



C-580-888

Administrative Review
POR: 4/4/2017 - 12/31/2017
Public Document
E&C/OVIII: RJP/MJA

July 10, 2019

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the
Countervailing Duty Administrative Review, 2017: Certain
Carbon and Alloy Steel Cut-to-Length Plate 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 carbon and alloy steel cut-to-length plate (CTL plate) from the Republic of Korea (Korea) for the period of review (POR) April 4, 2017 through December 31, 2017. This review covers thirty-one producers/exporters of subject merchandise. Commerce selected POSCO as the sole mandatory respondent. We preliminarily determine that producers/exporters of subject merchandise received above *de minimis* countervailable subsidies.

II. BACKGROUND

On May 25, 2017, Commerce published the *CTL Plate Order* in the *Federal Register*.¹ On May 1, 2018, Commerce published a notice of opportunity to request an administrative review of the *CTL Plate Order*.² On May 31, 2018, POSCO, a foreign producer and exporter of subject merchandise, timely requested an administrative review of itself.³ On the same day, the petitioners⁴ in the underlying CVD investigation timely requested an administrative review of thirty-one producers and/or exporters of subject merchandise.⁵ On July 12, 2018, Commerce

¹ See *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Countervailing Duty Order*, 82 FR 24103 (May 25, 2017) (*CTL Plate Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 19047 (May 1, 2018).

³ See POSCO's Letter, "Request for Administrative Review," dated May 31, 2018.

⁴ ArcelorMittal USA LLC, Nucor Corporation, and SSAB Enterprises, LLC are collectively the petitioners.

⁵ See Petitioners' Letter, "Request for Administrative Review," dated May 31, 2018.



initiated an administrative review of the *CTL Plate Order* with regard to the thirty-one producers and/or exporters of subject merchandise 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 July 24, 2018, Commerce released CBP entry data to all interested parties under an administrative protective order, and requested comments on the data and respondent selection.⁸ On July 31, 2018, POSCO submitted comments that Commerce should select it as a mandatory respondent in this administrative review.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 September 14, 2018, Commerce selected POSCO as the mandatory respondent in the administrative review.¹⁰ On September 14, 2018, Commerce issued the Initial Questionnaire to the Government of Korea (GOK) and POSCO.¹¹ POSCO submitted its affiliation questionnaire response on September 28, 2018.¹² On November 9, 2018, POSCO and its cross-owned affiliates, and the GOK submitted their responses to the Initial Questionnaire.¹³ Between March

⁶ We initiated a review on: BDP International; Blue Track Equipment; Boxco; Bukook Steel Co., Ltd.; Buma CE Co., Ltd.; Daelim Industrial Co., Ltd.; Daesam Industrial Co., Ltd.; Daesin Lighting Co., Ltd.; Daewoo International Corp.; Dong Yang Steel Pipe; Dongkuk Industries Co., Ltd.; Dongkuk Steel Mill Co., Ltd.; Dongbu Steel Co., Ltd.; EAE Automotive Equipment; EEW KHPC Co., Ltd.; Eplus Expo Inc.; GS Global Corp.; Haem Co., Ltd.; Han Young Industries; Hyosung Corp.; Hyundai Steel Co.; Jinmyung Frictech Co., Ltd.; Korean Iron and Steel Co., Ltd.; Kyoungil Precision Co., Ltd.; POSCO; Samsun C&T Corp.; SK Networks Co., Ltd.; Steel N People Ltd.; Summit Industry; Sungjin Co., Ltd.; Young Sun Steel. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 32270, 32278 (July 12, 2018) (*Initiation Notice*); *see also Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 39688, 39690 (August 10, 2018) n.10 (*Correction Notice*) (Correcting the POR for this review.).

⁷ *See Initiation Notice*, 83 FR at 32271.

⁸ *See* Memorandum, “Carbon and Alloy Steel Cut-To-Length Plate: Release of U.S. Customs and Border Protection Import Data,” dated July 24, 2018 (Customs Data). As a result of the *Correction Notice*, Commerce placed revised CBP entry data on the record of this segment of the proceeding. However, because there was no difference between the two datasets (*i.e.*, original and revised), Commerce did not provide an additional comment period. *See* Memorandum, “Correction of July 24, 2018 Letter Regarding Certain Carbon and Alloy Steel Cut-To-Length Plate: Release of Customs and Border Protection Data,” dated August 13, 2018.

⁹ *See* POSCO’s letter, “Comments on CBP Data and Respondent Selection,” dated July 31, 2018.

¹⁰ *See* Memorandum, “Countervailing Duty Administrative Review of Certain Carbon and Alloy Steel Cut-To-Length Plate from the Republic of Korea: Respondent Selection,” dated September 14, 2018.

¹¹ *See* Commerce’s Letter, “Administrative Review of the Countervailing Duty Order on Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Initial Questionnaire,” dated September 14, 2018 (Initial Questionnaire).

¹² *See* POSCO’s Letter, “Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Response to the Affiliated Companies Section of the Initial Questionnaire,” dated September 28, 2018 (POSCO Affiliation QR).

¹³ *See* POSCO’s Letter, “Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: POSCO’s and POS-Himetal’s Initial Questionnaire Response,” dated November 9, 2018 (POSCO Initial QR); POSCO M-Tech’s Letter, “Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Initial Questionnaire Response,” dated November 9, 2018 (POSCO M-Tech Initial QR); POSCO P&S’s Letter, “Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case

27, 2019, and May 24, 2019, Commerce issued supplemental questionnaires to POSCO and the GOK, to which we received timely responses.¹⁴ The petitioners filed deficiency comments on POSCO's questionnaire responses.¹⁵ POSCO filed rebuttal comments in response to the petitioners' comments.¹⁶

On December 17, 2018, Commerce extended the deadline for preliminary results of this review to no later than May 31, 2019.¹⁷ On January 28, 2019, Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.¹⁸ As a result, the revised deadline for the preliminary results is now July 10, 2019.

No. C-580-888: Initial Questionnaire Response," dated November 9, 2018 (POSCO P&S Initial QR); POSCO Daewoo Corporation (PDC)'s Letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Initial Questionnaire Response," dated November 9, 2018; POSCO Chemtech's Letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Initial Questionnaire Response," dated November 9, 2018; POSCO Nippon Steel RHF Joint Venture Co., Ltd. (PNR)'s Letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Initial Questionnaire Response," dated November 9, 2018; Pohang Scrap Recycling Distribution Center Co., Ltd. (Pohang SRDC)'s Letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Initial Questionnaire Response," dated November 9, 2018 (Pohang SRDC Initial QR); Hyundai Corporation's Letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Initial Questionnaire Response," dated November 9, 2018; and the GOK's Letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, 04/04/2017-12/31/2017 Administrative Review, Case No. C-580-888: Response to the Initial Questionnaire," November 9, 2018 (GOK Initial QR).

¹⁴ See GOK's Letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, 04/04/2017-12/31/2017 Administrative Review, Case No. C-580-888: Response to the Supplemental Questionnaire," dated June 3, 2019 (GOK SQR); POSCO's Letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: POSCO's Second Supplemental Questionnaire Response," dated April 8, 2019; POSCO M-Tech's Letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: POSCO M-Tech's (including Ricco Metal and Nine-Digit) First Supplemental Questionnaire Response," dated June 7, 2019; POSCO PDC's Letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: PDC's First Supplemental Questionnaire Response," dated May 13, 2019; POSCO Chemtech's Letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: POSCO Chemtech's First Supplemental Questionnaire Response," dated April 8, 2019; PNR's Letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: PNR's First Supplemental Questionnaire Response," dated June 7, 2019; Pohang SRDC's Letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Pohang SRDC's First Supplemental Questionnaire Response," dated June 7, 2019; and Hyundai Corporation's Letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Hyundai Corporation's First Supplemental Questionnaire Response," dated April 8, 2019.

¹⁵ See Petitioners' Letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Comments on POSCO's Initial Questionnaire Responses" dated November 30, 2018.

¹⁶ See POSCO's Letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Rebuttal to Nucor Comments on POSCO's Initial Questionnaire and Affiliated Companies Responses," dated December 5, 2018.

¹⁷ See Memorandum, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review," dated December 17, 2018.

¹⁸ See Memorandum from 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, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

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

III. PERIOD OF REVIEW

The POR is April 4, 2017 through December 31, 2017. Although the POR covers part of 2017, we analyzed data for the period January 1, 2017 through December 31, 2017, because we accepted POSCO's reporting of its sales and subsidy information based on the calendar year.

IV. INTENT TO RESCIND, IN PART, THE ADMINISTRATIVE REVIEW

On August 7, 2018, we received a timely filed no-shipment certification from Hyundai Steel Company (Hyundai).¹⁹ On August 15, 2018, Commerce issued a no-shipment inquiry to CBP requesting any information that might contradict Hyundai's no-shipment claim. We have not received information to date from CBP that contradicts Hyundai's claim of no sales, shipments, or entries of subject merchandise to the United States during the POR.²⁰ Because there is no evidence on the record that contradicts Hyundai's claim, we preliminarily intend to rescind the review with respect to Hyundai. Absent any evidence of shipments being placed on the record, pursuant to 19 CFR 351.213(d)(3), we intend to rescind the administrative review of Hyundai in the final results of review.

V. SCOPE OF THE ORDER

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

¹⁹ See Hyundai's Letter, "Carbon and Alloy Steel Cut-To-Length Plate from Korea: Notice of No Sales," dated August 7, 2018.

²⁰ See Memorandum, "Certain carbon and alloy steel cut-to-length plate from the Republic of Korea (C-580-888)," dated August 16, 2018.

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

- (1) except where otherwise stated where the nominal and actual thickness or width measurements vary, a product from a given subject country is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above unless the product is already covered by an order existing on that specific country (*i.e.*, Certain Hot-Rolled Steel Flat Products from Brazil and the Republic of Korea: Amended Final Affirmative Countervailing Duty Orders, 81 FR 67960 (October 3, 2016)); 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.

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

Subject merchandise includes cut-to-length plate that has been further processed in the subject country or a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, painting, varnishing, trimming, cutting, punching, beveling, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the *order* if performed in the country of manufacture of the cut-to-length plate.

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

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

- MIL-S-24645A HSLA-80;
- MIL-S-24645A HSLA-100,
- T9074-BD-GIB-010/0300 Grade HY80,
- T9074-BD-GIB-010/0300 Grade HY100,
- T9074-BD-GIB-010/0300 Grade HSLA80,
- T9074-BD-GIB-010/0300 Grade HSLA100, and
- T9074-BD-GIB-010/0300 Mod. Grade HSLA115,

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

- (3) stainless steel plate, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;
- (4) CTL plate meeting the requirements of ASTM A-829, Grade E 4340 that are over 305 mm in actual thickness;
- (5) Alloy forged and rolled CTL plate greater than or equal to 152.4 mm in actual thickness meeting each of the following requirements:
 - (a) Electric furnace melted, ladle refined & vacuum degassed and having a chemical composition (expressed in weight percentages):
 - Carbon 0.23-0.28,
 - Silicon 0.05-0.20,
 - Manganese 1.20-1.60,
 - Nickel not greater than 1.0,
 - Sulfur not greater than 0.007,
 - Phosphorus not greater than 0.020,
 - Chromium 1.0-2.5,
 - Molybdenum 0.35-0.80,
 - Boron 0.002-0.004,
 - Oxygen not greater than 20 ppm,
 - Hydrogen not greater than 2 ppm, and
 - Nitrogen not greater than 60 ppm;
 - (b) With a Brinell hardness measured in all parts of the product including mid thickness falling within one of the following ranges:
 - (i) 270-300 HBW,
 - (ii) 290-320 HBW, or
 - (iii) 320-350HBW;

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

(d) Conforming to ASTM A578-S9 ultrasonic testing requirements with acceptance criteria 2 mm flat bottom hole;

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

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

- Carbon 0.23-0.28,
- Silicon 0.05-0.15,
- Manganese 1.20-1.50,
- Nickel not greater than 0.4,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.20-1.50,
- Molybdenum 0.35-0.55,
- Boron 0.002-0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

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

(c) Having the following mechanical properties:

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

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

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

- (e) Conforming to magnetic particle inspection in accordance with AMS 2301;
- (7) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:
- (a) Made from Electric Arc Furnace melted, ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):
- Carbon 0.25-0.30,
 - Silicon not greater than 0.25,
 - Manganese not greater than 0.50,
 - Nickel 3.0-3.5,
 - Sulfur not greater than 0.010,
 - Phosphorus not greater than 0.020,
 - Chromium 1.0-1.5,
 - Molybdenum 0.6-0.9,
 - Vanadium 0.08 to 0.12
 - Boron 0.002-0.004,
 - Oxygen not greater than 20 ppm,
 - Hydrogen not greater than 2 ppm, and
 - Nitrogen not greater than 60 ppm.
- (b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.0(t) and 0.5(h), B not exceeding 1.5(t) and 1.0(h), C not exceeding 1.0(t) and 0.5(h), and D not exceeding 1.5(t) and 1.0(h);
- (c) Having the following mechanical properties: A Brinell hardness not less than 350 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 145ksi or more and UTS 160ksi or more, Elongation of 15% or more and Reduction of area 35% or more; having charpy V at -40 degrees F in the transverse direction equal or greater than 20 ft. lbs (single value) and equal or greater than 25 ft. lbs (average of 3 specimens);
- (d) Conforming to ASTM A578-S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and
- (e) Conforming to magnetic particle inspection in accordance with AMS 2301.

At the time of the filing of the petition, there was an existing countervailing duty order on certain cut-to-length carbon-quality steel plate from Korea. *See Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From the Republic of Korea*, 64 Fed. Reg. 73,176 (Dep't Commerce Dec. 29, 1999), as amended, 65 Fed. Reg. 6,587 (Dep't Commerce Feb. 10, 2000) (*1999 Korea CVD Order*). The scope of the countervailing duty order with regard to cut-to-length plate from Korea covers only (1) subject cut-to-length plate not within the physical description of cut-to-length carbon quality steel plate in the *1999 Korea CVD*

Order regardless of producer or exporter, and (2) cut-to-length plate produced and/or exported by those companies that were excluded or revoked from the *1999 Korea CVD Order* as of April 8, 2016. The only revoked or excluded company is Pohang Iron and Steel Company, also known as POSCO.

The products subject to the order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000.

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

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

VI. RATE FOR NON-EXAMINED COMPANIES

The statute and Commerce's regulations do not address the establishment of a rate to be applied to individual respondents not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the 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 (FA). 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 FA.²¹ Section 705(c)(5)(A)(ii) of the Act also provides that, where all rates are zero, *de minimis*, or based entirely on FA, 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 memorandum, we preliminarily determine that POSCO received countervailable subsidies that are above *de minimis*. Because the only individually calculated rate is not zero, *de minimis*, or based entirely under section 776 of the Act, the estimated

²¹ See, e.g., *Certain Pasta from Italy: Final Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 37386, 37387 (June 29, 2010).

countervailable subsidy rate calculated for POSCO is the rate assigned to all non-examined producers and exporters, pursuant to section 705(c)(5)(A)(i) of the Act.

VII. 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.²²

B. Attribution of Subsidies

Commerce’s regulations at 19 CFR 351.525(b)(6)(i) state that Commerce will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides that Commerce will attribute subsidies received by certain other companies to the combined sales of those companies when: (1) two or more corporations with cross-ownership produce the subject merchandise; (2) a firm that received a subsidy is a holding or parent company of the subject company; (3) there is cross-ownership between an input supplier and a downstream producer and production of the input is primarily dedicated to the production of the downstream product; or (4) a corporation producing non-subject merchandise received a subsidy and transferred the subsidy to a corporation with cross-ownership with the subject company.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This regulation states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations. The Court of International Trade (CIT) upheld Commerce’s authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.²³

For POSCO, we are preliminarily attributing subsidies received by POSCO to its own sales in accordance with 19 CFR 351.525 (b)(6)(i). POSCO reported that it had one affiliated Korean trading company through which it exported some subject merchandise, POSCO Daewoo Corporation (PDC).²⁴ For PDC, because PDC is POSCO’s trading company for some 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 PDC based on the ratio of

²² See U.S. Internal Revenue Service Publication 946 (2008), “How to Depreciate Property,” at Table B-2: Table of Class Lives and Recovery Periods.

²³ See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

²⁴ See POSCO Affiliation QR at 4.

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).

In addition to PDC, POSCO also reported that during the POR, it made some export sales of CTL plate to the United States through two other unaffiliated trading companies, Hyundai and a second trading company for which the POR U.S. export volume of subject merchandise was a negligible amount of POSCO's total exports of subject merchandise to the U.S. during the POR.²⁵ POSCO did not submit a response for this second unaffiliated trading company, stating that given the negligible quantities of subject merchandise exported by this company during the POR, any subsidies that it may have received would have no meaningful impact on POSCO's overall subsidy margin under Commerce's practice.²⁶ Consistent with Commerce practice, we have not requested a questionnaire response for this second unaffiliated trading company which had negligible exports sales during the POR.²⁷

For Hyundai, where appropriate, we have cumulated benefits from subsidies to Hyundai with benefits from subsidies provided to POSCO based on the ratio of Hyundai's exports to the United States of subject merchandise that were produced by POSCO during the POR, pursuant to 19 CFR 351.525(c).

We have identified six cross-owned companies that supplied POSCO with raw materials during the POR that could have been primarily dedicated to the downstream product produced by POSCO: POSCO Chemtech, POSCO Nippon RHF Joint Venture Co., Ltd. (PNR), POSCO Processing and Service (POSCO P&S), Pohang Scrap Recycling Distribution Center (Pohang SRDC), and POSCO M-Tech. Each of these companies supplied inputs to POSCO for the production of the downstream product.²⁸ Pursuant to 19 CFR 351.525(b)(6)(iv), we preliminarily attributed subsidies received by these cross-owned input suppliers to the respective input supplier's total sales plus the total sales of POSCO, net of inter-company sales.²⁹

Either POSCO or POSCO's cross-owned input suppliers acquired the following companies during the AUL.³⁰

²⁵ *Id.* at 2.

²⁶ *Id.* at 5.

²⁷ 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, 2016) and accompanying PDM at 10 (excusing Hyundai Steel Company from reporting on behalf of trading companies with negligible quantities of exports); unchanged in *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Affirmative Determination*, 81 FR 53439 (August 12, 2016).

²⁸ See POSCO Affiliation QR at 2, 10-12. Pohang SRDC processed scrap which it provided to POSCO through POSCO P&S. See Pohang SRDC Initial QR at 1.

²⁹ We preliminarily find that, among these input suppliers, only 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.

³⁰ As explained in the "Use of Facts Otherwise Available" section, below, we have preliminarily applied neutral FA with respect to Ricco Metal and Pohang SPFC; 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 Co. (Ricco Metal), Nine Digits Co. (Nine Digit), Daemyeong TMS, Pohang SPFC, and Gunsan SPFC, after the preliminary results.

- POSCO merged with POS-Himetal in 2016 and, afterward, POS-Himetal no longer existed as a separate company;³¹
- POSCO AST, POSCO NST and Daemyeong TMS: Between 2007 and 2010, POSCO incrementally acquired all of the shares of POSCO AST.³² Subsequently, in 2011, POSCO AST merged with Daemyeong TMS, and afterwards, Daemyeong TMS no longer existed as a separate company.³³ In 2012, POSCO AST also merged with POSCO's subsidiary POSCO NST.³⁴ Afterward, POSCO NST no longer existed as a separate company.³⁵ In 2016, POSCO P&S acquired 100 percent of the shares of POSCO AST from POSCO and merged with POSCO AST.³⁶ Subsequently, POSCO AST no longer existed as a separate company.³⁷
- POSCO TMC: In 2016 POSCO Transformer & Motor Core Co., Ltd (POSCO TMC) merged with POSCO P&S and, afterward, no longer existed as a separate company.³⁸
- Ricco Metal and Nine-Digit: In January 2013, Ricco Metal merged into POSCO M-Tech and, afterward, no longer existed as a separate company.³⁹ In January 2013, Nine Digit merged into POSCO M-Tech and, afterward, no longer existed as a separate company.⁴⁰
- Pohang SPFC and Gunsan SPFC: Pohang SPFC was formed in 2008 and merged into Steel Processing and Fabricating Center Co., Ltd. (SPFC) in January 2013.⁴¹ Gunsan SPFC was formed in 2010 and merged into SPFC in January 2013.⁴²
- SPFC: In November 2016, SPFC merged into POSCO P&S and, afterward, no longer existed as a separate company.⁴³
- POSCO P&S: In March 2017, POSCO P&S's steel processing and trading business was merged into PDC.⁴⁴

³¹ See POSCO Affiliation QR at 14.

³² See POSCO's Letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Notification of Reporting Difficulty and Request to Modify Reporting Instructions," dated September 28, 2018 (POSCO Reporting Difficulties Letter) at 5-6.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ See POSCO Affiliation QR at 16.

³⁹ *Id.* at 16-18; see also POSCO Reporting Difficulties Letter at 2-5.

⁴⁰ See POSCO Affiliation QR at 16.

⁴¹ See POSCO Reporting Difficulties Letter at 6-8.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ See POSCO Affiliation QR at 16.

POSCO reported no other cross-owned producers and reported that it has no holding or parent company.⁴⁵ Regarding the above-referenced companies that were acquired by POSCO or by POSCO's cross-owned companies, POSCO provided questionnaire responses for these companies. Our preliminary analysis indicates that none of these companies received subsidies that conferred measurable benefits.⁴⁶

C. Benchmarks and Discount Rates

Short-Term Korean Won and U.S. Dollar Denominated Loans

POSCO, and certain POSCO cross-owned affiliates, reported receiving short-term import financing from the Korea Export-Import Bank (KEXIM) during the POR, and short-term operating loans from Korea Development Bank (KDB).⁴⁷ As benchmarks, POSCO and its cross-owned affiliates provided information about short-term loans from the Bank of Korea for consideration as comparable commercial loans for purposes of identifying an interest rate benchmark.⁴⁸ We preliminarily find that the short-term interest rate data, sourced from the Bank of Korea (BOK), is appropriate to use to calculate a weighted-average benchmark interest rate.⁴⁹ This approach is consistent with 19 CFR 351.505(a)(2)(iv) and our practice.

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

During the POR, POSCO, POSCO PDC and POSCO M-Tech had outstanding long-term Korean won and U.S. dollar denominated loans from government-owned banks.⁵⁰ 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 1991.⁵¹ This is the approach Commerce has taken in several prior Korean CVD proceedings.⁵² 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.⁵³

⁴⁵ See POSCO Affiliation QR at 10.

⁴⁶ See POSCO Preliminary Calculation Memo.

⁴⁷ See, e.g., POSCO PDC Initial QR at 22.

⁴⁸ See POSCO PDC Initial QR at Exhibit C-12.

⁴⁹ See POSCO Preliminary Calculation Memo.

⁵⁰ See, e.g., POSCO Initial QR at Exhibit D-14.

⁵¹ 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).

⁵² *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."

⁵³ See *Final Affirmative Countervailing Duty Determinations and Final Negative Critical Circumstances Determinations: Certain Steel Products from Korea*, 58 FR at 37338, 37345-37346 (July 9, 1993).

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 *International Financial Statistics*. This approach is consistent with 19 CFR 351.505(a)(3)(ii) and prior Korean CVD proceedings.⁵⁴ In accordance with 19 CFR 351.505(a)(2)(i), our benchmarks take into consideration the structure of the government-provided loans. For countervailable fixed-rate loans, pursuant to 19 CFR 351.505(a)(2)(iii), we used benchmark rates issued in the same year that the government loans were issued.

D. 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 POSCO Preliminary Calculation Memo.

E. 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 above, where the program has been found to be countervailable as a domestic subsidy, we have used total sales as the denominator, net of inter-company sales, for our rate calculations for POSCO. In the sections below, we describe the denominators we used to calculate the countervailable subsidy rates for the various subsidy programs.

VIII. 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 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 Commerce, 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

⁵⁴ See, e.g., *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009) and accompanying IDM at "Benchmark for Long Term Loans."

previous review under section 751 concerning the subject merchandise.”⁵⁵ It is Commerce’s practice to consider information to be corroborated if it has probative value.⁵⁶ In analyzing whether information has probative value, it is Commerce’s practice to examine the reliability and relevance of the information to be used.⁵⁷ However, the SAA emphasizes that Commerce need not prove that the selected FA is the best alternative information.⁵⁸

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 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: Ricco Metal

As explained above, in January 2013, Ricco Metal merged with POSCO M-Tech and, afterward, no longer existed as a separate company.⁵⁹ POSCO M-Tech closed the former Ricco Metal’s business and sold its assets in 2015.⁶⁰ At that time, POSCO M-Tech disposed of certain of Ricco Metal’s accounting records which pre-dated the 2013 merger in compliance with Korean law with respect to document archival.⁶¹ POSCO M-Tech 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 no longer existed.⁶² 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 had on file.⁶³ POSCO M-Tech reported that information was not available to determine the amount of any R&D grants received between 2002 and 2008.⁶⁴

We note that POSCO based its responses to our questionnaires on accounting vouchers and audited financial statements.⁶⁵ Further, in the recent administrative reviews of cold and hot-rolled steel flat products, Commerce verified POSCO and did not find any evidence at verification that called into question the reliability of these records or the completeness of

⁵⁵ See, *e.g.*, Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol 1 (1994) (SAA) at 870.

⁵⁶ *Id.*

⁵⁷ See, *e.g.*, *Id.* at 869.

⁵⁸ *Id.* at 869-870.

⁵⁹ See POSCO Affiliation QR at 16-17.

⁶⁰ See POSCO Reporting Difficulties Letter at 3.

⁶¹ *Id.*

⁶² *Id.*

⁶³ See POSCO M-Tech IQR at Exhibit B-2.

⁶⁴ *Id.*

⁶⁵ See, *e.g.*, POSCO’s Letter, “POSCO’s Second Supplemental Questionnaire Response,” dated April 8, 2019.

POSCO's questionnaire responses.⁶⁶ Additionally, there is no evidence on the record that POSCO failed to comply with Commerce's requests for information such that application of an adverse inference would be warranted under section 776(b) of the Act. However, with respect to future administrative segments of this proceeding, in these preliminary results, we hereby put POSCO and all other interested parties on notice that Commerce expects full compliance with our reporting requirements, and that POSCO and all other interested parties should retain all relevant source documents for future administrative reviews, irrespective of document retention requirements under Korean law.

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 was unable to provide certain information for Ricco Metal for the 2002 through 2008 reporting period. Therefore, 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 (2002-2008) as it did for the years in which we have information (2009-2012). On this basis, we preliminarily determine that Ricco Metal did not receive subsidies that conferred a measurable benefit.

B. Application of FA: Pohang SPFC

Pohang SPFC was formed in 2008 and merged into SPFC in January 2013.⁶⁷ POSCO P&S is POSCO's cross-owned supplier of inputs during the POR, which POSCO P&S reports could have been used in POSCO's production of downstream CTL plate in the manner described in 19 CFR 351.525(b)(6)(iv).⁶⁸ Before the merger, SPFC destroyed documents relating to Pohang SPFC that were older than five years, *i.e.*, between 2008 and 2012.⁶⁹ Pohang SPFC did, however, have access to accounting voucher information from 2009 to 2012. In addition, POSCO had access to Pohang SPFC's audited financial statements for the 2010-2011 period, as these were available from the Korean Financial Supervisory Service.⁷⁰

Because Pohang SPFC was acquired by SPFC during the AUL, we considered whether any non-recurring subsidies that Pohang SPFC received could have passed through to SPFC. Thus, we requested complete questionnaire responses for Pohang SPFC to the extent possible.⁷¹ However, as described above, SPFC was unable to provide certain information for Pohang SPFC for the

⁶⁶ See *Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 2016, 84 FR 28461 (June 19, 2019) (*Korea HRS Final*) and accompanying IDM at Comment 1; see also *Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 2016, 84 FR 24087 (May 24, 2019) (*Korea CRS Final*) and accompanying IDM at Comment 1.

⁶⁷ See POSCO Reporting Difficulties Letter at 7.

⁶⁸ See POSCO P&S Initial QR at 10.

⁶⁹ See POSCO Reporting Difficulties Letter at 7.

⁷⁰ *Id.* at 7.

⁷¹ See Commerce's Letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Request to Modify Reporting Instructions," dated October 10, 2018.

year 2008 reporting period. Therefore, in accordance with section 776(a) of the Act, for the purpose of these preliminary results, we have applied FA with respect to Pohang SPFC, because necessary information is not on the record. Thus, as FA, we find that Pohang SPFC used the same non-recurring subsidies during the year for which we are missing information (2008) as it did for the years in which we have information (2009-2012). On this basis, we determine Pohang SPFC did not receive subsidies that conferred a measurable benefit.

IX. ANALYSIS OF PROGRAMS

A. Programs Preliminarily Determined to be Countervailable

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

POSCO, POSCO Chemtech, POSCO M-Tech, POSCO PDC, and PNR reported certain exemptions from local acquisition taxes and local property taxes under Article 78(4) of the RSLTA.⁷² 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.⁷³ Article 78 provides that any entity acquiring real estate in a designated industrial complex for the purpose of constructing new buildings or renovating existing ones shall be exempted from the acquisition tax.⁷⁴ In addition, the entity located in these designated industrial complexes shall have the property tax reduced by 50 percent on the real estate for five years from the date the tax liability becomes effective. The tax exemption is increased to 100 percent if the relevant land, buildings, or facilities are located in an industrial complex outside of the Seoul metropolitan area. The program is administered by the local governments in Korea.⁷⁵ The purpose of the program is to promote the development of the underdeveloped areas in Korea and to appropriately allocate the industries nationwide.⁷⁶

We examined this program in the underlying investigation.⁷⁷ The GOK reported that there were no changes to this program during the POR.⁷⁸ 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

⁷² See, e.g., POSCO Initial QR at 19-21, Exhibit A-5 and 6.

⁷³ See *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Preliminary Negative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 81 FR 63168 (September 14, 2016) (*Carbon and Alloy CTL Plate Prelim*) and accompanying Preliminary Decision Memorandum (PDM) at 24-25; unchanged in *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 82 FR 16341 (April 4, 2017) (*Carbon and Alloy CTL Plate Final*).

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ See *Carbon and Alloy CTL Plate Prelim* PDM at 24-25 (unchanged in *Carbon and Alloy CTL Plate Final*).

⁷⁸ See GOK Initial QR at 7; see also GOK SQR at 2, and 5-6.

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 findings in this regard are also consistent with prior Korean CVD proceedings.⁷⁹

The tax credits provided under this program are recurring benefits because the taxes are due annually. Thus, consistent with 19 CFR 351.524(a), the benefit is expensed in the year in which it is received. 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 appropriate sales denominator, consistent with the “Attribution of Subsidies” section, above. “On this basis, we preliminarily determine that only POSCO received a net countervailable subsidy at a rate of 0.01 percent *ad valorem* under this program.”⁸⁰

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

POSCO and Pohang SRCD reported receiving tax exemptions under RSTA Article 26.⁸¹ Article 26 was first introduced through the RSTA in 1982 to encourage companies to make investments out of the overcrowding control region of the Seoul Metropolitan Area in their respective fields of business by providing them with tax incentives.⁸² Eligible companies are able to claim a tax credit of up to 10 percent in eligible investments in facilities.⁸³ Commerce previously determined that this program was countervailable in the *Carbon and Alloy CTL Plate Final*.⁸⁴ Information provided by the GOK indicates that there were no changes made to this program during the POR.⁸⁵

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

⁷⁹ 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; and *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.

⁸⁰ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

⁸¹ See POSCO Initial QR at 18 and Exhibits A-1 and A-3; see also Pohang SRCD Initial QR at 12 Exhibit 5 and A-1.

⁸² See GOK IQR Appendix 1 and Exhibit Tax 1.

⁸³ *Id.*

⁸⁴ See *Carbon and Alloy CTL Plate Prelim PDM* at 22; unchanged in *Carbon and Alloy CTL Plate Final* (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); see also *Korea HRS Final* IDM at 8; and *Korea CRS Final* IDM at 8.

⁸⁵ See GOK Initial QR at 5-6 and Appendix 1.

within designated geographical regions. Our findings in this regard are consistent with prior Korean CVD proceedings.⁸⁶

The tax credits provided under this program are recurring benefits because the taxes are due annually. Thus, consistent with 19 CFR 351.524(a), the benefit is expensed in the year in which it is received. 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 appropriate sales denominator, consistent with the “Attribution of Subsidies” section, above. We then combined these subsidy rates. On this basis, we preliminarily determine that POSCO received a net countervailable subsidy at a rate of 0.14 percent *ad valorem*.⁸⁷

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

POSCO reported that it received tax exemptions under RSTA Article 104(15).⁸⁸ 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 deductions to investments on an overseas local corporation by a national corporation.⁸⁹ 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.⁹⁰

The GOK reported that there were no changes to this program during the POR.⁹¹ 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.⁹²

The tax credits provided under this program are recurring benefits because the taxes are due annually. Thus, consistent with 19 CFR 351.524(a), the benefit is expensed in the year in which it is received. To calculate the benefit for POSCO, we divided the amount of the tax savings by

⁸⁶ See *Certain Cut-to-Length Carbon Quality Steel Plate from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review, and Preliminary Intent to Rescind in Part: Calendar Year 2015*, 82 FR 13792 (March 15, 2017) 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) and accompanying IDM at 6; see also *Korea HRS Prelim* PDM at 18, unchanged in *Korea HRS Final*.

⁸⁷ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

⁸⁸ See POSCO Initial QR at 40 and Exhibit A-1, C-24 and 25.

⁸⁹ See GOK SQR at Appendix 19.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

POSCO's total sales during the POR. On this basis, we preliminarily determine that POSCO received a net countervailable subsidy rate of 0.05 percent *ad valorem*.⁹³

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

POSCO reported that it received tax exemptions under RSTA Article 11.⁹⁴ Under this program, companies receive tax deductions for facility investments on research and development (R&D). As stated by the GOK, the purpose of the program is to improve the competitive power of business and to create positive growth of the economy, through expansion of research and manpower.⁹⁵ The deduction amount received by companies is determined based on company size.⁹⁶ The tax reduction is administered by the National Tax Service (NTS),⁹⁷ under the direction of the Ministry of Strategy and Finance (MOSF).⁹⁸ Large, medium and small-sized companies receive tax deductions of three, five, and ten percent, respectively.⁹⁹ Commerce previously determined that this program was countervailable in the *Carbon and Alloy CTL Plate Final*.¹⁰⁰ The GOK reported that there were no changes to this program during the POR.¹⁰¹

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).

The tax credits provided under this program are recurring benefits because the taxes are due annually. Thus, consistent with 19 CFR 351.524(a), the benefit is expensed in the year in which it is received. 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 net countervailable subsidy at a rate of 0.06 percent *ad valorem*.¹⁰²

5. Technical Development Fund RSTA Article 9

POSCO and POSCO Chemtech reported that each received tax exemptions under RSTA Article 9.¹⁰³ 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

⁹³ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

⁹⁴ See POSCO Initial QR at 18 and Exhibit A-1 and 2.

⁹⁵ See *Carbon and Alloy CTL Plate Prelim PDM* at 20-21; unchanged in *Carbon and Alloy CTL Plate Final*.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ See *Carbon and Alloy CTL Plate Final*.

¹⁰¹ See GOK Initial QR at 5; and GOK SQR at 2.

¹⁰² See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

¹⁰³ See POSCO Initial QR at 19 and Exhibits A-1, A-4 and 18; and POSCO Chemtech Initial QR at 12 and Exhibit A-2.

its net income for the tax year, independent of the actual expenditures for R&D and human resources during the tax year.¹⁰⁴ Commerce previously determined that this program was countervailable in the *Carbon and Alloy CTL Plate Final*.¹⁰⁵

The GOK reported that there were no changes to this program during the POR.¹⁰⁶ 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).

To calculate a benefit under this program, we treated the amount that POSCO and POSCO Chemtech retained as a balance in reserves on its tax return filed during the POR as a short-term, interest-free contingent liability loan. We then used the benchmarks described in the “Short-Term Korean Won and U.S. Dollar-Denominated Loans” section above, as well as the methodology described in 19 CFR 351.505(c), to calculate the interest that POSCO and POSCO Chemtech would have paid on a comparable commercial loan during the POR by multiplying the balance amount by the benchmark short-term interest rate. To calculate the benefit, we divided the amount of the tax savings received by POSCO by its total sales during the POR. With respect to POSCO Chemtech, we divided the amount of the tax savings it received by its input supplier denominator. We then combined these subsidy rates. On this basis, we preliminarily determine that POSCO received a net countervailable subsidy rate of 0.01 percent *ad valorem*.¹⁰⁷

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

POSCO reported that it received tax exemptions under RSTA Article 25(2).¹⁰⁸ The purpose of this program is to facilitate the enhancement of energy efficiency in business sectors through a deduction from taxes payable.¹⁰⁹ Under RSTA Article 25(2), an amount equal to 1 percent (3 percent for medium-sized companies, and 6 percent for small-sized companies) of the amount of an eligible investment may be deducted from the taxes payable by a corporation or an individual taxpayer.¹¹⁰ The tax reduction is administered by the NTS, under the direction of MOSF.¹¹¹ Commerce previously determined that this program was countervailable in the *Carbon and Alloy CTL Plate Final*.¹¹²

¹⁰⁴ See *Carbon and Alloy CTL Plate Prelim PDM* at 24; unchanged in *Carbon and Alloy CTL Plate Final*.

¹⁰⁵ See *Carbon and Alloy CTL Plate Final IDM* at 17.

¹⁰⁶ See GOK Initial QR at 6.

¹⁰⁷ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

¹⁰⁸ See POSCO Initial QR at 35, Exhibit A-1, C-18 and 19.

¹⁰⁹ See GOK Initial QR at Appendix 13.

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² See *Carbon and Alloy CTL Plate Final IDM* at 21.

The GOK reported that there were no changes to this program during the POR.¹¹³ Thus, as we did in the investigation, 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. Additionally, Commerce determined 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.¹¹⁴ 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.

The tax credits provided under this program are recurring benefits because the taxes are due annually. Thus, consistent with 19 CFR 351.524(a), the benefit is expensed in the year in which it is received. To calculate the benefit for POSCO, we divided the amount of the tax savings by its total sales during the POR. On this basis, we preliminarily determine that POSCO received a net countervailable subsidy at a rate of 0.17 percent *ad valorem*.¹¹⁵

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

POSCO reported that it received tax credits under RSTA Article 8(3) during the POR.¹¹⁶ Under this program a domestic corporation which makes any contributions to the collaborative cooperation between large enterprises and small-medium enterprises, or between small-medium enterprises shall be eligible for corporate tax credit of an amount equivalent to 7/100 of the relevant contributions.¹¹⁷ The tax reduction is administered by the NTS, under the direction of MOSF.¹¹⁸

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. Specifically, the GOK reports that 51 taxpayers of 8,041 used this program.¹¹⁹ Additionally, we preliminary 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.

The tax credits provided under this program are recurring benefits because the taxes are due annually. Thus, consistent with 19 CFR 351.524(a), the benefit is expensed in the year in which it is received. To calculate the benefit for POSCO, we divided the amount of the tax savings by

¹¹³ See GOK Initial QR at Appendix 13.

¹¹⁴ See *Carbon and Alloy CTL Plate Final IDM* at 21.

¹¹⁵ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

¹¹⁶ See POSCO Initial QR at 38 and Exhibit A-1, C-22 and 23.

¹¹⁷ See GOK Initial QR at Appendix 15.

¹¹⁸ *Id.*

¹¹⁹ See GOK SQR at 9 and Exhibit SQ1 Tax-2.

its total sales during the POR. On this basis, we preliminarily determine that POSCO received a net countervailable subsidy at a rate of 0.02 percent *ad valorem*.¹²⁰

8. RSTA Article 10-2: Special Taxation for Contribution, etc. for R&D

POSCO reported that it received a tax deduction under this program. Commerce previously determined that this program was countervailable in the *Carbon and Alloy CTL Plate Final*.¹²¹ We intend to seek further information regarding this program for use in the final results.

The GOK reported that there were no changes to this program during the POR.¹²² Additionally, the GOK reported that, in 2016, there were 47,495 small and medium enterprises (SME) and general corporations tax returns filed.¹²³ The GOK also reports that 25,214 SME and general corporations used this program during the POR.¹²⁴ According, 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.¹²⁵ Additionally, Commerce preliminary determines 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.¹²⁶ 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 benefit for POSCO, we divided the amount of the tax savings by its total sales during the POR. On this basis, we preliminarily determine that POSCO received a net countervailable subsidy at a rate of 0.01 percent *ad valorem*.¹²⁷

9. Article 57 of the Corporate Tax Act

POSCO, POSCO Chemtech, and POSCO P&S reported that they received tax credits under Article 57 of the Corporate Tax Act.¹²⁸ Under this program, for each business year which includes any foreign source income, and the amount of foreign corporate tax on such foreign source income is paid or payable, a domestic corporation may opt for and be subject to either (1) deducting the amount of foreign corporate tax from the amount of corporate tax for the relevant

¹²⁰ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

¹²¹ See *Carbon and Alloy CTL Plate Final* IDM at 18.

¹²² See GOK Initial QR at 7.

¹²³ See GOK SQR and Exhibit SQ1 Tax-2.

¹²⁴ The GOK reports this amount includes subparagraphs 1, 2, and 3 of RSTA Article 10(1). See GOK SQR at 6.

¹²⁵ See, e.g., *Large Diameter Welded Pipe from the Republic of Korea: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 30693 (June 29, 2018) (*Korea LDWP Prelim*) and accompanying PDM at 19; unchanged in *Large Diameter Welded Pipe from the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 84 FR 6369 (February 27, 2019) (*Korea LDWP Final*).

¹²⁶ See *Carbon and Alloy CTL Plate Final* IDM at 21.

¹²⁷ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

¹²⁸ See POSCO Initial QR at 50 and Exhibits A-1 and C-37; POSCO Chemtech Initial QR at 23 and Exhibit A-1; and POSCO P&S Initial QR at 34, Exhibits A-1 and C-7.

business year, or (2) including the amount of foreign corporate tax paid or payable on foreign source income, in deductible expenses when calculating the amount of income for each business year.¹²⁹ This program contributes to the adjustment of international double taxation through the method selected by the taxpayer, either tax credit method or tax deduction method. The tax reduction is administered by the NTS, under the direction of MOSF.¹³⁰ We intend to seek further information regarding this program for use in the final results.

The GOK reports that, in 2016, 28,253 corporate tax returns not subject to a minimum tax were filed and 1,624 of these corporations claimed the credits under Article 57 of the Corporate Tax Act.¹³¹ 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.¹³² Additionally, we 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.

The tax credits provided under this program are recurring benefits, because the corporate taxes are due annually. Thus, consistent with 19 CFR 351.524(a), the benefit is expensed in the year in which it is received. 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 appropriate sales denominator, consistent with the “Attribution of Subsidies” section, above. On this basis, we preliminarily determine that POSCO received a net countervailable subsidy at a rate of 0.06 percent *ad valorem* under this program.¹³³

10. R&D Grants Under the Industrial Technology Innovation Promotion Act (ITIPA)

POSCO, POSCO Chemtech, and POSCO PDC reported receiving grants under this program during the POR.¹³⁴ This program is administered by the Ministry of Trade, Industry and Energy (MOTIE) and the Korea Evaluation Institute of Industrial Technology (KEIT). It was designed to promote new industries and enhance the competitiveness of Korea’s national economy through the development of industrial technologies. Under the ITIPA program, the GOK provides grants to support technological development in certain industries, including industrial materials.¹³⁵

¹²⁹ See GOK Initial QR at Appendix 27.

¹³⁰ *Id.*

¹³¹ See GOK SQR at 9 and Exhibit SQ1 Tax-2.

¹³² See Korea LDWP Prelim PDM at 19; unchanged in Korea LDWP Final.

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

¹³⁴ See POSCO Initial QR at 25-26 and Exhibits B-6 and 7; POSCO Chemtech Initial QR at 15-16 and Exhibit B-5; and POSCO PDC Initial QR at 17-18 and Exhibit B-4.

¹³⁵ See GOK Initial QR at Appendix 3.

The program is operated pursuant to Article 11 of the ITIPA.¹³⁶ To implement the program, KEIT prepares and publicly announces the basic plan which may encompass multiple projects that the KEIT forecasts will support the development of the Korean national economy. According to the GOK, any party wishing to participate in the program prepares a business plan that meets the requirements set forth in the basic plan and then submits the application to the MOTIE Review Committee, which then evaluates the application to determine if it conforms to the terms and conditions set forth in the basic plan. If the application is approved, the company enters into an R&D agreement with KEIT, and KEIT announces the amount of the grant to be provided.¹³⁷

The costs of the R&D projects under this program are shared by the company (or research institution) and KEIT. Specifically, the grant ratio for project costs are as follows: (1) for projects with one small/medium-sized enterprise (SME), KEIT provides grants of up to 75 percent of total project costs; (2) for other companies, KEIT grants 50 percent of total project costs; (3) for projects with more than one participant, KEIT grants 75 percent of the total project cost if two thirds of the participants are SMEs; (4) otherwise, KEIT provides 50 percent of project costs.¹³⁸ Commerce previously determined that this program was countervailable in the *Carbon and Alloy CTL Plate Final*.¹³⁹

The GOK reports there were no changes to this program in the POR.¹⁴⁰ We preliminarily determine this program to be *de jure* specific under section 771(5A)(D)(i) of the Act because it is limited to projects in the basic plan that KEIT forecasts will support the development of the Korean national economy. Further, we preliminarily determine that a financial contribution was provided within the meaning of section 771(5)(D)(i) of the Act because the GOK's payments constitute a direct transfer of funds, and a benefit exists in the amount of the grant provided in accordance with 19 CFR 351.504(a).

We preliminarily determine that the grants provided under this program are non-recurring, in accordance with 19 CFR 351.524(c), which provides that Commerce will normally treat grants as non-recurring subsidies. POSCO and its cross-owned affiliates reported receiving benefits during the AUL. However, based on the results of the "0.5 percent test" conducted pursuant to 19 CFR 351.524(b)(2), these grants were expensed in the year of receipt and, thus, were not allocable to the POR.

To calculate the net subsidy amount for the grants received during the POR, we multiplied the total amount of the grants that POSCO, POSCO Chemtech, and POSCO PDC received by the percentage that they were permitted to keep. For POSCO, we then divided that benefit amount by its total POR sales. With respect to POSCO Chemtech and POSCO PDC, we divided each

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ See *Carbon and Alloy CTL Plate Final* IDM at 17.

¹⁴⁰ See GOK Initial QR at 9.

company's benefit amount by its respective input supplier denominator. On this basis, we calculated a measurable net countervailable subsidy rate of 0.01 percent for POSCO only.¹⁴¹

11. Energy Savings Program Subsidies: Demand Response Market Program

POSCO, POSCO PDC, and POSCO P&S reported receiving benefits under this program during the POR.¹⁴² The GOK states that the Korea Power Exchange (KPX) developed this program at the end of 2014.¹⁴³ The GOK confirms that the program was in operation during the POR.¹⁴⁴

The legal basis for this program is Chapter 12 of the Rules on Operation of Electricity Utility Market (ROEUM).¹⁴⁵ 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.¹⁴⁶ The program is divided into two sub-programs, Demand Response Peak Curtailment and Demand Response Program for Electricity Price Curtailment.¹⁴⁷ 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.¹⁴⁸ The KPX operates both programs.¹⁴⁹ Commerce previously determined that this program was countervailable in the *Carbon and Alloy CTL Plate Final*.¹⁵⁰

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.¹⁵¹ End users receive payments from those aggregators. Prior to that exchange between the KPX and the aggregators, the Korea Electric Power Corporation (KEPCO) pays the KPX for the latter's role in demand curtailment under the program.¹⁵² We have previously found KEPCO to be an "authority" within the meaning of section 771(5)(B) of the Act.¹⁵³ Therefore, we determine that a financial contribution in the form of a direct transfer of funds is provided to companies participating in this program under section 771(5)(D)(i) of the Act and a benefit exists in the amount of the grant provided to POSCO, POSCO PDC, and POSCO P&S in accordance with 19 CFR 351.504(a).

To calculate the benefit, we divided the amount of funds received by POSCO, POSCO PDC, and POSCO P&S under this program during the POR by the appropriate sales denominator, consistent with the "Attribution of Subsidies" section, above. On this basis, we preliminarily

¹⁴¹ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

¹⁴² See POSCO Initial QR at 24 and Exhibit B-1; POSCO PDC Initial QR at 16 and Exhibit B-1; and POSCO P&S Initial QR at 21 and Exhibit B-1.

¹⁴³ See GOK Initial QR at 8.

¹⁴⁴ *Id.* at Appendix 2.

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ See *Carbon and Alloy CTL Plate Final* IDM at 16.

¹⁵¹ See GOK Initial QR at Appendix 2.

¹⁵² *Id.*

¹⁵³ See *Carbon and Alloy CTL Plate Prelim PDM* at 28-29; unchanged in *Carbon and Alloy CTL Plate Final*.

determine that only POSCO received a measurable countervailable subsidy rate of 0.02 percent *ad valorem* under this program.¹⁵⁴

B. Programs Preliminarily Determined to Be Not Used or Not to Confer a Measurable Benefit

1. Energy Savings Program Subsidies - Demand Adjustment Program of Emergency Load Reduction
2. Provision of Electricity for MTAR
3. Power Generation Price Difference Payments
4. KEXIM Overseas Investment Credit Program
5. KEXIM Import Financing
6. Long-Term Loans from the Korean Resources Corporation (KORES) and the Korea National Oil Corporation (KNOC)
7. RSTA Article 22: Tax Exemption on Investment in Overseas Resources Development
8. RSTA Article 25(3): Tax Credit for Investment in Environmental and Safety Facilities
9. PDC's Debt Workout
10. Modal Shift Program
11. Various Government Grants Contained in Financial Statements
12. RSTA Article 7-2: Tax Credit to Improve Corporate Payment System Including Negotiable Instruments
13. RSTA Article 10(1)(3): Tax Reduction for Research and Human Resources Development
14. RSTA Article 24: Investment in Productivity Improving Facilities
15. RSTA Article 30: Investment in Certain Fixed Assets for Use for Business Purposes
16. RSTA Article 94: Acquisition of Facilities to Improve Corporate Welfare
17. RSTA Article 104(14): Third Party Logistics Operation
18. RSTA Article 104(8)(1): Tax Credits for Electronic Returns
19. RSTA Article 121(2): Corporate Tax Reductions or Exemptions for Foreign Investment
20. Pre-1992 Directed Credit Loans
21. R&D and Other Subsidies in AUL Period
22. Grants from the Korea Workers' Compensation and Welfare Service
23. Grants Under the Human Resources Consortium Program
24. Power Business Law Subsidies
25. Provision of LNG for LTAR
26. Short-Term Export Credits
27. Export Factoring
28. Export Loan Guarantees
29. Trade Bill Rediscounting Program
30. Loans under the Industrial Base Fund
31. Export Credit Guarantees
32. Special Accounts for Energy and Resources (SAER) Loans
33. Clean Coal Subsidies
34. GOK Subsidies for "Green Technology R&D" and its Commercialization
35. Support for SME "Green Partnerships"

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

36. Research, Supply, or Workforce Development Investment Tax Deduction for “New Growth Engines” under RSTA Article 10(1)(1)
37. Research, Supply, or Workforce Development Expense Tax Deductions for “Core Technologies” under RSTA Article 10(1)(2)
38. Adjustment for any Foreign Source Income under Article 57 of the Corporate Tax Act
39. Tax Reductions and Exemptions in Free Economic Zones
40. Exemptions and Reductions of Lease Fees in Free Economic Zones
41. Grants and Financial Support in Free Economic Zones
42. Sharing of Working Opportunities/Employment Creating Incentives
43. Dongbu’s Debt Restructuring
44. PDC – Various Transactions with KDB during 2015
45. Hyosung – Korea Finance Corporation/KDB Facility Loans
46. Hyosung – KDB Usance Loans
47. Hyosung – Industrial Bank of Korea Short-Term Discounted Loans for Export Receivables
48. PNR – Long-Term Facility and General Loans from KDB
49. Port Usage Grants for Pohang Youngil Port
50. Asset revaluations pursuant to Article 56(2) of the Tax Reduction and Exemption Control Act
51. Unreported Government Subsidies Indicated on POSCO M-Tech’s Income Tax Return

IX. 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

7/10/2019

X 

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance