



C-580-884  
Administrative Review  
POR: 1/1/2018 - 12/31/2018  
**Public Document**  
E&C/OV: AC

February 16, 2021

**MEMORANDUM TO:** Christian Marsh  
Acting 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 Hot-  
Rolled Steel Flat Products from the Republic of Korea

---

## I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the countervailing duty (CVD) order on certain hot-rolled steel flat products (hot-rolled steel) from the Republic of Korea (Korea). The period of review (POR) is January 1, 2018, through December 31, 2018. This review covers one producer/exporter of subject merchandise, Hyundai Steel Company (Hyundai Steel). We preliminarily find that Hyundai Steel received countervailable subsidies that are above *de minimis* during the POR.

## II. BACKGROUND

On October 3, 2016, Commerce published the *Order* in the *Federal Register*.<sup>1</sup> On October 1, 2019, Commerce published a notice of opportunity to request an administrative review of the *Order*.<sup>2</sup> On October 4, 2019, Hyundai Steel timely filed a request for administrative review of itself.<sup>3</sup> On October 31, 2019, the petitioners<sup>4</sup> also timely filed a request for review of the *Order* for Hyundai Steel, as well as 14 additional companies.<sup>5</sup>

---

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

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 84 FR 52068 (October 1, 2019).

<sup>3</sup> See Hyundai Steel's Letter, "Hot-Rolled Steel Flat Products from the Republic of Korea, Case No. C-580-884: Request for Countervailing Duty Administrative Review," dated October 4, 2019.

<sup>4</sup> The petitioners are AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation (Nucor), SSAB Enterprises, LLC, Steel Dynamics, Inc., and United States Steel Corporation (U.S. Steel).

<sup>5</sup> See Petitioners' Letter, "Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Request for Administrative Review," dated October 31, 2019.



On December 11, 2019, Commerce initiated a review of the 15 above-referenced companies.<sup>6</sup> In the *Initiation Notice*, we stated that, in the event that 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. In January 2020, we released CBP entry data and provided interested parties an opportunity to comment on the data and/or respondent selection.<sup>7</sup> We received comments from one exporter/producer involved in the review (*i.e.*, POSCO)<sup>8</sup> and Nucor.<sup>9</sup>

In February 2020, we selected Hyundai Steel as the sole mandatory respondent in this administrative review,<sup>10</sup> and we issued the initial questionnaire to the Government of Korea (GOK) and Hyundai Steel.<sup>11</sup> In March 2020, we received the GOK's initial questionnaire response,<sup>12</sup> as well as Hyundai Steel's affiliation questionnaire response.<sup>13</sup> In April 2020, Hyundai Steel submitted its response to the remainder of Section III of Commerce's initial questionnaire.<sup>14</sup> Also in April 2020, Commerce tolled all deadlines in administrative reviews by 50 days.<sup>15</sup>

In June 2020, the petitioners submitted timely new subsidy allegations (NSAs) relating to the GOK's provision of electricity (electricity NSA),<sup>16</sup> and Nucor submitted an additional allegation relating to a carbon emissions credit program (carbon credit NSA).<sup>17</sup> In June and July 2020, we

---

<sup>6</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 67717 (December 11, 2019) (*Initiation Notice*); see also *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 3014 (January 17, 2020) (correcting the formatting for two company names included in the December 11, 2019 notice).

<sup>7</sup> See Memorandum, "Administrative Review of the Countervailing Duty Order of Certain Hot Rolled Steel Flat Products from the Republic of Korea: Customs Data Release," dated January 10, 2020.

<sup>8</sup> See POSCO's Letter, "Certain Hot-Rolled Steel Flat Products from South Korea, Case No. C-580-884: Comments on CBP Data and Request for Documentation," dated January 15, 2020; and POSCO's Letter, "Hot-Rolled Steel from the Republic of Korea, Case No. C-580-884: Rebuttal Comments on CBP Data and Respondent Selection," dated January 22, 2020.

<sup>9</sup> See Nucor's Letter, "Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Comments on CBP Data and Respondent Selection," dated January 17, 2020.

<sup>10</sup> See Memorandum, "Administrative Review of the Countervailing Duty Order of Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Respondent Selection," dated February 11, 2020.

<sup>11</sup> See Commerce's Letter, "Countervailing Duty Questionnaire," dated February 20, 2020.

<sup>12</sup> See GOK's Letter, "Certain Hot-Rolled Steel Flat Products from the Republic of Korea, 01/01/2017-12/31/2017 Administrative Review, Case No. C-580-884: The Republic of Korea's Response to the Countervailing Duty Initial Questionnaire," dated March 30, 2020 (GOK March 30, 2020 IQR).

<sup>13</sup> See Hyundai Steel's Letter, "Certain Hot-Rolled Steel Flat Products from the Republic of Korea, Case No. C-580-884: Response to Affiliated Companies Section of Initial Questionnaire," dated March 6, 2020 (Hyundai Steel March 6, 2020 ACQR).

<sup>14</sup> See Hyundai Steel's Letter, "Certain Hot-Rolled Steel Flat Products from the Republic of Korea, Case No. C-580-884: Hyundai Steel's Initial Questionnaire Response," dated April 9, 2020 (Hyundai Steel April 9, 2020 IQR).

<sup>15</sup> 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.

<sup>16</sup> See Petitioners' Letter, "Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Petitioners' New Subsidy Allegation," dated June 18, 2020.

<sup>17</sup> See Nucor's Letter, "Certain Hot-Rolled Steel Flat Products from the Republic of Korea: New Subsidy Allegation," dated June 18, 2020.

received rebuttal comments related to these submissions from the GOK and Hyundai Steel,<sup>18</sup> as well as reply comments from the petitioners.<sup>19</sup>

In July 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days.<sup>20</sup> From July 2020 through January 2021, we issued supplemental questionnaires to the GOK and Hyundai Steel and received timely responses.<sup>21</sup>

In September 2020, based on a timely withdrawal of the petitioners' requests for review, Commerce rescinded this review with respect to all companies other than Hyundai Steel.<sup>22</sup> In October 2020, Commerce extended the deadline for issuance of the preliminary results of this review by 120 days, until February 17, 2021.<sup>23</sup>

In January 2021, Commerce initiated an investigation with respect to the electricity NSA, in part,<sup>24</sup> and we issued questionnaires relating to this program to the GOK and Hyundai Steel. The GOK and Hyundai Steel filed timely responses to these questionnaires.<sup>25</sup>

Also in January 2021, we issued an NSA supplemental questionnaire to Nucor related to the carbon credit NSA, and Nucor filed a timely response.<sup>26</sup> Thereafter, Hyundai Steel submitted comments related to this submission.<sup>27</sup> In February 2021, we initiated an investigation with respect to the carbon credit NSA; however, in light of the timing of this initiation and the complexity of the program itself, we deferred our examination of that program to the ongoing administrative review covering 2019, in accordance with 19 CFR 351.311(c)(2).<sup>28</sup>

---

<sup>18</sup> See GOK's Letter, "Response to Petitioners' New Subsidy Allegation," dated June 29, 2020; and Hyundai Steel's Letters, "Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Hyundai Steel's Response to Petitioners' New Subsidy Allegations," dated July 6, 2020; and "Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Hyundai Steel's Response to Nucor's New Subsidy Allegation," dated July 6, 2020.

<sup>19</sup> See Petitioners' Letter, "Reply to Hyundai Steel's Response to New Subsidy Allegation," dated July 22, 2020.

<sup>20</sup> See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 21, 2020.

<sup>21</sup> See GOK's Letters, "The Republic of Korea's Response to the Countervailing Duty First Supplemental Questionnaire," dated July 16, 2020 (GOK July 16, 2020 SQR); "The Republic of Korea's Response to the Countervailing Duty Second Supplemental Questionnaire," dated January 21, 2021 (GOK January 21, 2021 SQR); and Hyundai Steel's Letters, "Hyundai Steel's First Supplemental Questionnaire Response," dated July 30, 2020; "Hyundai Steel's Second Supplemental Questionnaire Response," dated January 21, 2021 (Hyundai Steel January 21, 2021 SQR).

<sup>22</sup> See *Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Partial Rescission of Countervailing Duty Administrative Review*, 2018, 85 FR 55255 (September 4, 2020).

<sup>23</sup> See Memorandum, "Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review, 2018," dated October 1, 2020.

<sup>24</sup> See Memorandum, "New Subsidy Allegation – Electricity," dated January 25, 2021.

<sup>25</sup> See GOK's Letter, "The Republic of Korea's Response to the Electricity New Subsidy Allegation Questionnaire," dated February 2, 2021; and Hyundai Steel's Letter, "Hyundai Steel's Electricity NSA Questionnaire Response," dated February 2, 2021.

<sup>26</sup> See Nucor's Letter, "Certain Hot-Rolled Steel Flat Products from the Republic of Korea: New Subsidy Allegation Supplemental Questionnaire Response," dated January 19, 2021.

<sup>27</sup> See Hyundai Steel's Letter, "Certain Hot-Rolled Steel Flat Products from the Republic of Korea, Case No. C-580-884: Comments on Nucor's NSA Supplemental Questionnaire Response," dated January 29, 2021.

<sup>28</sup> See Memorandum, "Administrative Review of the Countervailing Duty Order on Certain Hot-Rolled Steel Flat Products from the Republic of Korea: New Subsidy Allegation – Carbon Emissions Program," dated February 16, 2021.

### III. PERIOD OF REVIEW

The POR is January 1, 2018, through December 31, 2018.

### IV. SCOPE OF THE *ORDER*

The products covered by this *Order* are certain hot-rolled, flat-rolled steel products, with or without patterns in relief, and whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement (“width”) of 12.7 mm or greater, regardless of thickness, and regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, *etc.*). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above unless the resulting measurement makes the product covered by the existing antidumping<sup>29</sup> or countervailing duty<sup>30</sup> orders on Certain Cut-To-Length Carbon-Quality Steel Plate Products from the Republic of Korea (A-580-836; C-580-837), and

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

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

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or

---

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

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

- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium.

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

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

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

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

- Universal mill plates (*i.e.*, hot-rolled, flat-rolled products not in coils that have been rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, of a thickness not less than 4.0 mm, and without patterns in relief);
- Products that have been cold-rolled (cold-reduced) after hot-rolling;<sup>31</sup>

---

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

- Ball bearing steels;<sup>32</sup>
- Tool steels;<sup>33</sup> and
- Silico-manganese steels;<sup>34</sup>

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

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

## V. SUBSIDIES VALUATION INFORMATION

### A. Allocation Period

Commerce normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise.<sup>35</sup> In Commerce's initial questionnaire to the GOK and Hyundai Steel, we notified the respondents to this proceeding that the AUL period would be 15 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service Publication 946 (2017).<sup>36</sup> No parties submitted comments

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

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

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

<sup>35</sup> See 19 CFR 351.524(b).

<sup>36</sup> See U.S. Internal Revenue Service Publication 946 (2015), "How to Depreciate Property" at Table B-2: Table of Class Lives and Recovery Periods.

challenging this AUL period, and we, therefore, preliminarily determine that a 15-year period is appropriate to allocate benefits from non-recurring subsidies.

Furthermore, 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 AUL period.

## **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 upheld Commerce’s authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.<sup>37</sup>

Hyundai Steel reported that it is a publicly traded company engaged in the production and sale of steel products, including hot-rolled steel. Hyundai Steel reported that it is not a subsidiary of any other company and it has no parent or holding company.<sup>38</sup> Hyundai Steel provided a full response on behalf of itself, and for two companies acquired prior to the POR, Hyundai HYSCO Co., Ltd. (Hyundai HYSCO) and SPP Yulchon Energy.<sup>39</sup> Both Hyundai HYSCO and SPP Yulchon ceased operations prior to the POR.<sup>40</sup> In its response for these two companies, Hyundai Steel reported that neither company received subsidies during the AUL period that would be

---

<sup>37</sup> See *Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

<sup>38</sup> See Hyundai Steel March 6, 2020 ACQR at 4.

<sup>39</sup> *Id.* at 2 and 21; see also Hyundai Steel April 9, 2020 IQR.

<sup>40</sup> See Hyundai Steel’s Letters, “Certain Hot-Rolled Steel Flat Products from the Republic of Korea, Case No. C-580-884: Hyundai HYSCO’s Initial Questionnaire Response,” dated April 9, (Hyundai HYSCO April 9, 2020 IQR) at 1; and “Certain Hot-Rolled Steel Flat Products from the Republic of Korea, Case No. C-580-884: SPP Yulchon Energy’s Initial Questionnaire Response,” dated April 10, 2020 (SPP Yulchon April 10, 2020 IQR) at 1.

attributable to Hyundai Steel during the POR.<sup>41</sup> Consistent with our findings in prior segments of this proceeding,<sup>42</sup> and pursuant to 19 CFR 351.525(b)(6)(i), we have attributed subsidies received by Hyundai Steel only to the sales of Hyundai Steel for these preliminary results.

### C. Benchmarks and Discount Rates

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

Hyundai Steel reported receiving short-term import financing from the Korea Export-Import Bank (KEXIM) during the POR.<sup>43</sup> Hyundai Steel provided information about short-term loans from commercial banks for consideration as comparable commercial loans for purposes of identifying an interest rate benchmark. Consistent with 19 CFR 351.505(a)(2), we preliminarily determine that certain of those loans constitute comparable commercial loans, and it is appropriate to use these loans to calculate a weighted-average benchmark interest rate.<sup>44</sup>

#### Long-term Loans

We find that the Research and Development (R&D) Grant, under the Industrial Technology Innovation Promotion Act (ITIPA), results in a loan that is being provided to Hyundai Steel interest free. Hyundai Steel only provided a commercial long-term benchmark loan for one of the years in which its grants under the ITIPA were approved.<sup>45</sup> Because Hyundai Steel did not provide loan information to be used for benchmark purposes for all years when its grants under the ITIPA were approved, we relied on data (*i.e.*, corporate bond or corporate paper rates) from the International Monetary Fund's (IMF) *International Financial Statistics* for the years in which the grants were approved, in absence of comparable commercial long-term benchmark loans from Hyundai Steel.<sup>46</sup>

### 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

---

<sup>41</sup> See Hyundai HYSCO April 9, 2020 IQR at 4 and Exhibits HYSCO-13 and HYSCO-14; and SPP Yulchon April 10, 2020 IQR at 17 and Exhibits SPP-12 and SPP-13.

<sup>42</sup> See *Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review, 2016*, 83 FR 55517 (November 6, 2018), and accompanying Preliminary Decision Memorandum (PDM) at "Attribution of Subsidies," unchanged in *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) (*Hot-Rolled from Korea AR1 Final*), and accompanying Issues and Decision Memorandum (IDM) at "Attribution of Subsidies"; and *Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review, 2017*, 84 FR 67927 (December 12, 2019), and accompanying PDM at "Attribution of Subsidies," unchanged in *Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 2017*, 85 FR 64122 (October 9, 2020) (*Hot-Rolled from Korea AR2 Final*), and accompanying IDM at "Attribution of Subsidies."

<sup>43</sup> See Hyundai Steel April 9, 2020 IQR at 15 and Exhibit A-2.

<sup>44</sup> See Memorandum, "Calculations for the Preliminary Results: Hyundai Steel Company," dated concurrently with this memorandum (Hyundai Steel Preliminary Calculation Memorandum).

<sup>45</sup> See Hyundai Steel April 9, 2020 IQR at Exhibit A-2.

<sup>46</sup> See Hyundai Steel Preliminary Calculation Memorandum at Attachments II and III.

discussed in further detail below, where the program has been found to be countervailable as a domestic subsidy, we have used total sales as the denominator for our rate calculations for Hyundai Steel. In the section below, we describe the denominators we used to calculate the countervailable subsidy rates for each of the various subsidy programs.

## **VI. ANALYSIS OF PROGRAMS**

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

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

Hyundai Steel reported receiving tax exemptions under Article 78 of the RSLTA.<sup>47</sup> The GOK administers the tax exemption program under Article 78 of the RSLTA to provide incentives for companies to relocate from populated areas in the Seoul metropolitan region to industrial sites in underdeveloped areas of the country.<sup>48</sup> Under Article 78 of the RSLTA, any entity acquiring real estate in a designated industrial complex for the purpose of constructing new buildings or renovating existing ones shall be exempted from the acquisition tax.<sup>49</sup> In addition, the entity located in these designated industrial complexes shall have the property tax reduced by 50 percent on the real estate for five years from the date the tax liability becomes effective.<sup>50</sup> The tax exemption is increased to 100 percent of the relevant land, buildings, or facilities that are located in an industrial complex outside of the Seoul metropolitan area.<sup>51</sup> The program is administered by the local tax officials of the county where the industrial complex is located.<sup>52</sup> The GOK reported there were no changes to this program during the POR.<sup>53</sup>

Based on the above, we preliminarily determine that the tax reductions constitute a financial contribution in the form of revenue forgone, 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 the subsidies are limited to enterprises located within designated geographical regions. Our findings regarding the specificity of this program are consistent with prior Korean CVD proceedings.<sup>54</sup>

---

<sup>47</sup> See Hyundai Steel April 9, 2020 IQR at 21 and Exhibits B-11, B-12, B-13, B-16, and B-19.

<sup>48</sup> See GOK March 30, 2020 IQR at 52-58.

<sup>49</sup> *Id.*

<sup>50</sup> See Hyundai Steel April 9, 2020 IQR at Exhibits B-12.

<sup>51</sup> *Id.*

<sup>52</sup> See GOK March 30, 2020 IQR at 54.

<sup>53</sup> See GOK July 16, 2020 SQR 23.

<sup>54</sup> See, e.g., *Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review; and Rescission of Review, in Part*; Calendar Year 2017, 84 FR 15182 (April 15, 2019), and accompanying PDM at 8, unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*; Calendar Year 2017, 84 FR 42893 (August 19, 2019) and accompanying IDM at 4; and *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) and accompanying PDM at 21-22, unchanged in *Large Diameter Welded Pipe from the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 84 FR 6369 (February 27, 2019), and accompanying IDM at 14.

The tax credits provided under this program are recurring benefits, because the taxes are due annually. Thus, the benefit is expensed in the year in which it is received.<sup>55</sup> To calculate the benefit, we subtracted the amount of taxes paid by Hyundai Steel from the amounts that would have been paid absent the program. To calculate the net subsidy rate, we divided the total benefit by Hyundai's total sales. On this basis, we preliminarily determine the net subsidy rate under the Article 78 program for Hyundai Steel to be 0.02 percent *ad valorem* for 2018.<sup>56</sup>

## **2. Restriction of Special Taxation Act (RSTA) Article 25(2): Tax Deductions for Investments in Energy Economizing Facilities**

Hyundai Steel reported receiving tax deductions under RSTA Article 25(2).<sup>57</sup> The purpose of this program is to facilitate the enhancement of energy efficiency in business sectors through a deduction from income taxes payable. Commerce determined that this program was countervailable in prior segments of this proceeding.<sup>58</sup>

We 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 to 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, in accordance with section 771(5)(E) of the Act and described in 19 CFR 351.509(a), *i.e.*, the amount of the tax credit claimed. The GOK reported that there were no changes to this program during the POR.<sup>59</sup> 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 is limited.<sup>60</sup>

To calculate the net subsidy rate, we divided the amount of the tax savings for Hyundai Steel by its total sales during the POR. On this basis, we preliminarily determine that Hyundai Steel received a countervailable subsidy rate of 0.05 percent *ad valorem* under this program.<sup>61</sup>

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

Introduced in 2007, RSTA Article 25(3) aims to motivate investments in facilities that are constructed for the purpose of preserving the environment.<sup>62</sup> Under RSTA Article 25(3),

---

<sup>55</sup> See 19 CFR 351.524(a) and (c).

<sup>56</sup> See Hyundai Steel Preliminary Calculation Memorandum.

<sup>57</sup> See Hyundai Steel April 9, 2020 IQR at 20.

<sup>58</sup> 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 16-18, 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) (*Hot-Rolled from Korea Investigation Final*); and *Hot-Rolled from Korea AR2 Final IDM* at 6.

<sup>59</sup> See GOK March 30, 2020 IQR at 34.

<sup>60</sup> See *Hot-Rolled from Korea AR2 Final IDM* at 13.

<sup>61</sup> See Hyundai Steel Preliminary Calculation Memorandum.

<sup>62</sup> See GOK March 30, 2020 IQR at 34-41.

taxpayers may apply for a tax deduction from the income tax or corporate tax due. The GOK reports that subparagraph (2) of RSTA Article 25(3) revised the tax deduction rate to one percent (or three percent for medium-sized companies, and 10 percent for small-sized companies) of the value of the qualifying investment, effective January 1, 2018.<sup>63</sup> Administered by the National Tax Service, under the direction of the Ministry of Strategy and Finance, Article 25(3) of the RSTA is the law authorizing the deduction.<sup>64</sup>

We preliminarily determine that the GOK provided a financial contribution to the recipient 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 provided under section 771(5)(E) of the Act and described in 19 CFR 351.509(a), *i.e.*, the amount of the tax credit claimed.

The GOK reported that there were no changes to this program during the POR.<sup>65</sup> We have found this program to be countervailable in previous segments of this proceeding.<sup>66</sup> Consistent with our prior findings, we preliminarily determine that this program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act, because the actual number of recipients is limited.

To calculate the net subsidy, we divided the amount of the tax savings received by Hyundai Steel by its total sales during the POR. On this basis, we preliminarily determine that Hyundai Steel received a countervailable subsidy rate of 0.09 percent *ad valorem* under this program.

#### **4. Tax Deduction Under RSTA Article 26**

Under Article 26 of the RSTA, the GOK provides tax incentives to companies that make investments in their respective fields of businesses. Under RSTA Article 26, taxpayers are permitted to apply for a tax deduction from the income tax or corporate tax of the qualifying investment. The relevant law authorizing the credit, RSTA Article 26, limits this program to enterprises or industries within a designated geographical region within the jurisdiction of the authority providing the subsidy, areas outside the Seoul Metropolitan Area.<sup>67</sup> The GOK noted that there were no changes made to this program during the POR.<sup>68</sup>

Hyundai Steel claimed tax credits under this program on the tax return filed during the POR.<sup>69</sup> We preliminarily determine that the tax reductions under RSTA Article 26 constitute a financial contribution in the form of revenue forgone, 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

---

<sup>63</sup> *Id.* at 37-38.

<sup>64</sup> *Id.* at 37.

<sup>65</sup> *Id.* at 34.

<sup>66</sup> See *Hot-Rolled from Korea AR2 Final IDM* at 6, 24; *Hot-Rolled from Korea ARI Final IDM* at 9; and *Hot-Rolled from Korea Investigation Final IDM* at 18.

<sup>67</sup> *Id.* at 45-48.

<sup>68</sup> See GOK March 30, 2020 IQR at 41.

<sup>69</sup> See Hyundai Steel April 9, 2020 IQR at 20.

within designated geographical regions. Our findings in this regard are consistent with prior Korean CVD proceedings.<sup>70</sup>

To calculate the benefit for Hyundai Steel, we subtracted the amount of taxes paid by the firm from the amount that would have been paid absent the program. To calculate the net subsidy rate, we divided the total benefit by the total sales of the company. On this basis, we preliminarily determine the net subsidy rate under this program during the POR to be 0.27 percent *ad valorem* for Hyundai Steel.<sup>71</sup>

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

This program is operated by the Korea Power Exchange (KPX) and was created to reduce peak demand and improve efficiency in the electricity market, thereby reducing the need to build additional power plants.<sup>72</sup> The program contains two sub-programs, the Peak Reduction DR and the Electricity Expense Reduction DR.<sup>73</sup> The former program is designed to curtail load during peak electricity demand periods, and the latter is intended to minimize power generation costs through price competition.<sup>74</sup> The KPX, which manages the DRR Program, pays intermediary agents called demand managers to manage the program.<sup>75</sup> A demand manager sets up a pool known as “Demand Response Resource,” which is composed of at least 10 customers who are eligible for participation, and acts on behalf of the customers in selling the saved electricity to the electricity market.<sup>76</sup>

An applicant must pass an eligibility test to participate in this program. First, only those applicants who can credibly demonstrate their ability to reduce their electricity usage can participate in the program.<sup>77</sup> Second, applicants are required to have a gauge instrument installed that measures electricity consumption every 15 minutes.<sup>78</sup> Third, the applicants must show a regular pattern of electricity consumption to avoid the risk of distortion in measuring exact volume of electricity reduced.<sup>79</sup> Finally, the applicants are not allowed to participate in any other energy saving programs in order to be eligible to participate in this program, except for the Demand Adjustment Program of Emergency Load Reduction.<sup>80</sup> This program is established and

---

<sup>70</sup> See, e.g., *Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review; Calendar Year 2018*, 85 FR 13136 (March 6, 2020) (*CTL Plate from Korea 2018 Prelim*), and accompanying PDM at 11, unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; Calendar Year 2018*, 85 FR 84296 (December 28, 2020) (*CTL Plate from Korea 2018 Final*), and accompanying IDM at 6.

<sup>71</sup> See Hyundai Steel Preliminary Calculation Memorandum.

<sup>72</sup> See Hyundai Steel April 9, 2020 IQR at 34-35.

<sup>73</sup> *Id.* at 35; see also *Cold-Rolled from Korea 2018 Prelim* PDM at 26 where these subprograms are referred to as DRR Program for Peak Curtailment and DRR Program for Electricity Price Curtailment.

<sup>74</sup> See Hyundai Steel April 9, 2020 IQR at 35 (referring to “(private) demand management business operators” or “aggregators”).

<sup>75</sup> *Id.* at 34; and GOK March 30, 2020 IQR at 41.

<sup>76</sup> See Hyundai Steel April 9, 2020 IQR at 34; and GOK March 30, 2020 IQR at 99-100.

<sup>77</sup> See Hyundai Steel April 9, 2020 IQR at 34; and GOK March 30, 2020 IQR at 99-100.

<sup>78</sup> See Hyundai Steel April 9, 2020 IQR at 34; and GOK March 30, 2020 IQR at 99-100.

<sup>79</sup> See Hyundai Steel April 9, 2020 IQR at 34; and GOK March 30, 2020 IQR at 99-100.

<sup>80</sup> See Hyundai Steel April 9, 2020 IQR at 34.

operated under Article 31 of the Electricity Business Law and Chapter 12 of the Rules on Operation of Electricity Utility Market.<sup>81</sup>

KPX – the operator of the program -- is majority-owned by Korea Electric Power Corporation (KEPCO), which is, in turn, majority-owned by the GOK.<sup>82</sup> The GOK noted that there were no changes made to this program during the POR.<sup>83</sup> Consistent with our prior findings, we preliminarily find KEPCO to be an “authority” within the meaning of section 771(5)(B) of the Act.<sup>84</sup> Therefore, we determine that a financial contribution in the form of a direct transfer of funds from KPX is provided to companies participating in this program, under section 771(5)(D)(i) of the Act, and a benefit exists in the amount of the grant provided to Hyundai Steel, in accordance with 19 CFR 351.504(a).

The GOK noted that there were no changes made to this program during the POR.<sup>85</sup> Thus, consistent with our findings in prior segments of this proceeding, 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 recipients of the subsidy are limited in number.<sup>86</sup> Our findings in this regard are consistent with Commerce’s approach in prior CVD proceedings involving Korea.<sup>87</sup>

Because we found no evidence on the record indicating that subsidies under the DRR program were tied to export sales, we used the total sales of Hyundai Steel as a denominator to determine the countervailable subsidy rate under this program during the POR. On this basis, we preliminarily determine the net subsidy rate that Hyundai Steel received under this program to be 0.05 percent *ad valorem* for 2018.

## 6. Modal Shift Program

The GOK established this grant program in August 2010 in order to decrease greenhouse gas emissions in the transportation and logistics sector.<sup>88</sup> Specifically, through this program, the GOK aims to increase the transport volume by railroad and vessels, in order to decrease the transport volume by heavy freight motorized vehicles.<sup>89</sup> Under this program, the Ministry of Land, Infrastructure, and Transport of the GOK provides grants to administering agencies for truck-to-rail “modal shift” entities, and the Ministry of Oceans and Fisheries of the GOK

---

<sup>81</sup> See GOK March 30, 2020 IQR at 99.

<sup>82</sup> See *Cold-Rolled from Korea 2018 Prelim PDM* at 12.

<sup>83</sup> See GOK March 30, 2020 IQR at 97.

<sup>84</sup> See *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2017*, 85 FR 15112 (March 17, 2020), and accompanying IDM at 25; see also *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review; 2018*, 85 FR 74692 (November 23, 2020) and accompanying PDM at 20.

<sup>85</sup> See GOK March 30, 2020 IQR at 97.

<sup>86</sup> See *Hot-Rolled from Korea AR2 Final IDM* at 7; and *Hot-Rolled from Korea AR1 Final IDM* at 9.

<sup>87</sup> See, e.g., *Cold-Rolled from Korea 2018 Prelim PDM* at 26; and *Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review, 2016*, 83 FR 51446 (October 11, 2018) at 24-25, unchanged in *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) at 10.

<sup>88</sup> See GOK March 30, 2020 IQR at 80.

<sup>89</sup> *Id.*

provides grants to administering agencies for truck-to-marine freight “modal shift” entities.<sup>90</sup> This program is established and operated under Article 21 of the Sustainable Transportation Logistics Development Act, Article 24 of its Enforcement Decree, and Article 9 of the Regulations on Modal Shift Agreement.<sup>91</sup> The GOK reported there were no changes to this program during the POR.<sup>92</sup>

Hyundai Steel reported that it used this program and received grants during the POR.<sup>93</sup> The criterion that Hyundai Steel had to meet to qualify for assistance was to shift certain of its truck transportation to shipping by boat in order to promote a low-carbon transportation logistics system by reducing greenhouse gas emissions. Because the proposals were consistent with the Sustainable Transportation Logistics Development Act, the proposals were approved by the Korean Shipping Association.<sup>94</sup>

We preliminarily determine that a financial contribution from the GOK exists in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act. With respect to specificity, the GOK submits that, for the period between 2014 through 2018, there were a limited number of companies that were approved for/received assistance under this program.<sup>95</sup> Because the number of companies that received assistance under this program for these years was limited in number, we preliminarily determine that this program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act.<sup>96</sup> Our findings are consistent with prior CVD proceedings involving Korea.<sup>97</sup>

We preliminarily determine that a benefit exists in the amount of the grant received by Hyundai Steel during the POR. To calculate the net countervailable subsidy rate for the POR, we divided the amount of assistance received by Hyundai Steel’s total sales. Accordingly, we preliminarily determine the net subsidy rate that Hyundai Steel received under this program is 0.01 percent *ad valorem*.

## 7. Reduction for Sewerage Usage Fees

In its initial questionnaire response, Hyundai Steel reported that it used this program.<sup>98</sup> This program provides a reduction in the water bill if a company can demonstrate that the amount of

---

<sup>90</sup> *Id.* at 81.

<sup>91</sup> *Id.* at 80-95.

<sup>92</sup> *Id.* at 95.

<sup>93</sup> See Hyundai Steel April 9, 2020 IQR at 33.

<sup>94</sup> *Id.* at 33 and Exhibits C-1, C-9, and C-10.

<sup>95</sup> See GOK March 30, 2020 IQR at 92-93 (BPI) for a more complete description of the number of companies receiving assistance under the program.

<sup>96</sup> See, e.g., *Welded Line Pipe from the Republic of Korea: Final Negative Countervailing Duty Determination*, 80 FR 61365 (October 13, 2015), and accompanying IDM at 36; and Statement of Administrative Action (SAA) accompanying H.R. 5110, H.R. Doc. No. 316, 103d Cong., 2d Sess. 911, 929 (1994) (“The Administration intends to apply the specificity test in light of its original purpose, which is to function as an initial screening mechanism to winnow out only those foreign subsidies which truly are broadly available and widely used throughout an economy”).

<sup>97</sup> See *CTL Plate from Korea 2018 Prelim* PDM at 13, unchanged in *CTL Plate from Korea 2018 Final*; and *Cold-Rolled from Korea 2018 Prelim* at 28.

<sup>98</sup> See Hyundai Steel April 9, 2020 IQR at 56-57 and Exhibits G-21, G-22, and G-23.

sewage water that was sent down the public sewerage system was less than the amount of clean water that it had consumed from the public water supply system.<sup>99</sup>

Under this program, the GOK bills companies and households for water consumption from the public water supply. If a user can show that the amount of sewage water that it has sent down the public sewerage system is less than the amount of clean water that it has consumed from the public water supply system, authorities will calculate the public sewerage system usage fee on the basis of the proven amount of the sewage water drained down the sewerage system.<sup>100</sup> A user can also install a “gray water system,” which is an approved system by the GOK that processes unclean water for recycling purposes without discharging the unclean water through the public sewerage system. If a gray water system is installed, the amount of the waste water that a user sends through the public sewerage system is considered to be less than the amount of clean water consumed from the public water supply system.<sup>101</sup> The reasoning for this conclusion is that, based on the recycling mechanism of the gray water system, unclean water can be used at least twice before being sent through the public water system.<sup>102</sup>

The legal basis for the program is found under Article 65(1) of the Sewerage Act and Article 36(2) of the Enforcement Decree of the Sewerage Act. Article 14(1) and Article 21(1)(7) of the Incheon Metropolitan City Ordinance on Sewage System Usages, and Article 9 of the Enforcement Decree of the same Ordinance, stipulate the method by which the service fee and the usage of the public sewerage system is calculated.<sup>103</sup> To qualify for this program, companies or households must submit an application to their local government authority. Although the program was introduced through the amendment of the Presidential Decree of the Sewerage Act by the Ministry of Environment, which is a central level of the Korean government, the authority to execute the program is delegated to regional level governments, which in this case was the Incheon Metropolitan City Government.<sup>104</sup> Further, the Incheon Metropolitan City Government delegated the authority to execute this program to local level governments, which in this case was the Incheon Waterwork Authority.<sup>105</sup>

The Incheon Waterwork Authority maintains the application forms and notification letters, which report that a “gray water” system” has been installed or any objective report showing the amount of water sent down the public sewerage system is less than the amount of clean water consumed from the public water supply system.<sup>106</sup> The public sewerage system usage fees are calculated on the basis of the sewage water actually or deemed to have been used and not on the basis of the amount of clean water consumed from the public water supply system.<sup>107</sup> The approval notifications are then sent to applicants. The Incheon Waterwork Authority keeps a record as to the billing and collection of the public sewerage system usage fees.<sup>108</sup>

---

<sup>99</sup> *Id.* at 56-57.

<sup>100</sup> *See* GOK March 30, 2020 IQR at 133-134.

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> *Id.* at 137.

<sup>104</sup> *Id.* at 135.

<sup>105</sup> *Id.* at 136.

<sup>106</sup> *Id.* at 137.

<sup>107</sup> *Id.*

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

We preliminarily determine that the reduction in sewerage fees under 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. Record information does not indicate that the reduction in sewerage fees under this program is limited by law to certain enterprises or industries.<sup>109</sup> For this reason, we preliminarily determine that this program does not meet the criteria to be considered *de jure* specific under section 771(5A)(D)(i) of the Act. We then examined whether the program is specific as a matter of fact under section 771(5A)(D)(iii) of the Act. Based on the total amount of revenue forgone by the GOK during the POR, of which Hyundai Steel received a significant share, we preliminarily determine that this program is *de facto* specific within the meaning of section 771(5A)(D)(iii)(II) of the Act because Hyundai Steel received a predominant amount of the benefits under the program.<sup>110</sup>

The benefit conferred on the recipient under this program is the difference between the amount of water fees paid by Hyundai Steel and the amount of water fees that it would have paid in the absence of this program, in accordance with section 771(5)(E) of the Act. We treated the total amount of fees waived during the POR to Hyundai Steel as the benefit attributable to the company.

To calculate the net countervailable subsidy rate for the POR, we divided the total benefit amount by Hyundai Steel's total sales during the POR. On this basis, we preliminarily determine a net subsidy rate of 0.01 percent *ad valorem* for Hyundai Steel.<sup>111</sup>

## **8. Provision of Port Usage Rights at the Port of Incheon/GOK Infrastructure Investment at Incheon North Harbor<sup>112</sup>**

The GOK submits that this program is part of a public-private partnership wherein the GOK entered into an arrangement to construct a wharf at the North Port of Incheon (Incheon Wharf or Incheon North Harbor), by attracting investment from the private sector instead of using its own budget.<sup>113</sup>

The Ministry of Economy and Finance introduced the Private Participation in Social Infrastructure Act in 1994 and, pursuant to that legislation, the GOK promulgated the Basic Plan for the Public-Private Partnership Projects.<sup>114</sup> These arrangements allow the GOK to partner with private companies for the construction of harbor facilities under build-transfer-operate (BTO) agreements under the Act on Private Participation in Infrastructure or under the Harbor

---

<sup>109</sup> *Id.* at 143.

<sup>110</sup> *Id.* at 145-146. We note that the GOK stated that it was unable to provide “{t}he total amount of assistance approved for each of the largest 50 recipients under the program and include the industry designation for each of these recipients.”

<sup>111</sup> See Hyundai Steel Preliminary Calculation Memorandum.

<sup>112</sup> See GOK March 30, 2020 IQR at 104 (referring Commerce to Question IV. 9, “GOK Infrastructure Investment at Incheon North Harbor,” when asked about the “Provision of Port Usage Rights at the Port of Incheon” program). We will analyze the program as “Provision of Port Usage Rights at the Port of Incheon” in future proceedings.

<sup>113</sup> *Id.* at 105-106.

<sup>114</sup> See GOK January 21, 2021 SQR at 1-2.

Act.<sup>115</sup> In case of the Incheon North Harbor development program, the Ministry of Oceans and Fisheries was the relevant ministry and it issued the Basic Plan for this project in 2000.<sup>116</sup>

The construction of the Incheon Wharf started in 2003 and ended in 2007.<sup>117</sup> The GOK bestowed the right to use the Incheon Wharf to the private partner, Hyundai Steel, for a specified period of time without paying port usage fees, as well as the right to collect certain usage fees from third-party users.<sup>118</sup>

Hyundai Steel reported it entered into an agreement with the Ministry of Oceans and Fisheries regarding the construction of the wharf at North Incheon Harbor in August 2001 and entered into a revised agreement in April 2009.<sup>119</sup> Hyundai Steel financed the construction of the Incheon Wharf and, pursuant to Korean law, ownership of the port facility reverted to the GOK in 2007.<sup>120</sup> Hyundai Steel received money from the GOK between 2004 and 2007 for certain construction costs.<sup>121</sup> The remaining construction costs are being amortized by Hyundai Steel over a specified period.<sup>122</sup> Specifically, Hyundai Steel was granted the right to operate and use the port for its own operations freely, as well as collect fees from third-party users, for a specified time period.<sup>123</sup> Thus, Hyundai Steel reported it collected berth occupancy charges (or berthing income) from shipping companies and reported these amounts for each of the years from 2007 through 2018.<sup>124</sup>

Further, in response to a supplemental questionnaire, Hyundai Steel reported that, in connection with its own usage of the port, it had a service contract with an unaffiliated private terminal operating company.<sup>125</sup> Hyundai Steel states that harbor facility usage fees can be levied as harbor facility lease fees for terminal operating companies, as prescribed in Article 2(6) of the Harbor Transport Business Act.<sup>126</sup> Hyundai Steel was entitled to harbor facility usage fees from the terminal operating company.<sup>127</sup> The specific harbor facility usage fees relating to the terminal operating company during the POR that Hyundai Steel reported amounts for are: (1) apron usage fees, (2) land usage fees, and (3) open storage yard fees.<sup>128</sup>

We preliminarily determine that the program provides a financial contribution because the fees that the GOK gave Hyundai Steel the right to collect -- the berthing income and the harbor facility usage fees -- which would otherwise have been collected by the GOK absent the agreement between the parties, represent revenue forgone by the GOK within the meaning of

---

<sup>115</sup> *Id.* at 1.

<sup>116</sup> *Id.*; see also *Cold-Rolled from Korea 2018 Prelim PDM* (referencing the agreement as the “North Incheon Wharf Private Investment Project Implementation Agreement”).

<sup>117</sup> See Hyundai Steel April 9, 2020 IQR at 41.

<sup>118</sup> *Id.* at 43.

<sup>119</sup> *Id.* at 42.

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*

<sup>122</sup> *Id.* at 43.

<sup>123</sup> *Id.* and Exhibit G-2.

<sup>124</sup> *Id.*

<sup>125</sup> See Hyundai Steel January 21, 2021 SQR at 2.

<sup>126</sup> *Id.* at 5.

<sup>127</sup> *Id.*

<sup>128</sup> *Id.* at 6-8.

section 771(5)(D)(ii) of the Act. Further, we preliminarily find the program to be specific under section 771(5A)(D)(iii)(I) of the Act because the actual recipients are limited in number.<sup>129</sup> A benefit exists under section 771(5)(E) of the Act in the amount of the fees that Hyundai Steel was entitled to collect under the operating agreement with the GOK. Consistent with prior proceedings, we have treated this program as a recurring program.<sup>130</sup> To calculate the benefit we summed up the berthing income and the harbor facility usage fees that Hyundai Steel benefitted from during the POR, and divided this amount by its total sales. On this basis, we preliminarily determine a countervailable subsidy rate of 0.01 percent *ad valorem* for Hyundai Steel under this program.<sup>131</sup>

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

1. KEXIM Short-Term Export Credits
2. KEXIM Export Factoring
3. KEXIM Export Loan Guarantees
4. KEXIM Loan Guarantees for Domestic Facility Loans
5. KEXIM Trade Bill Rediscounting Program
6. KEXIM Overseas Investment Credit Program
7. KDB and IBK Short-Term Discounted Loans for Export Receivables
8. Loans under the Industrial Base Fund
9. K-SURE Export Credit Guarantees
10. K-SURE Short-Term Export Credit Insurance
11. Long-Term Loans from KORES and KNOC
12. Clean Coal Subsidies
13. GOK Subsidies for “Green Technology R&D” and its Commercialization
14. Support for SME “Green Partnerships”
15. Tax Deduction under RSTA Article 10(1)(1)
16. Various Research and Development Grants Provided Under the Industrial Technology Innovation Promotion Act
17. RSTA Article 10(1)(2)
18. RSTA Article 11
19. RSTA 104(14)
20. RSLTA Articles 19, 31, 46, 84, LTA 109, 112, and 137
21. Tax Reductions and Exemptions in Free Economic Zones

<sup>129</sup> See GOK January 21, 2021 SQR at 10; see also Hyundai Steel Preliminary Calculation Memorandum.

<sup>130</sup> See, e.g., *Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 2017, 85 FR 64122 (October 9, 2020), and accompanying IDM at Comment 6; *Notice of Final Results of Countervailing Duty Administrative Review: Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea*, 72 FR 38565 (July 13, 2007), and accompanying IDM at 6-7 and Comment 1; *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review*; 2011, 78 FR 55241 (September 10, 2013), and accompanying PDM at 11, unchanged in *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*; 2011, 79 FR 5378 (January 31, 2014); and *Notice of Final Affirmative Countervailing Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products from the Republic of Korea*, 67 FR 62102 (October 3, 2002), and accompanying IDM at 20 and Comment 11.

<sup>131</sup> See Hyundai Steel Preliminary Calculation Memorandum.

22. Grants and Financial Support in Free Economic Zones
23. Sharing of Working Opportunities/Employment Creating Incentives
24. GOK Infrastructure Investment at Incheon North Harbor
25. Machinery & Equipment (KANIST R&D) Project
26. Grant for Purchase of Electrical Vehicle
27. Power Business Law Subsidies
28. Provision of Liquefied Natural Gas for LTAR
29. Energy Savings Programs
  - a. Electricity Savings for Designated Period Program
  - b. Electricity Savings through the Bidding Process Program
  - c. Electricity Savings upon an Emergent Reduction Program
  - d. Electricity Savings through General Management Program
  - e. Management of the Electricity Load Factor Program
30. The GOK's Purchases of Electricity for More Than Adequate Remuneration
31. Incentives for Compounding and Prescription Cost Reduction
32. Incentives for Usage of Yeongil Harbor in Pohang City
33. Value Added Tax Exemptions on Imported Goods
34. Incentives for Usage of Gwangyang Port
35. Incentives for Natural Gas Facilities
36. Subsidies for Construction and Operation of Workplace Nursery
37. Subsidies for Hyundai Steel Red Angels Women's Football Club
38. Suncheon Harbor Port Usage Fee Exemptions
39. Seoul Guarantee Insurance
40. Subsidies for Pohang Art Festival
41. Other Transactions with Government Entities
42. Fast-Track Restructuring Program
43. Energy Savings Program Subsidies – Demand Adjustment Program of Emergency Reduction
44. Industrial Technology Innovation Promotion Act Grants

## VII. 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

2/16/2021

X



Signed by: CHRISTIAN MARSH

Christian Marsh  
Acting Assistant Secretary  
for Enforcement and Compliance