



C-580-888

POR: 1/1/2018 - 12/31/2018

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July 20, 2020

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, 2018: 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)¹ for the period of review (POR) January 1, 2018 through December 31, 2018. This review covers thirty-seven producers/exporters of subject merchandise. Commerce selected POSCO as the mandatory respondent. We preliminarily determine that countervailable subsidies are being provided to producers and exporters of CTL plate from Korea.

II. BACKGROUND

On May 25, 2017, Commerce published the *Order* in the *Federal Register*. On May 1, 2019, Commerce published in the *Federal Register* a notice of opportunity to request an administrative review of the *Order* for the POR.² On May 24, 2019, POSCO, a foreign producer and exporter of subject merchandise, timely requested an administrative review of itself.³ On May 31, 2019, the petitioners⁴ timely requested an administrative review of 37 producers and/or exporters of

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) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 84 FR 18479 (May 1, 2019).

³ See POSCO's letter, "Carbon and Alloy Steel Cut-To-Length Plate from the Republic of Korea, Case No. C-580-888: Request for Administrative Review," dated May 24, 2019.

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



subject merchandise.⁵ On July 15, 2019, Commerce initiated a review of the *Order* with regard to 37 producers and/or exporters 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 U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR.⁷ On July 16, 2019, Commerce released CBP entry data to all interested parties under an administrative protective order, and requested comments on the data and respondent selection.⁸ We received no comments regarding the CBP data or respondent selection. On August 2, 2019, Commerce selected POSCO as the mandatory respondent in the administrative review⁹ and issued the Initial Questionnaire to the Government of Korea (GOK) and POSCO.¹⁰ POSCO submitted its affiliation questionnaire response on August 19, 2019.¹¹ On September 26, 2019, POSCO, its cross-owned affiliates, and trading companies, submitted their responses to the Initial Questionnaire.¹² On October 7, 2019, the GOK submitted its response to the Initial

⁵ See Petitioners' letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Request for Administrative Review," dated May 31, 2019.

⁶ We initiated a review on: BDP International; Blue track Equipment; Boxco; Bukook Steel Co., Ltd.; Buma CE Co., Ltd.; China Chengdu International Techno-Economic Cooperation Co., Ltd.; Daehan I.M. Co., Ltd.; Daelim Industrial Co., Ltd.; Daesam Industrial Co., Ltd.; Daesin Lighting Co., Ltd.; Daewoo International Corp.; Dong Yang Steel Pipe; Dongbu Steel Co., Ltd.; Dongkuk Industries Co., Ltd.; Dongkuk Steel Mill 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 Fricttech Co., Ltd.; Kindus Inc.; Korean Iron and Steel Co., Ltd.; Kyoungil Precision Co., Ltd.; POSCO; Samsun C&T Corp.; Shipping Imperial Co., Ltd.; Sinchang Eng Co., Ltd.; SK Networks Co., Ltd.; SNP Ltd.; Steel N People Ltd.; Summit Industry; Sungjin Co., Ltd.; Young Sun Steel. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 33739 (July 15, 2019) (*Initiation Notice*).

⁷ See *Initiation Notice*, 84 FR at 33739.

⁸ See Memorandum, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea Countervailing Duty Administrative Review: Release of Customs Data from U.S. Customs and Border Protection," dated July 16, 2019.

⁹ See Memorandum, "Respondent Selection," dated August 2, 2019.

¹⁰ 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 August 2, 2019 (Initial Questionnaire).

¹¹ See POSCO's August 19, 2019 Affiliation Response (POSCO AQR).

¹² See POSCO's response "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: POSCO's Initial Questionnaire Response," dated September 26, 2019 (POSCO IQR); see also Response from POSCO M-Tech (M-Tech), "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: POSCO M-Tech's Initial Questionnaire Response," dated September 26, 2019 (M-Tech IQR); Response from POSCO Chemtech (Chemtech), "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: POSCO Chemtech's Initial Questionnaire Response," dated September 26, 2019 (Chemtech IQR); Response from POSCO Daewoo Corporation (PDC), "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: PDC's Initial Questionnaire Response," dated September 26, 2019 (PDC IQR); Response from Sungjin Co., Ltd. (Sungjin), "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Sungjin's Initial Questionnaire Response," dated September 26, 2019 (Sungjin IQR); response from POSCO Nippon Steel RHF Joint Venture Co., Ltd. (PNR), "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: PNR's Initial Questionnaire Response," dated September 26, 2019 (PNR IQR); Response from Pohang Scrap Recycling Distribution Center Co., Ltd. (Pohang SRDC), "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Pohang SRDC's Initial Questionnaire Response," dated September 26, 2019 (SRDC IQR); Response from Hyundai Corporation (Hyundai), "Certain Carbon and Alloy Steel Cut-to-Length

Questionnaire.¹³ On November 4, 2019, Nucor timely filed two new subsidy allegations.¹⁴ On November 21 and 22, 2019, respectively, POSCO and the GOK submitted comments on the new subsidy allegations.¹⁵ Between December 20 and 31, 2019, Commerce issued a supplemental questionnaire to Nucor regarding the new subsidy allegations and received a timely response.¹⁶ On April 1, 2020, Commerce declined to initiate on both new subsidy allegations.¹⁷ On April 9, 2020, Nucor filed pre-prelim comments requesting Commerce to reconsider declining to initiate on Nucor's new subsidy allegation for the provision of off-peak electricity for less than adequate remuneration.¹⁸ The GOK filed pre-prelim comments in response on May 27, 2020.¹⁹

Between December 20, 2019, and July 13, 2020, Commerce issued supplemental questionnaires to POSCO and the GOK and received timely responses.²⁰

Plate from the Republic of Korea, Case No. C-580-888: Hyundai Corporation's Initial Questionnaire Response," dated September 26, 2019 (Hyundai IQR); Response from POSCO Terminal (Terminal), "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: POSCO Terminal's Initial Questionnaire Response," dated January 17, 2020 (Terminal IQR).

¹³ See GOK's response, "Administrative Review of the Countervailing Duty Order on Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Response to the Initial Questionnaire," dated October 7, 2019 (GOK IQR).

¹⁴ See Nucor's letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: New Subsidy Allegations," dated November 4, 2019 (New Subsidy Allegations).

¹⁵ 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 Response to Nucor's New Subsidy Allegations," dated November 21, 2019 (POSCO NSA Comments); see also GOK's letter, "Administrative Review of the Countervailing Duty Order on Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Comments on Nucor's New Subsidy Allegations," dated November 22, 2019.

¹⁶ See Nucor's letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: New Subsidy Allegations Supplemental Questionnaire Response," dated December 31, 2019.

¹⁷ See Memorandum, "Second Administrative Review of Countervailing Duty Order on Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Decision Memorandum on New Subsidy Allegations," dated April 1, 2020 (NSA Memo).

¹⁸ See Nucor's letter, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Request for Reconsideration of New Subsidy Allegation," dated April 9, 2020.

¹⁹ See GOK's letter, "Administrative Review of the Countervailing Duty Order on Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Response to Nucor's Request for Reconsideration," dated May 27, 2020.

²⁰ See GOK's response, "Administrative Review of the Countervailing Duty Order on Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Response to the Supplemental Questionnaire," dated February 28, 2020 (GOK SQR); see also Response from POSCO, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: POSCO's Supplemental Affiliated Companies Response," dated January 3, 2020; Response from POSCO, "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 February 27, 2020 (POSCO SQR); Response from Terminal, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: POSCO Terminal's First Supplemental Questionnaire Response," dated February 25, 2020; Response from Chemtech, "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 February 25, 2020; Response from Hyundai, "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 February 25, 2020; Response from Sungjin, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: Sungjin's First Supplemental Questionnaire Response," dated February 25, 2020; Response from Pohang SRDC, "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 February 25,

On December 30, 2019, Commerce extended the deadline for the preliminary results of this review to no later than May 29, 2020.²¹ On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days, thereby extending the deadline for these results until July 20, 2020.²²

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 January 1, 2018 through December 31, 2018.

IV. DIVERSIFICATION OF KOREA'S ECONOMY

Concurrently with this decision memorandum, we are placing the Korean Diversification Memo on the record.²³ This information reflects a wide diversification of economic activities in Korea. This information indicates that Korea has 19 industry groupings with a broad range of distinctly different types of economic activities within these groupings.

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

We received timely filed no-shipment certifications from Hyundai Steel Company (Hyundai Steel) and Dongkuk Steel Mill Co., Ltd. (DSM).²⁴ Commerce issued no-shipment inquiries to

2020; Response from PNR, "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 February 25, 2020; Response from PDC, "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 February 27, 2020; Response from M-Tech, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-888: POSCO M-Tech's First Supplemental Questionnaire Response," dated February 25, 2020; Response from POSCO, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea, Case No. C-580-88: POSCO's Third Supplemental Questionnaire Response," dated April 13, 2020 (POSCO 2SQR); Response from the GOK, "Administrative Review of the Countervailing Duty Order on Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Response to the Second Supplemental Questionnaire," dated April 22, 2020 (GOK 2SQR); Response from the GOK, "Administrative Review of the Countervailing Duty Order on Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Response to the Third Supplemental Questionnaire," dated July 13, 2020 (GOK 3SQR).

²¹ 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; 2018," dated December 30, 2019.

²² See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19," dated April 24, 2020.

²³ See Memorandum, "Economic Diversification Memo," dated concurrently with this memorandum at Attachment, "The Extent of Diversification of Economic Activities in the Republic of Korea (South Korea) for the Purpose of Determining Specificity of a Domestic Subsidy for Countervailing Duty (CVD) Purposes" (Korea Diversification Memo).

²⁴ See Hyundai Steel Company's letter, "Carbon and Alloy Steel Cut-To-Length Plate from Korea: Notice of No Sales," dated August 13, 2019; Dongkuk Steel Mill Co., Ltd.'s letter, "Administrative Review of the Countervailing

CBP requesting any information that might contradict these no-shipment claims.²⁵ We have not received, to date, information from CBP that contradicts Hyundai Steel's or DSM's claims of no sales, shipments, or entries of subject merchandise to the United States during the POR.²⁶ Because there is no evidence on the record that contradicts Hyundai Steel's or DSM's claims, we preliminarily intend to rescind the review with respect to these companies. 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 these companies in the final results of review.

VI. 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).

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.

Duty Order on Carbon and Alloy Steel Cut-to-Length Plate from Korea for the 2018 Review Period - No Shipments Letter" dated August 14, 2019.

²⁵ See Memorandum regarding Dongkuk Steel Mill Co., Ltd., "Certain Carbon and Alloy Steel Cut-To-Length Plate from the Republic of Korea (C-580-888)," dated June 19, 2020; *see also* Memorandum regarding Hyundai Steel Company, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea (C-580-888)," dated June 22, 2020.

²⁶ *Id.*

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.

VII. RATE FOR NON-EXAMINED COMPANIES

The statute and Commerce's regulations do not address the establishment of a rate to be applied to individual respondents not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the 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.²⁷ 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 the 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 countervailable subsidy rate calculated for POSCO is the rate preliminarily assigned to non-examined producers and exporters,²⁸ pursuant to section 705(c)(5)(A)(i) of the Act.

VIII. SUBSIDIES VALUATION INFORMATION

A. Allocation Period

For non-recurring subsidies, we applied the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount received from a subsidy 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,

²⁷ See, *e.g.*, *Certain Pasta from Italy: Final Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 37386, 37387 (June 29, 2010).

²⁸ For a complete list of the non-examined companies, see the *Federal Register* notice accompanying this memorandum.

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.²⁹

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.

Pursuant to 19 CFR 351.525(b)(6)(i), Commerce will normally attribute a subsidy to the products produced by the corporation that received the subsidy; 19 CFR 351.525(b)(6)(ii)-(v) further provide that Commerce will attribute subsidies received by cross-owned 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.³⁰ Regarding an input supplier, the *CVD Preamble* also explains that “{t}he main concern we have tried to address is the situation where a subsidy is provided to an input supplier whose production is dedicated almost exclusively to the production of a higher value added product – the type of input product that is merely a link in the overall production chain.”³¹

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 five Korean trading

²⁹ See U.S. Internal Revenue Service Publication 946 (2008), “How to Depreciate Property,” at Table B-2: Table of Class Lives and Recovery Periods.

³⁰ See *Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

³¹ See *Countervailing Duties*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).

companies through which it exported some subject merchandise, one of which (PDC) is cross-owned.³² Three of the trading companies, PDC, Hyundai, and Sungjin, provided questionnaire responses. Pursuant to 19 CFR 351.525(c), we cumulated the benefits from subsidies provided to Hyundai, Sungjin, and PDC with benefits from subsidies provided to POSCO based on the ratio of the trading company's exports of subject merchandise to the United States produced by POSCO during the POR.

In addition to the three aforementioned trading companies, POSCO also reported that it made some export sales of CTL plate to the United States through two other trading companies, but that its subject merchandise export volume through these trading companies was a negligible amount of its total exports of subject merchandise to the United States during the POR.³³ Commerce did not require POSCO to submit a complete questionnaire response for these two companies; given the negligible quantities of subject merchandise exported by these companies, any subsidies they may have received would have no meaningful impact on POSCO's overall subsidy margin under Commerce's practice.³⁴

We identified five cross-owned companies that supplied POSCO with raw materials during the POR that were primarily dedicated to the downstream product produced by POSCO: Chemtech, PNR, Pohang SRDC, M-Tech, and Terminal. Each of these companies supplied inputs to POSCO for the production of the downstream product.³⁵ 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 sales of POSCO, net of intercompany sales.

POSCO additionally reported purchasing inputs used in the production of subject merchandise from POSCO Plantec (Plantec) through PDC.³⁶ On November 4, 2019, Nucor Corporation (Nucor) filed new subsidy allegations alleging, in part, POSCO Plantec to be a cross-owned input supplier because POSCO owns 73.94 percent of its shares.³⁷ However, Commerce clarified that it was already examining POSCO Plantec as a cross-owned input supplier.³⁸

For the reasons described below, we preliminarily determine that record evidence shows that the production of POSCO Plantec's input is not primarily dedicated to the production of the downstream product, including the subject merchandise. POSCO's financial statements describe POSCO Plantec's category of business as "construction of industrial plant."³⁹ POSCO's purchases of fixed assets and services from POSCO Plantec during the POR were for

³² See POSCO AQR at 2 and Exhibit 2.

³³ *Id.*, at 4 and Exhibit 1; see also POSCO Supplemental AQR at 2 and Exhibit 21.

³⁴ See, e.g., *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).

³⁵ See POSCO AQR at 2, 11-12.

³⁶ See POSCO AQR at 12, Exhibit 2.

³⁷ See New Subsidy Allegations.

³⁸ See NSA Memo.

³⁹ See POSCO AQR at Exhibit 2.

maintenance, repair and operation of pre-existing machinery.⁴⁰ Further, the record shows that the types of services that POSCO Plantec performed for POSCO are not a part of steel production that is dedicated primarily to the production of a higher value-added product.

According to the *CVD Preamble*:

Where we are dealing with input products that are not primarily dedicated to the downstream products, however, it is not reasonable to assume that the purpose of a subsidy to the input product is to benefit the downstream product. For example, it would not be appropriate to attribute subsidies to a plastics company to the production of cross-owned corporations producing appliances and automobiles. Where we are investigating products such as appliances and automobiles, we will rely on the upstream subsidy provision of the statute to capture any plastics benefits which are passed to the downstream producer.⁴¹

As the record indicates, POSCO Plantec's fixed assets and the services provided to POSCO during the POR were not primarily dedicated to the steel production process.⁴² We, therefore, preliminarily determine that the production of POSCO Plantec's "input" is not primarily dedicated to the production of the downstream product, including the subject merchandise. Accordingly, we preliminarily find that regardless of whether POSCO and POSCO Plantec are cross-owned, POSCO Plantec does not meet the criteria for a cross-owned input supplier under 19 CFR 352.525(b)(6)(iv). Consistent with Commerce precedent, we preliminarily will not attribute subsidies received by POSCO Plantec to the combined sales of POSCO and POSCO Plantec.⁴³

C. Benchmarks and Discount Rates

Short-Term U.S. Dollar-Denominated Loans

During the POR, PDC reported receiving short-term loans for export receivables from the Korea Development Bank (KDB).⁴⁴ PDC provided a three-month U.S. dollar-denominated LIBOR {London Inter-Bank Offered Rate} rates from the Bank of Korea for the purpose of identifying an interest rate benchmark.⁴⁵ We preliminarily find that these interest rates are appropriate to use to benchmark interest rates.⁴⁶ This approach is consistent with 19 CFR 351.505(a)(2)(iv) and our practice.

⁴⁰ See POSCO NSA Comments at 8-11.

⁴¹ See *CVD Preamble*, 63 FR at 65401.

⁴² See POSCO NSA Comments at 8-11.

⁴³ See *Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2017*, 85 FR 38361 (June 26, 2020) (*Cold-Rolled Steel from Korea*), and accompanying Issues and Decision Memorandum (IDM) at 28-32.

⁴⁴ See PDC IQR at 25.

⁴⁵ *Id.* at Exhibit C-12.

⁴⁶ See POSCO Preliminary Calculation Memo.

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

During the POR, POSCO, PDC, M-Tech, and Hyundai had outstanding long-term Korean won and U.S. dollar loans from government-owned banks.⁴⁷ 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 1991.⁴⁸ This is the approach Commerce has taken in several prior Korean CVD proceedings, including the prior segment in this proceeding.⁴⁹ 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.⁵⁰

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, including the prior segment in this proceeding.⁵¹ In accordance with 19 CFR 351.505(a)(2)(i), our benchmarks take into consideration the structure of the government-provided loans. For countervailable fixed-rate loans, pursuant to 19 CFR 351.505(a)(2)(iii), we used benchmark rates issued in the same year that the government loans were issued.

D. Denominators

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, 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

⁴⁷ See, e.g., POSCO IQR at Exhibit C-19.

⁴⁸ 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).

⁴⁹ *Id.*; see also *Final Affirmative Countervailing Duty Determination: Structural Steel Beams from the Republic of Korea*, 65 FR 41051 (July 3, 2000), and accompanying IDM at "Benchmark Interest Rates and Discount Rates"; *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"; and *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review and Intent to Rescind the Review, in Part; 2017*, 84 FR 34123 (July 17, 2019) (*CTL Plate from Korea AR1 Prelim*), and accompanying Preliminary Decision Memorandum (PDM) at 13-14, unchanged in *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Final Results and Partial Rescission of Countervailing Duty Administrative Review, 2017*, 85 FR 2710 (January 16, 2020) (*CTL Plate from Korea AR1 Final*), and accompanying IDM.

⁵⁰ See *Final Affirmative Countervailing Duty Determinations and Final Negative Critical Circumstances Determinations: Certain Steel Products from Korea*, 58 FR 37328, 37345-37346 (July 9, 1993).

⁵¹ See, e.g., *Final Results of CORE from Korea 2006* IDM at "Benchmark for Long Term Loans"; see also *CTL Plate from Korea AR1 Prelim* PDM at 13-14.

domestic subsidy, we have used total sales as the denominator, net of inter-company sales, where appropriate, for our rate calculations for POSCO. In the sections below, we describe the denominators 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 POSCO's Preliminary Calculation Memo.⁵²

IX. ANALYSIS OF PROGRAMS

A. Programs Preliminarily Determined to Be Countervailable

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

POSCO, PDC, and Chemtech reported receiving tax exemptions under RSTA Article 10(1)(3) during the POR.⁵³ Under this program, the GOK provides tax incentives for developing industrial technologies. The program, which exists under RSTA Article 10(1), "Tax Deduction on Research and Workforce Development," raises the tax deduction rate for research and development (R&D) expenditures on new growth engine industry and additional technologies to 20 percent, and to 30 percent for small and medium enterprises (SMEs).⁵⁴ The tax reduction is administered by the National Tax Service (NTS) under the direction of the Ministry of Strategy and Finance (MOSF).⁵⁵ The GOK reported amendments to RSTA Article 10 during the POR, to include an amendment of extension and an amendment of the deduction rate in the tax credit.⁵⁶ Commerce previously determined that this program was countervailable⁵⁷ in *CTL Plate from Korea Inv.*⁵⁸

⁵² See Memorandum, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Preliminary Calculations for POSCO" (POSCO Preliminary Calculation Memo), dated concurrently with this memorandum.

⁵³ See POSCO IQR at 16 and Exhibit A-3.

⁵⁴ See GOK SQR at Appendix 1.

⁵⁵ *Id.*, at Appendix 2.

⁵⁶ See GOK IQR at 3.

⁵⁷ Commerce's practice, as affirmed by the United States Court of Appeals for the Federal Circuit, is to not revisit financial contribution and specificity determinations made in a prior segment of the same proceeding, absent the presentation of new facts or evidence. See *Magnola Metallurgy, Inc. v United States*, 508 F. 3d 1349, 1353-56 (Fed. Cir. 2007) (*Magnola Metallurgy*).

⁵⁸ 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) (*CTL Plate from Korea Inv Prelim*), and accompanying PDM at 19-20, unchanged in *Certain Carbon and Alloy Steel Cut-To-Length Plate Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 82 FR 16341 (April 4, 2017) (*CTL Plate from Korea Inv Final*), and accompanying IDM.

Consistent with the investigation of this proceeding,⁵⁹ 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 of the subsidy for RSTA Article 10 was limited to 1,486 corporation taxpayers during 2017.⁶⁰ We further preliminarily determine that this program results in a financial contribution from the GOK to recipients in the form of revenue forgone, 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).

The tax exemptions 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 POSCO received a net countervailable subsidy rate of 0.05 percent *ad valorem* under this program.⁶¹

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

POSCO reported receiving tax exemptions under RSTA Article 11 during the POR.⁶² Under this program, companies receive tax deductions for facility investments on 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.⁶³ The deduction amount received by companies is determined based on company size; large, medium and small-sized companies receive tax deductions of one, three, and five percent, respectively.⁶⁴ The tax reduction is administered by the NTS under the direction of the MOEF.⁶⁵ Commerce previously determined that this program was countervailable in *CTL Plate from Korea AR1*.⁶⁶

Consistent with prior segments of this proceeding, 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 of the subsidy is limited to 585 taxpayers receiving deductions in the year 2017.⁶⁷ We further preliminarily determine that this program results in a financial contribution from the GOK to recipients in the form of revenue forgone, 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

⁵⁹ *Id.*

⁶⁰ See GOK SQR at Exhibit SQ-1.

⁶¹ See POSCO Preliminary Calculation Memo, and the accompanying Excel spreadsheet.

⁶² See POSCO IQR at 16 and Exhibit A-4.

⁶³ See GOK IQR at Appendix 1.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ See *CTL Plate from Korea AR1 Prelim PDM* at 20-21, unchanged in *CTL Plate from Korea AR1 Final*; see also *Magnola Metallurgy*, 508 F. 3d at 1353-56.

⁶⁷ See GOK IQR at Appendix 1.

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).

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 net subsidy rate 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 0.19 percent *ad valorem*.⁶⁸

3. RSTA Article 26: GOK Facilities Investment Support

POSCO, PDC and Pohang SRDC reported receiving tax exemptions under RSTA Article 26 during the POR.⁶⁹ RSTA Article 26 provides tax benefits for companies meeting requirements for investing in their fields of business, including job creation, as set forth in Article 23 of the RSTA Enforcement Decree in regions that require economic development.⁷⁰ Eligible companies are able to claim a tax credit, the amount dependent upon whether the taxpayer was classified as an SME, a transitioning company, or any other company.⁷¹ The program is administered by the NTS under the direction of the MOEF.⁷² Commerce previously determined that this program was countervailable in *CTL Plate from Korea AR1*.⁷³

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.⁷⁴

The tax exemptions 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

⁶⁸ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

⁶⁹ See POSCO IQR at 17 and Exhibit A-5.

⁷⁰ See GOK IQR at 5-6 and Appendix 2.

⁷¹ *Id.*

⁷² See GOK SQR at Appendix 4.

⁷³ See *CTL Plate from Korea AR1 Prelim PDM* at 22, unchanged in *CTL Plate from Korea AR1 Final*; see also *Magnola Metallurgy*, 508 F. 3d at 1353-56.

⁷⁴ See *Certain Cut-to-Length Carbon-Quality Steel Plate from 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 *CTL Plate from Korea AR1 Prelim PDM* at 18, unchanged in *CTL Plate from Korea AR1 Final*.

Subsidies” section above. On this basis, we preliminarily determine that POSCO received a net countervailable subsidy at a rate of 0.11 percent *ad valorem*.⁷⁵

4. RSTA Article 9: Reserve for Research and Human Resources Development

POSCO and Chemtech reported that each received tax exemptions under RSTA Article 9.⁷⁶ 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 R&D and human resources during the tax year.⁷⁷ Commerce previously determined that this program was countervailable in *CTL Plate from Korea AR1*.⁷⁸

The GOK reported that there were no changes to this program during the POR.⁷⁹ The language of the implementing provisions and related appendices for this tax program limits eligibility for the use of this program to “necessary expenses for independent research and development in case of research and development for the development of new service and service delivery systems.”⁸⁰ 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 net subsidy rate under this program, we treated the amount that POSCO and 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 “Loan Benchmarks and Interest Rates” section above, as well as the methodology described in 19 CFR 351.505(c), to calculate the interest that POSCO and Chemtech would have paid on a comparable commercial loan during the POR by multiplying the balance amount by the benchmark short-term interest rate. We then divided the product of that calculation 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 rate of 0.01 percent *ad valorem*.⁸¹

⁷⁵ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

⁷⁶ See POSCO IQR at 17 and Exhibits A-6 and 16; Chemtech IQR at 12-13 and Exhibit A-2.

⁷⁷ See GOK SQR at Appendix 5.

⁷⁸ See *CTL Plate from Korea AR1 Prelim PDM* at 20-21, unchanged in *CTL Plate from Korea AR1 Final*; see also *Magnola Metallurgy*, 508 F. 3d at 1353-56.

⁷⁹ See GOK IQR at 6.

⁸⁰ See GOK IQR at Exhibit TAX-1.

⁸¹ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

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

POSCO, Chemtech, M-Tech, PDC, PNR and Terminal reported receiving benefits under RSLTA Article 78(4) during the POR.⁸² RSLTA 78(4) provides acquisitions and property tax exemptions available to non-project implementers for properties in an industrial complex that are acquired by construction or expansion or acquired after substantial repair of an industrial building. Commerce previously found this program countervailable in *CTL Plate from Korea AR1*.⁸³

The GOK confirms that there were no changes to the program during the POR.⁸⁴ We 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 findings in this regard are also consistent with prior Korean CVD proceedings.⁸⁵ We further preliminarily determine that this program results in a financial contribution from the GOK to recipients in the form of revenue forgone, 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).

The tax exemptions 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 POSCO received a net countervailable subsidy at a rate of 0.01 percent *ad valorem*.⁸⁶

⁸² See POSCO IQR at 18-20 and Exhibit A-7; see also Chemtech IQR at 13 Exhibit A-3; M-Tech IQR at 13 and Exhibit A-1; PDC IQR at 17 and Exhibit A-2; PNR IQR at 11 and Exhibit A-1; Terminal IQR at 13 and Exhibit A-1.

⁸³ See *CTL Plate from Korea AR1 Prelim PDM* at 24-25, unchanged in *CTL Plate from Korea AR1 Final*; see also *Magnola Metallurgy*, 508 F. 3d at 1353-56.

⁸⁴ See GOK IQR at 7.

⁸⁵ 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), and accompanying IDM at 8.

⁸⁶ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

6. RSTA Article 10-2: Special Taxation for Contribution, etc., for R{esearch} & D{evelopment}

POSCO reported receiving benefits under RSTA Article 10-2 during the POR.⁸⁷ MOEF administers this program, which is enforced by the NTS.⁸⁸ The program provides a deduction to qualifying taxpayers, who can deduct all or part of their contributions.⁸⁹ Commerce previously found this program countervailable in *CTL Plate from Korea AR1*.⁹⁰

The GOK confirms that there were no changes to this program during the POR.⁹¹ Thus, consistent with prior segments of this proceeding, 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 of the subsidy for RSTA Article 10 was limited to 1,486 corporation taxpayers during 2017.⁹² We further preliminarily determine that this program results in a financial contribution from the GOK to recipients in the form of revenue forgone, 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).

The tax reductions 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 POSCO 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 0.01 percent *ad valorem*.⁹³

7. Energy Savings Program Subsidies: Demand Response Market Program for Peak Curtailment

POSCO, PDC, and Chemtech reported receiving benefits under the Demand Response Market Program for Peak Curtailment during the POR.⁹⁴ Commerce previously determined that this program was countervailable in *CTL Plate from Korea AR1*.⁹⁵

⁸⁷ See POSCO IQR at 20 and Exhibit A-8.

⁸⁸ See GOK SQR at 31.

⁸⁹ *Id.* at Appendix 7.

⁹⁰ See *CTL Plate from Korea AR1 Final* IDM at 12 and Comment 2; see also *Magnola Metallurgy*, 508 F. 3d at 1353-56.

⁹¹ See GOK IQR at 7.

⁹² See GOK SQR at Exhibit SQ-1.

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

⁹⁴ See POSCO IQR at 23-24 and Exhibit B-2; PDC IQR at 19 and Exhibit B-3; Chemtech IQR at 15 and Exhibit B-1.

⁹⁵ See *CTL Plate from Korea AR1 Prelim* PDM at 17-18, unchanged in *CTL Plate from Korea AR1 Final*; see also *Magnola Metallurgy*, 508 F. 3d at 1353-56.

Under this program, the Korea Power Exchange (KPX) pays multiple private Demand Management Business Operators, also called “aggregators,” which have direct, contractual relationships with end users of the program.⁹⁶ 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.⁹⁷

The GOK confirms that there were no changes to the program during the POR.⁹⁸ Thus, we preliminarily find that the program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act, as the actual recipients are limited in number. We have previously found KEPCO to be an “authority” within the meaning of section 771(5)(B) of the Act.⁹⁹ 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, PDC, and Chemtech in accordance with 19 CFR 351.504(a).

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 rate of 0.01 percent *ad valorem*.¹⁰⁰

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

POSCO, Chemtech, PDC, and M-Tech reported receiving grants under this program during the POR and AUL.¹⁰¹ This program is regulated and operated by the Ministry of Trade, Industry and Energy (MOTIE) and is designed to promote the competitiveness of Korea’s national economy through the development of industrial technologies by providing grants.¹⁰² This program is administered by MOTIE and the Korea Evaluation Institute of Industrial Technology (KEIT). Commerce has previously determined this program is countervailable.¹⁰³

The GOK reports there were no changes to this program in the POR.¹⁰⁴ Consistent with our findings in prior segments of this proceeding, 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.¹⁰⁵ Further, we preliminarily determine that a financial contribution was provided within the

⁹⁶ See GOK IQR at Appendix 3.

⁹⁷ *Id.*

⁹⁸ See GOK IQR at 9 and Appendix 3.

⁹⁹ See *CTL Plate from Korea Inv Prelim PDM* at 28-29, unchanged in *CTL Plate from Korea Inv Final*.

¹⁰⁰ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

¹⁰¹ See POSCO IQR at 24-26 and Exhibit B-6; *see also* Chemtech IQR at 15-16 and Exhibit B-5; PDC IQR at 20 and Exhibit B-6; M-Tech IQR at 16 and Exhibit B-1.

¹⁰² See GOK IQR at Appendix 4.

¹⁰³ See *CTL Plate from Korea AR1 Prelim PDM* at 25-27, unchanged in *CTL Plate from Korea AR1 Final*; *see also* *Magnola Metallurgy*, 508 F. 3d at 1353-56.

¹⁰⁴ *Id.* at 9.

¹⁰⁵ See *CTL Plate from Korea AR1 Prelim PDM* at 25-27, unchanged in *CTL Plate from Korea AR1 Final*.

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).

Although POSCO and its cross-owned affiliates Chemtech, PDC, and M-Tech reported receiving benefits during the AUL, pursuant to 19 CFR 351.524(b)(2), we preliminarily determine that these grants were expensed in the year of receipt and, thus, were not allocable to the POR. To calculate the net subsidy rate for the grants received during the POR, we divided the received value of the grant by the appropriate sales denominator, consistent with the "Attribution of Subsidies" section above. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.01 percent *ad valorem* under this program.¹⁰⁶

9. Provision of Electricity for More than Adequate Remuneration (MTAR)

POSCO reported receiving payments from KPX for sales of electricity it self-generated during the POR.¹⁰⁷ The KPX was established in 2001 by KEPCO and six electricity-generating KEPCO subsidiaries to operate the market for electric power in Korea under the Electric Utility Act (EUA) and its Enforcement decree. The KPX's operations are legally governed by the Rules on the Operation of the Electric Utility Market (ROEUM). The KPX matches supply from Korean generating companies with anticipated demand by setting a market price daily, soliciting offers from generators and then cumulating the supply from the lowest bid until supply meets demand.¹⁰⁸

Under Article 31 of the EUA, sales and purchases of electricity in Korea may only be made through the KPX.¹⁰⁹ Under Article 1.2.1 of the ROEUM, companies that participate in the electricity market must register as a regular KPX member. The types of companies eligible to register are: (1) power generation companies that wish to trade power in the market; (2) electricity suppliers; (3) customers who directly purchase power in the market; (4) persons with electric installations for private use that wish to trade power in the market; and (5) community energy system operators that trade power in the market.¹¹⁰ POSCO qualifies for participation in the electricity market under category four. Article 31(2) of the EUA and Article 19 of the EUA's Enforcement Decree prohibit transactions from companies with electricity generation capability for private use, except under circumstances as provided by Article 19 of the EUA's Enforcement Decree. A person who has set up electric installations for private use cannot trade the electricity that they produce at the electricity utility market, except in cases prescribed by Presidential Decree. A company can be an exception to the general prohibition and participate in the electricity market, if, according to Article 31(2) of the EUA, the person or company setting up

¹⁰⁶ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

¹⁰⁷ See POSCO IQR at 28 and Exhibit C-2.

¹⁰⁸ See GOK IQR at Appendix 7.

¹⁰⁹ *Id.*

¹¹⁰ *Id.* at Exhibit E-6.

electricity for private use transacts less than 50 percent of the total amount of electricity produced by such person annually.¹¹¹

The conditions and guidelines governing the operation of the electricity market are established by the ROEUM. Under Article 2 of the ROEUM, a company participating in the market must regularly submit data related to their generation costs to the KPX. Under Article 2.1.1.6, KPX evaluates, calculates and applies the generation cost, the criteria for which is determined by a cost evaluation committee.¹¹² The cost evaluation committee then determines the base capacity price and the correction coefficients by which a settlement price is determined through KPX's pricing formulas.¹¹³

Consistent with Commerce's findings in prior CVD proceedings, we preliminarily find KPX to be an authority under section 771(5)(B) of the Act.¹¹⁴ Furthermore, we preliminarily find that a financial contribution exists in the form of the purchase of electricity, a good, by KPX from POSCO, pursuant to section 771(5)(D)(iv) of the Act. The GOK reported that 2,808 entities are registered with KPX to participate in the electricity market under Article 1.2.1 of the ROEUM.¹¹⁵ Accordingly, we preliminarily find the purchase of electricity for MTAR program to be *de facto* specific pursuant to section 771(5A)(D)(iii)(I) of the Act, because the actual recipients are limited in number.

Section 19 CFR 351.512 of Commerce's regulations pertains to the purchase of goods. This section of our regulations is designated as "{Reserved}." We stated in the *CVD Preamble* that this designation was driven by our lack of experience with procurement subsidies, and that, as a result, we "are not issuing regulations concerning the government purchase of goods."¹¹⁶ We also stated that we expect that any analysis of the adequacy of remuneration will follow the same basic principle set forth under 19 CFR 351.511 for the provision of a good or service, with a focus on what a market-determined price for the good in question would be.¹¹⁷

However, Commerce has previously established that in situations where the government-owned utilities or power authorities are both selling and purchasing electricity, we may base our findings for purchases for MTAR on the benefit to the recipient standard set forth in 19 CFR 351.503(b).¹¹⁸ Here, during the POR, POSCO sold electricity to KEPCO, the government authority for electricity in Korea through KPX, under its registration as a regular KPX member,

¹¹¹ *Id.* at Exhibit E-1. This restriction does not apply to sales of electricity generated from "new and renewable resources", which is covered under the Power Generation Price Difference Payments program.

¹¹² *Id.* at Exhibit E-6.

¹¹³ *Id.*

¹¹⁴ See *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 from Korea 2015*), and accompanying IDM at 20.

¹¹⁵ See GOK 3SQR at 2.

¹¹⁶ See *CVD Preamble*, 63 FR at 65379.

¹¹⁷ See, e.g., *Certain Softwood Lumber Products from Canada: Final Affirmative Countervailing Duty Determination, and Final Negative Determination of Critical Circumstances*, 82 FR 51814 (November 8, 2017) (*Softwood Lumber from Canada*), and accompanying IDM at 166.

¹¹⁸ See *Certain Uncoated Groundwood Paper from Canada: Final Affirmative Countervailing Duty Determination*, 83 FR 39414 (August 9, 2018) (*Groundwood Paper from Canada*), and accompanying IDM at 155-158.

as described above.¹¹⁹ In addition, during the POR, POSCO also purchased electricity from KEPCO through prices established by KPX.¹²⁰ If a government provides a good to a company for a price and then purchases the same good from the company for a higher price, under the “benefit-to-the-recipient” standard that is set forth under section 771(5)(E) of the Act and the Statement of Administrative Action accompanying the Uruguay Round Agreements Act, the benefit is the difference between the price at which the government purchases the good and the price at which it sells the good at market rates.¹²¹ This benchmark best reflects the “benefit-to-the-recipient” standard that is set forth under section 771(5)(E) of the Act and the SAA, and conforms with the standard of benefit language codified within 19 CFR 351.503(b). Because Commerce has previously determined that KPX’s price setting mechanism is consistent with market principles in setting tariffs under a tier three market analysis pursuant to 19 CFR 351.511(a)(2)(iii), and the courts have sustained such analysis in situations involving the state-controlled provision of electricity in Korea,¹²² we relied on the prices KEPCO/KPX charged and POSCO paid for electricity under the reported industrial time-of-use pricing schedule as MTAR benchmarks, consistent with our practice.¹²³

A benefit exists under this program to the extent that the rates KEPCO/KPX paid POSCO for their purchases of electricity from POSCO during the POR exceed the rates KEPCO/KPX charged POSCO for their sales of electricity to POSCO during the same period at the benchmark prices described above. In past cases, Commerce generally has treated MTAR benefits as recurring benefits to be allocated in the year of receipt, similar to its treatment of less than adequate remuneration (LTAR) benefits under 19 CFR 351.511(b) and (c) and 19 CFR 351.524. In order to calculate the net subsidy rate during the POR, we determined a monthly benchmark price for POSCO’s sales of electricity based upon the average price of POSCO’s electricity purchases across all time intervals. We then subtracted the benchmark price from the actual unit price of POSCO’s sales of electricity to KPX during the POR for each month and multiplied this amount by the total number of kilowatt hours of electricity sales POSCO reported that month. We summed the benefit received each month by POSCO to calculate the total benefit, which we divided by POSCO’s total free-on-board sales during the POR. On this basis, we preliminarily determine the countervailable subsidy rate for this program to be 0.02 percent *ad valorem* for POSCO.¹²⁴

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

POSCO and Chemtech reported receiving benefits under RSTA Article 8-3 during the POR.¹²⁵

¹¹⁹ See GOK IQR at Appendix 7.

¹²⁰ See POSCO SQR at 10 and Exhibit C-35.

¹²¹ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 316, 103d Cong., 2d Session (1994) (SAA); see also *Softwood Lumber from Canada* IDM at Comment 51.

¹²² See *Maverick Tube Corp. v. United States*, 273 F. Supp. 3d 1293 (CIT 2017); see also *Nucor Corp. v. United States*, 286 F. Supp. 3d 1365 (CIT 2018); *Cold-Rolled Steel from Korea* IDM at Comment 1.

¹²³ See *Softwood Lumber from Canada* IDM at Comment 51.

¹²⁴ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

¹²⁵ See POSCO IQR at 35 and Exhibit C-12; Chemtech IQR at 21-22 and Exhibit A-1.

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 are eligible for corporate tax credit of an amount equivalent to 7/100 of the relevant contributions.¹²⁶ The tax reduction is administered by the NTS, under the direction of MOSF. Commerce previously determined that this program was countervailable in *CTL Plate from Korea AR1*.¹²⁷

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 of the subsidy is limited. Specifically, the GOK reports that 54 taxpayers used this program in 2017.¹²⁸ 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 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 0.01 percent *ad valorem*.¹²⁹

11. RSTA Article 24: Investment in Productivity Improving Facilities

POSCO, Chemtech and PDC reported receiving benefits under RSTA Article 24 during the POR.¹³⁰ RSTA Article 24 provides incentives to Korean enterprises to make investments in facilities that enhance productivity. The tax deduction amount received by companies is determined based on company size. MOSF maintains the program, while the NTS enforces it.

Tax deductions are a financial contribution from the GOK to recipients in the form of revenue foregone under section 771(5)(D)(ii) of the Act. We also determine that this program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act, as the actual number of recipients of the

¹²⁶ See GOK IQR at 13 and Appendix 15.

¹²⁷ See *CTL Plate from Korea AR1 Prelim PDM* at 22-23, unchanged in *CTL Plate from Korea AR1 Final*; see also *Magnola Metallurgy*, 508 F. 3d at 1353-56.

¹²⁸ See GOK IQR at Appendix 15.

¹²⁹ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

¹³⁰ See POSCO IQR at 35 and Exhibit C-14; PDC IQR at 32 and Exhibit A-1; Chemtech IQR at 22 and Exhibit A-1.

subsidy was limited to 877 taxpayers in 2017.¹³¹ Commerce previously determined this program was countervailable in *Non-Oriented Electrical Steel from Korea*.¹³²

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 POSCO receive a net countervailable subsidy at a rate of 0.01 percent *ad valorem*.¹³³

12. Research, Supply, or Workforce Development Investment Tax Deduction for “New Growth Engines” under RSTA Article 10(1)(1)

POSCO reported receiving benefits under RSTA Article 10(1)(1) during the POR.¹³⁴ RSTA Article 10(1)(1) provides incentives to Korean enterprises to make investments in facilities that enhance productivity. The tax deduction amount received by companies is determined based on company size. MOSF maintains the program, while the NTS enforces it. Commerce previously determined this program was countervailable in *Large Residential Washers from Korea*.¹³⁵

Tax deductions are a financial contribution from the GOK to recipients in the form of revenue foregone under section 771(5)(D)(ii) of the Act. We also determine that this program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act, as the actual number of recipients of the subsidy for RSTA Article 10 was limited to 1,486 corporation taxpayers during 2017.¹³⁶

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 net subsidy rate under this program, we divided the amount of POSCO’s 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 0.03 percent *ad valorem*.¹³⁷

¹³¹ See GOK IQR at Appendix 16.

¹³² See *Non-Oriented Electrical Steel from the Republic of Korea: Final Negative Countervailing Duty Determination and Final Negative Critical Circumstance Determination*, 79 FR 61605 (October 14, 2014) (*Non-Oriented Electrical Steel from Korea*), and accompanying IDM at 14-15.

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

¹³⁴ See POSCO IQR at 35 and Exhibit C-14; PDC IQR at 32 and Exhibit A-1; Chemtech IQR at 22 and Exhibit A-1.

¹³⁵ See *Large Residential Washers from the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 75975 (December 26, 2012) (*Large Residential Washers from Korea*), and accompanying IDM at 9-10.

¹³⁶ See GOK SQR at Exhibit SQ-1.

¹³⁷ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

13. Quota Tariff Import Duty Exemptions under Article 71 of the Customs Act

POSCO and Chemtech reported receiving benefits from Quota Tariff Import Duty Exemptions under Article 71 of the Customs Act (Article 71) during the POR.¹³⁸ Customs Act Article 71 was last amended in 2014.¹³⁹ According to the GOK, Article 71 allows for the establishment of quota tariffs by executive order in order to respond to short-term economic changes. Customs duties may be temporarily imposed at a rate of up to a 40-percent increase or decrease from the basic tariff rate pursuant to Article 71.¹⁴⁰ MOEF is responsible for planning customs duty policies and drafting laws and regulations; the Korea Customs Service enforces the program.¹⁴¹

According to Article 71, customs duties may be deducted at a rate within a limit of 40/100 from the basic rate to facilitate import of specific goods to ensure supply and demand, to stabilize the domestic prices of goods, or to correct uneven tariff rates amongst similar goods.¹⁴² The goods subject to the imposition of duties and their quota tariff volumes, rates, and periods of application are prescribed by presidential decree, and the Ministry of Strategy and Finance reports the record of customs duties and results to the National Assembly each fiscal year.¹⁴³ The Presidential Decree on applying quota tariffs pursuant to Article 71 is revised annually.¹⁴⁴ During the POR, the GOK provided tariff reductions for 69 products.¹⁴⁵ Quota tariffs are available to importers in Korea importing those goods that are subject to the imposition of the customs duties under Article 71, *i.e.*, only those 69 product categories for which tariff reductions are prescribed under the program. There is no separate application and approval process for the application of the lower tariff rates; in cases where the Korea Customs Service determines that the imported goods meet the definition under the tariff table, import duties on the importation of the applicable goods are reduced or exempted.¹⁴⁶

At the time of importation of goods subject to the quota tariff under Article 71, companies declare the imported goods on their customs clearance form and provide an import permit to the customs authority. Import duties are reduced or exempted in cases where the customs authority determines that the imported goods are eligible.¹⁴⁷ During the POR, POSCO received import duty reductions or exemptions on seven of the 69 products eligible for reduction or exemption during the POR.¹⁴⁸ Chemtech additionally reported receiving import duty exemptions under this program during the POR.¹⁴⁹

We preliminarily determine that the import duty exemptions under this program confer a financial contribution in the form of revenue forgone under section 771(5)(D)(ii) of the Act. Further, we

¹³⁸ See POSCO IQR at 57 and Exhibits D-7 and D-8; and Chemtech IQR at 31.

¹³⁹ See GOK 2SQR at 1.

¹⁴⁰ See GOK SQR at Appendix 11.

¹⁴¹ *Id.*

¹⁴² *Id.* at Exhibit QT.

¹⁴³ *Id.*

¹⁴⁴ *Id.* at Appendix 11.

¹⁴⁵ See GOK 2SQR at 2-3.

¹⁴⁶ See GOK SQR at Appendix 11.

¹⁴⁷ See POSCO IQR at Exhibit D-8.

¹⁴⁸ See POSCO 2SQR at Exhibit D-23.

¹⁴⁹ See Chemtech IQR at 31.

preliminarily determine that this program is *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because it is limited to certain industries or enterprises importing the eligible product categories under the program.

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 net subsidy rate under this program, we subtracted the value of the actual import duty paid from the amount of the original import duty that would have paid in the absence of the program in accordance with 19 CFR 351.510(a)(1). We then 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 receive a net countervailable subsidy at a rate of 0.03 percent *ad valorem*.¹⁵⁰

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

1. RSTA Article 25(3): Tax Credit for Investment in Environmental and Safety Facilities
2. RSTA Article 104(14): Third Party Logistics Operation
3. Asset Revaluations Pursuant to Article 56(2) of the Tax Reduction and Exemption Control Act
4. Unreported Government Subsidies Indicated on POSCO M-Tech’s Income Tax Return
5. RSTA Article 22: Tax Exemption on Investment in Overseas Resources Development
6. Port Usage Grants for Pohang Yeongil Port
7. Energy Savings Program Subsidies – Demand Adjustment Program of Emergency Load Reduction
8. Power Generation Price Difference Payments
9. Korea Export-Import Bank (KEXIM) Import Financing
10. KEXIM Overseas Investment Credit Program
11. Korea Development Bank (KDB) and Other Policy Banks’ Short-Term Discounted Loans for Export Receivables
12. Long-Term Loans from the Korean Resources Corporation (KORES) and the Korea National Oil Corporation (KNOC)
13. RSTA Article 25(2): Tax Deductions for Investments in Energy Economizing Facilities
14. PDC’s Debt Workout
15. Modal Shift Program
16. Various Government Grants Contained in Financial Statements
17. RSTA Article 7-2: Tax Credit to Improve Corporate Payment System Including Negotiable Instruments
18. RSTA Article 25: Investment in Certain Enumerated Safety Facilities
19. RSTA Article 30: Investment in Certain Fixed Assets for Use for Business Purposes
20. RSTA Article 94: Acquisition of Facilities to Improve Corporate Welfare
21. RSTA Article 104(15): Development of Overseas Resources
22. RSTA Article 104(8)(1): Tax Credits for Electronic Returns
23. RSTA Article 121(2): Corporate Tax Reductions or Exemptions for Foreign Investment
24. Pre-1992 Directed Credit Loans

¹⁵⁰ See POSCO Preliminary Calculation Memo and the accompanying Excel spreadsheet.

25. R&D and Other Subsidies in AUL Period
26. Grants from the Korea Workers' Compensation and Welfare Service
27. Grants Under the Human Resources Consortium Program
28. Power Business Law Subsidies
29. Provision of LNG for LTAR
30. Short-Term Export Credits
31. Export Factoring
32. Export Loan Guarantees
33. Trade Bill Rediscounting Program
34. Loans under the Industrial Base Fund
35. Export Credit Guarantees
36. Special Accounts for Energy and Resources (SAER) Loans
37. Clean Coal Subsidies
38. GOK Subsidies for "Green Technology R&D" and its Commercialization
39. Support for SME "Green Partnerships"
40. Research, Supply, or Workforce Development Expense Tax Deductions for "Core Technologies" under RSTA Article 10(1)(2)
41. Adjustment for any Foreign Source Income under Article 57 of the Corporate Tax Act
42. Tax Reductions and Exemptions in Free Economic Zones
43. Exemptions and Reductions of Lease Fees in Free Economic Zones
44. Grants and Financial Support in Free Economic Zones
45. Sharing of Working Opportunities/Employment Creating Incentives
46. Dongbu's Debt Restructuring
47. PDC – Various Transactions with KDB during 2015
48. Hyosung – Korea Finance Corporation/ KDB Facility Loans
49. Hyosung – KDB Usance Loans
50. Hyosung-Industrial Bank of Korea Short-Term Discounted Loans for Export Receivables
51. PNR – Long-Term Facility and General Loans from the KDB

X. RECOMMENDATION

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



Agree

Disagree

7/20/2020

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance