, and 112
18. RSTA Article 22: Tax Exemption on Investment in Overseas Resources Development
19. RSTA Article 24: Tax Credit for Investment for Productivity Increase Facilities
20. RSTA Article 25: Tax Credit for Investment in Facilities for Environment or Safety
21. RSTA Article 120: Exemption of the Acquisition Tax
22. Asset Revaluation Under Article 56(2) of the TERCL
23. RSTA Article 104(14): Third Party Logistics Operation
24. RSTA Article 104(5): Special Tax Credit for Payment Records
25. Tax Reductions and Exemptions in Free Economic Zones
26. Grants and Financial Support in Free Economic Zones
27. Sharing of Working Opportunities/Employment Creating Incentives
28. GOK Infrastructure Investment at Incheon North Harbor
29. Machinery & Equipment (KANIST R&D) Project
30. Grant for the Purchase of an Electric Vehicle
31. Power Business Law Subsidies
32. Provision of Liquefied Natural Gas (LNG) for LTAR
33. Energy Savings Program²¹⁵
34. Electricity Savings for Designated Period Program
35. Electricity Savings through the Bidding Process Program
36. Electricity Savings upon an Emergent Reduction Program
37. Electricity Savings through General Management Program
38. Energy Savings Program: Utilization of Capability of the Private Sector
39. Energy Savings Program: In Accordance with Prior Announcement
40. Energy Savings Program: Intelligent Electricity Savings
41. Energy Savings Program: Support for Instruments with High Energy Efficiencies
42. R&D Grants under the Industrial Technology Innovation Promotion Act (ITIPA)
43. Power Generation Price Difference Payments (PGPDP)
44. Reimbursements on Construction Costs for Facilities at Incheon Harbor
45. Management of the Electricity Load Factor Program
46. The GOK’s Purchases of Electricity for MTAR
47. Incentives for Compounding and Prescription Cost Reduction
48. Subsidies for Employment Security during Period of Childbirth and Childcare
49. Incentives for Usage of Yeongil Harbor in Pohang City
50. VAT Exemptions on Imported Goods
51. Import Duty Exemptions
52. Incentives for Usage of Gwangyang Port
53. Incentives for Natural Gas Facilities
54. Subsidies for Construction and Operation of Workplace Nursery
55. Subsidies for Hyundai Steel Red Angels Women’s Football Club
56. Co-existence Project for Large- Medium- Small Enterprises as Energy Companies

²¹⁵ See *Cold-Rolled Steel from Korea Final Determination* and accompanying IDM at 119.

57. One Company for One Street Clean Management Agreement
58. Support for Smoking Cessation Treatment
59. Seoul Guarantee Insurance
60. Purchase of Land from Government Entities
61. Fast-Track Restructuring Program
62. Daewoo International Corporation Debt Work Out
63. Exemptions and Reductions of Lease fees in Free Economic Zones
64. Grants from the Korea Agency for Infrastructure Technology Advancement
65. KDB and IBF Loans under the Industrial Base Fund
66. Land Purchase at Asan Bay
67. Modal Shift Program
68. R&D Grants under Industrial Technology Innovation Promotion Act (ITIPA)
69. Research, Supply or Workforce Development Investment Tax Deduction for
70. Research, Supply, or Workforce Development Expense Tax Deductions for
71. RSLTA Articles 46, 84
72. Special Accounts for Energy and Resources (SAER) Loans
73. Support for SME “Green Partnerships”
74. Dongbu Debt Restructuring
75. Sharing of Working Opportunities/Employment Creating Incentives
76. Various Government Grants Contained in Financial Statements

VIII. Recommendation

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

☒

☐

Agree

Disagree

10/30/2018

X

Gary Taverman

Signed by: GARY TAVERMAN

Gary Taverman

Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance